

JUDICIARY SUBCOMMITTEE ON CIVIL PROCEDURES

Senator Richard Rock, Chairman

March 3, 1992

**SB 698** - code of civil procedure to use some criteria as open records act regarding discovery of criminal investigation reports.

**PROPOSERS**

James Clark, Kansas County and District Attorneys Association (ATTACHMENT 1)

**OPPOSERS**

none appeared

SUBCOMMITTEE RECOMMENDATIONS: recommend favorable for passage.

**SB 745** - clean-up amendments to the Kansas consumer protection act.

**PROPOSERS**

Daniel Kolditz, Deputy Attorney General, Consumer Protection Division (ATTACHMENT 2)

**OPPOSERS**

none appeared

SUBCOMMITTEE RECOMMENDATIONS: recommend favorable for passage.

**SB 744** - moneys payable to accused or convicted persons for story of crime.

**PROPOSERS**

Richard Smith, Assistant Attorney General, Civil Division (ATTACHMENT 3)

**OPPOSERS**

Ron Smith, Kansas Bar Association (ATTACHMENT 4)

SUBCOMMITTEE RECOMMENDATIONS: recommend favorable for passage.

**SB 711** - farm animal and research facilities protection act amendments.

**PROPOSERS**

Senator Bud Burke

Paul Decelles, Lawrence (ATTACHMENT 5)

Kathy McKee, Johnson County Humane Society (ATTACHMENTS 6, 7 and 8)

**OPPOSERS**

Jan Price, Kansas Companion Animal Association (ATTACHMENT 9)

Jerry Slaughter, Kansas Medical Society (ATTACHMENT 10)

Roger Lampson, University of Kansas Medical Center

Warren Parker, Kansas Farm Bureau (ATTACHMENT 11)

Al LeDoux, Committee of Kansas Farm Organization (ATTACHMENT 12)

Margaret Kerr, Companion Animal Advisory Board (ATTACHMENT 13)

Audrey Rottinghaus, Seneca (ATTACHMENT 14)

Mike Beam, Kansas Livestock Association (ATTACHMENT 15)

Gina Bowman-Morrill, Farmland Industries, Inc (ATTACHMENT 16)

SUBCOMMITTEE RECOMMENDATIONS: recommend favorable for passage.

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## Kansas County & District Attorneys Association

827 S. Topeka Blvd., 2nd Floor • Topeka, Kansas 66612  
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EXECUTIVE DIRECTOR, JAMES W. CLARK, CAE • CLE ADMINISTRATOR, DIANA C. STAFFORD

### Testimony before the Senate Judiciary Subcommittee on Civil Procedure in Support of **SENATE BILL NO. 698**

The Kansas County and District Attorneys Association requested SB 698, and appears in its support. The purpose of the bill is to establish legislative intent regarding conflicts in statutes dealing with obtaining information from criminal investigation files.

In Kansas, criminal investigation files are considered government records and are subject to the Kansas Open Records Act. Harris Enterprises, Inc. v. Moore, 241 Kan. 59 (1987). Due to the sensitive nature of such files, obtaining information from them involves certain specific procedures under K.S.A. 45-221(a). Under K.S.A. 45-222(a) any person, including civil litigants, may bring an action under the Act.

Unfortunately, the more general code of civil procedure also seems to allow for discovery of criminal investigation files by a party in a civil case, without compliance with the specific procedures of the Open Records Act. K.S.A. 60-226 allows for a party to subpoena information from third parties, with no restrictions on criminal files, and compliance with the request is determined by the trial court on a case-by-case basis. This has happened in several cases in Sedgwick County. One such case was appealed, but the trial court compelled discovery before the Court of Appeals could rule on this issue, and the Court ruled it moot. State ex rel. Foulston v. McMillan (unpublished, Nov. 22, 1991).

Such access clearly undermines the legislative intent behind the Open Records Act, and may encourage civil litigation in order to undermine a criminal investigation. In Black v. Sheraton Corp. of America, 50 F.R.D. 130 (1970) plaintiff was the object of an F.B.I surveillance of his hotel room. He attempted to discover the extent of the government's case by suing the hotel for breach of privacy and attempting to subpoena the government's file. We can find no similar cases in Kansas, but the opportunity exists. In drug cases, for example, forfeiture proceedings must be filed promptly, and forfeiture proceedings are subject to the code of civil procedure. City of Lenexa v. A Maroon 1978 Chevrolet, 15 Kan. App. 2d 333. If the criminal investigation has not been completed, the State may have to abandon the civil forfeiture action out of fear that vital information would be disclosed during discovery in the civil case.

Passage of SB 698 does not restrict access to criminal records, it merely imposes the more systematic Open Records Act procedures in civil cases where criminal files are subpoenaed.

*Civil Procedure Subcommittee  
March 3, 1992  
Attachment 1*



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN  
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215  
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TESTIMONY of DEPUTY ATTORNEY GENERAL DANIEL P. KOLDITZ  
ON  
SENATE BILL NO. 745  
BEFORE THE  
SENATE JUDICIARY COMMITTEE  
March 3, 1992

On behalf of Attorney General Bob Stephan, I appear to urge the committee to pass SB 745 which seeks to amend the Kansas consumer protection act and recognize deceptive and unconscionable business practices. As you know, the Kansas consumer protection act was enacted to protect consumers from suppliers who commit deceptive or unconscionable practices. Following the intent of the consumer protection act, K.S.A. 50-626(a) and K.S.A. 50-627(a) make it unlawful for a supplier to engage in a deceptive or unconscionable act or practice in connection with a consumer transaction. Such statutes identify numerous per se violations of the act and recognize them as either deceptive or unconscionable acts or practices.

The remedies of the Attorney General under the act are set forth at K.S.A. 1991 Supp. 50-632. Such remedies include the ability to obtain a declaratory judgment that an act or practice violates the act, injunctive relief, recover damages on behalf of aggrieved consumers and recover reasonable investigative fees. Additionally, K.S.A. 1991 Supp. 50-636 allows for the recovery of civil penalties. However, civil penalties are only allowed for the commission of an act or practice that is declared to be a violation of the act. Of all the remedies available to the Attorney General, civil penalties have the greatest deterrent effect.

Recently, the Kansas Legislature has amended the consumer protection act and placed various new laws under the act noting that they are "part of and supplemental to the Kansas consumer protection act." SB 745 identifies various laws that were made part of the consumer protection act and appear to be subject to the enforcement provisions of the act. However, the laws did not identify a violation of the new law as an unlawful act or practice, namely deceptive or unconscionable. SB 745 would simply identify a violation of the respective laws as either deceptive or unconscionable. By identifying the act or practice as deceptive or unconscionable, enforcement will be easier and ensure that civil penalties are available for a violation of the respective law.

*Civil Procedure Subcommittee  
March 3, 1992 Attachment 2 - 1/1*



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
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Testimony of Richard D. Smith  
Assistant Attorney General  
Before the Senate Judiciary Committee  
Re: Senate Bill No. 744  
March 3, 1992

Mr. Chairman, Members of the Committee:

I am Richard Smith, an Assistant Attorney General. I am appearing today on behalf of Attorney General Robert T. Stephan. We ask your support of Senate Bill No. 744, which is an amendment of Kansas' "Son of Sam" law.

On December 10, 1991, the United States Supreme Court announced its decision in Simon & Schuster, Inc. v. Members of the New York State Crime Victims Board, No. 90-1059 (1991). In its decision, the Supreme Court determined that New York's "Son of Sam" law places an unconstitutional restriction on First Amendment rights. New York's law is significantly overinclusive for two reasons. First, the statute applies to works on any subject, provided the works express the author's thoughts or recollections about his crime, however tangentially or incidentally. Second, the statute enables the crime victims

*Civil Procedure Subcommittee*  
*March 3, 1992*  
*Attachment 3*      *1/2*

board to escrow the income earned by any author who admits in his work to having committed a crime, regardless of whether the author was ever actually accused or convicted of the crime. Because Kansas' "Son of Sam" law closely resembles one of the challenged provisions of New York's law, we believe Kansas' law may be vulnerable to a similar challenge.

In Simon & Schuster, the Supreme Court recognized that the state has a compelling interest in compensating victims from the fruits of crime. The state also has a compelling interest in depriving criminals of the profits of their crimes, which include royalties from movies and books. The amendment proposed in Senate Bill No. 744 will ensure that Kansas' "Son of Sam" law is narrowly tailored to advance the objective of the state. Senate Bill No. 744 will permit the state to deprive criminals of the profits of crime realized through works regarding the crime and to use the funds to compensate victims.

We believe that the amendment proposed in Senate Bill No. 744 will bring the Kansas' "Son of Sam" law in line with the First Amendment and permit achievement of the state's objective of compensating crime victims from the profits of crime. On behalf of Attorney General Robert T. Stephan, I request your support of Senate Bill No. 744.



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February 26, 1992

The Hon. Winton Winter, Jr.  
State Senator  
State Capitol Building, Room #120S  
Topeka, KS 66612

re: SB 744; Son of Sam book deal regulation

Dear Wint:

I'm not sure whether this legislation is scheduled for a hearing, but I think the way the current law, K.S.A. 74-7319, was enacted, and the way this legislation amends it, may be an unconstitutional invasion of the First Amendment. The language in lines 14 through 24 would prohibit, for example, the Menninger Foundation from contracting with lifers in prison to provide information about their crimes in order to do a textbook on psychopathic personalities for use in college or medical schools if the textbook were sold to the students or otherwise paid for.

The U.S. Supreme Court recently held that New York's Son of Sam law, which basically forbids similar publications for pay, violated the First Amendment, unless the government can show a national security link (as the feds did when they suppressed publication on contract grounds of a CIA agent Frank Snapp's book about the fall of Saigon). SB 744 can show no national security link.

Immediately after the Son of Sam case came down, someone in the New York legislature created a cause of action by victims against perpetrators of crime who profit from selling their book or movie rights by giving the victim or victim's family a 25-year statute of limitations to bring a cause of action against the inmate. That might pass constitutional muster, since the book can be published, but any royalties the criminal might get from the sale of the book or movie would be subject to a civil lawsuit and garnishment. Recently, a Kansas City, Missouri, federal jury gave the relatives of Frank Berdella's victims a \$5 billion civil verdict for the emotional harm for the crimes. Much of this award was punitive -- which the relatives intend to keep alive in case Berdella gets any money for selling his story to the press.

*Civil Procedure Subcommittee  
March 3, 1992*

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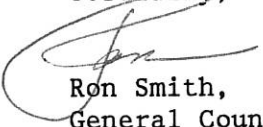
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*Attachment 4 1/2*

The Hon. Winton Winter, Jr.  
February 26, 1992

Further, right now the state's noneconomic loss limit in civil actions is \$250,000. This appears to limit noneconomic loss even when the tort is intentional infliction of emotional distress -- which is generally what relatives use as a cause of action against felons who might sell their stories. You may want to consider making an exception to that limit when the civil cause of action is based on commission of a felony, or involves an intentional tort. Without such a change, what the Kansas City, Missouri, Federal jury did in the Berdella case could not happen in Kansas; the heirs of the victims would be left with \$250,000 as a limit.

Cordially,



Ron Smith,  
General Counsel

Paul G. Decelles  
2737 Maverick Lane  
Lawrence, KS 66046  
March 3, 1992

To: Senator Winter and Senate Judiciary Committee:  
Testimony in favor of Senate Bill 711.

Dear Senator Winter and Members of the Committee:


During the last several years people in Kansas have received an education in exactly what goes on in many of the poorly regulated kennels in Kansas. In response the legislature has moved on a number of reforms designed to improve the situation. Unfortunately the original Farm Animal and Research Facilities Protection Act was not one of them. Everyone recognizes that there are animal extremists out there who break the law, tamper with research facilities and release animals often to the detriment of the animals they are trying to save. But the original act, I believe went too far in punishing the Press for attempting to expose problems with animal facilities in the state of Kansas.

Lumping the Press with animal extremists in the irrational manner of the original act, needlessly infringes on freedom of the Press, and on our rights as citizens to get information about activities in our animal facilities. Why the secrecy? Perhaps one could argue that the public might take things out of context, or doesn't understand what's going on in a facility. There might be a case for this in restricted situations involving research facilities, but not in other facilities. Senate Bill 711 redresses the imbalance in the previous act.

I've been involved with dogs since 1974 as a breeder, obedience instructor and active member of various dog related organizations; I'm not an animal rights extremist. But the pictures that have come out of this state in the last few years have been shocking even to me. The solution is not to hide the problem with press restrictions designed to improve the image of Kansas's pet production system. Let's clean the system up for the betterment of the animals and the people!

I strongly urge your support for SB 711.

Thank You.

  
Paul G. Decelles  
Lawrence, KS 66046

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*March 3, 1992*  
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**JOHNSON COUNTY HUMANE SOCIETY**  
**P.O. Box 23508 • Overland Park, Kansas 66223**  
**(913) 829-2505**



TESTIMONY IN SUPPORT OF SB-711

My name is Kathy McKee, and I'm President of the Johnson County Humane Society.

The Farm Animal and Research Facilities Protection Act (the "Act") was taken nearly verbatim from its federal model, H.R. 3270. Dan Glickman was an original co-sponsor of H.R. 3270. I've included a copy of his testimony not only withdrawing as a co-sponsor, but also notifying the House Ag Committee he wouldn't even vote for the bill as drafted. Glickman labeled the federal model, which wasn't nearly onerous as the Kansas version, as vague, unnecessary, oppressive, and unconstitutional . . . and now this dog of a bill is the law in Kansas! Note in Glickman's testimony reference to the Justice Department's opposition to the bill as well.

I've also included a short article from a KBA JOURNAL about this bill. I don't see any way you can read this little article, and come away with a very good feeling about the Act.

We wholeheartedly support SB-711. While the felony provision for taking pictures in puppy mills grabbed all the headlines, let's briefly go over each of the major flaws in the Act.

1. Page 1:

Lines 15-16: The definition of "animal" goes far beyond the realm of research and livestock. Fur facilities are neither research nor livestock. And if you saw the fur facilities segment on "60 Minutes" last month, you know those facilities are hardly producing food or conducting life-saving biomedical research. "Testing" takes in countless non-food, non-medical areas as well. Including education here presents problems discussed later. In fact, we take no stand on animal testing or using animals in elementary schools, but we do question whether those facilities should qualify for the extraordinary protective measures in this Act.

Lines 18-22: We could not come up with a definition for "animal facility" to include feed lots and auction barns that would not also include puppy mills. I was advised last week that the added language to this section excludes research facilities such as K-State. As this appears to be so, we would ask that the amendatory language be changed to, "Animal facility does not include any premises, other than research facilities, licensed or registered pursuant to K.S.A. 47-1701 et seq." This makes it crystal clear that puppy mill-related facilities are excluded from this Act, while not affecting legitimate research facilities.

Line 42: Including "whether lawful or not" in the definition of "owner" should be obviously absurd to everyone on this committee. If not, I'd be happy to elaborate on it.

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*Attachment 6*      *1/3*

2. Page 2:

Lines 7-12: This definition of "research facility", while taken from the cruelty statute, is totally unacceptable. It includes nearly every instance of animal use, outside of household pets, there is. To include "elementary schools, secondary schools" and "any place . . . at which . . . any experiment is carried out involving animals" is ludicrous. The proponents of this Act testified that they needed this bill because animal rights activists were beginning to interfere with "life-saving biomedical research" and must be stopped. May I ask what "life-saving biomedical research" is being conducted in this state's elementary or high schools? K.S.A. 47-1701, et seq., excludes elementary and secondary schools from the definition of "research facility", and common sense dictates that they be excluded from the Act's extraordinary measures. As the Attorney General pointed out in a related Opinion, a class of first-graders could be raising a class rabbit and, not only be denying it food and water, but also be sticking it with pins all day every day . . . and no one--not the police, not the sheriff, not the KBI--could do anything about the little darlings because under this silly statute, the class would be immune as a research facility. Again, the question is not whether these activities should be legal, but whether they should have the extraordinary protection of this Act.

Lines 15-16, 22-23, 25-26, AND OTHERS: As repeatedly pointed out in Glickman's testimony, the use of the term "damage the enterprise" encompasses too much, is too general and too vague to be used in a law like the Act. Every lawyer I had look at this bill told me that "intent to damage the enterprise" is so vague and general that it could include things like generating publicity (even about illegal acts), citations resulting from protests about non-compliance with existing laws, revocation of licenses, etc. For example, if a fur facility or puppy mill received a citation because a government agency acted upon a complaint (say, that they were skinning animals alive or clubbing unsalable puppies), and the complainant had actually gone to the animal facility to verify such rumors, that person could be sued because his intent was to get the facility fined for noncompliance, or halt its business until it got into compliance, or stopped skinning animals alive, or stopped clubbing puppies. Is this good law?

Lines 29-30: Should a person be subject to a prison sentence of any length merely for "remaining concealed on the premises"?

Lines 33-34: This is the preposterous picture-taking business that has made Kansas the laughingstock of the entire country. In Kansas, cruelty to animals carries a maximum sentence of 6 months in jail. Should photographing that cruelty be a stiffer crime--or even any crime?

3. PAGE 3:

Lines 1-2: With the definition of a no-trespass sign to include "fencing", cruelty investigators could not go on any farm in Kansas that had an animal. Sound silly? Glickman concludes the same thing.

Lines 6-13: As the enclosed KBA JOURNAL article suggests, if the penalties in this bill are to be adjudicated on the basis of value of the damaged property, there need to be definitive standards for valuing the property.

Line 24: Even H.R. 3270, the federal model, did not contain "three times all actual and consequential damages," which is totally unreasonable. There are three major classifications of crimes in this country where "three times actual and consequential damages" are allowed: Sherman anti-trust violations, Title VII civil rights violations, and federal odometer fraud. Does hiding in an animal facility, or any of the violations of the Act, belong in a class with those crimes? No, "actual and consequential" damages alone can be quite stifling enough, without the "triple" part.

Line 26: With only the above classifications of laws containing a provision to pray for attorneys' fees, there is no place in a statute like this for such a provision. Attorneys' fees can easily surpass several times over the amount of property damage.

Let me conclude by saying that when SB-776, the bill proposing the Act, was introduced, I phoned my legislators and asked them what in the world was going on. They told me that the bill's proponents had assured the Legislature that only research and livestock facilities were involved. Up until now, we've had no interest in livestock and research issues . . . although, after hearing Dr. Walker testify that the Animal Health Board still wants to control the regulation of pets, we're rethinking our focus. This statute is NOT what its proponents said it was -- i.e., a measure to keep animal rights terrorists (whoever that is) out of livestock and research facilities. Instead, it's an overly broad law with unreasonably harsh penalties that cover nearly every instance of animal use you can think of. Some legislators may have been bamboozled. However, if the majority of this legislature can look at this statute and knowingly permit this nonsense to continue, Kansas deserves the black eye it's gotten nationally as a state with more concern for animal abusers than abused animals.

The Farm Animal and Research Facilities Act is a fatal cure for a disease that doesn't exist. We urge you to pass SB-711. Thank you.

RETURN ALL MATERIAL TO:

U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON AGRICULTURE  
1301 LHOB  
WASHINGTON, DC 20515  
ATTN: JERRY DUVAL

Date of hearing: July 17

HEARING ON H.R. 3270, THE FARM ANIMAL AND  
RESEARCH FACILITIES PROTECTION ACT OF 1990

Subject: .....

Referred to: Hon. Glickman

Testimony given by you before the Committee appears in the attached type-written print. Please indicate any corrections thereon and return the original, not a Xerox copy, within 3 weeks of receipt.

If the corrected transcript is not returned within 3 weeks of receipt, it will be assumed that the original transcript is correct.

**TESTIMONY IS NOT TO BE REWRITTEN OR DELETED UNDER ANY CIRCUMSTANCES**  
\*NOTE: You receive only the pages containing your testimony; therefore, there may be a break in the numerical continuity of the pages.

The Rules of the Committee on Agriculture allow only grammatical or technical changes to be made in transcripts. Therefore, to expedite the printing of Committee hearings and to maintain an accurate reflection of the proceedings, excessive editing of transcripts will not be acceptable.

If additional data requested of you is not returned with your transcript, a notation will be made in the printed hearing indicating that the material was not received by the Committee in time to be included.

Please indicate clearly, by page and line, where *supplemental requested material* is to be placed.

*Civil Procedure Subcommittee*  
*March 3, 1992 Attachment 7*  
GERALD C. DUVAL,  
Printing Editor

89

90 OPENING STATEMENT OF HON. DAN GLICKMAN, A REPRESENTATIVE IN  
91 CONGRESS FROM THE STATE OF KANSAS

92 Mr. GLICKMAN. Thank you, Mr. Chairman.

93 I thank my colleague from North Carolina for yielding.

94 I am a co-sponsor of this bill. I must say, however,  
95 after reading it in depth, I have some difficulty with the  
96 language of this bill for a variety of reasons. I would  
97 hope that it could be worked out, but if it can't be worked  
98 out, then I think this bill ought to go over to the  
99 Judiciary Committee for review, and let me give you a couple  
100 of the reasons why.

101 Number one, the bill, theoretically, could make simple  
102 trespass a Federal crime. We ought not to be making simple  
103 trespass a Federal crime if it's trespass on a "animal  
104 facility." I mean, what's different from trespass on an  
105 animal facility from trespass on a jewelry store or trespass  
106 on a clothing store? Our Federal courts are overloaded as  
107 it is, so we need to have a focused effort on why we are  
108 doing this bill. Granted there may be a problem here, but  
109 we have to make sure that we don't do something that creates  
110 a Federal remedy for something that would create normal  
111 State and local criminal conduct.

112 Second of all, this bill is a felony statute. So when you  
113 examine a felony statute, you have to make sure that Federal

7-21

114 jurisdiction is absolutely required in all contexts of it,  
115 and I'm not sure in all contexts that it is required.

116 Third of all, it could be interpreted that the prohibited  
117 acts of this bill, you know, that is, intending to deprive  
118 the owner of a facility and to disrupt or damage the  
119 enterprise conducted at the animal facility, could be to  
120 prohibit normal First Amendment acts of protest, and I don't  
121 think that we want to get into that ball game here of saying  
122 somebody, as misguided as they may be, wanting to protest at  
123 an animal welfare facility or at a university would be  
124 guilty of this statute. The language is not clear on this  
125 point, and that would be a simple mistake.

126 Fourthly, I'm not sure we want to create an opportunity  
127 for a Federal crime for anybody who may do disruptive damage  
128 on any animal facility, whether it be a small farm, a bee  
129 keeper's facility, or the largest university in the world.  
130 That's what the current bill does, and that is a potential  
131 scope of the remedy way beyond the nature of the problem.

132 So what I'm saying is that there may be a substitute  
133 offer, Mr. Stenholm--I don't know if you've got some  
134 additional language--and I'm willing to work on these things,  
135 because I think there is a problem of excess zealousness on  
136 some things in this case, but I would remind you that if we  
137 go after animal welfare facilities, then the next step, for  
138 example, is abortion clinics, Planned Parenthood facilities.

139           You can argue everything in the world is very important  
140 and justifies a Federal crime for disruption or trespass,  
141 and I think that's probably what the Justice Department was  
142 arguing, and it worries me that we would be doing something  
143 here that is not focused on the nature of what the problem  
144 really is.

145           I have other questions about language here. What does  
146 intent to disrupt mean? Hiding, for example, on an animal  
147 welfare facility, hiding is a Federal crime. Concealing  
148 yourself if you intend to do something bad, you're eligible  
149 for three years in the penitentiary. I'm not sure we want  
150 to do that, either. If there's a problem with the FBI not  
151 being able to get the information on interstate kinds of  
152 conspiracies, that's a different story. We ought to focus  
153 on that. That's why maybe this bill ought to be referred to  
154 the Judiciary Committee, where we can go into the kind of  
155 remedies that we're talking about.

156           What I want to make sure is we don't do something foolish  
157 here. Every time somebody harasses a farmer in this  
158 country, they would be guilty of a Federal crime. That is  
159 not what we want to do, and I don't think that's what the  
160 advocates want to do in this kind of situation, so I thought  
161 I would just bring these points forward.

162           One other thing is that we create a private right of  
163 action lawsuit for anybody who is "guilty" of violating

164 this act recovering all actual and consequential damages and  
165 court costs, including reasonable attorneys fees. Well,  
166 this committee has kind of fought that on other things in  
167 the years past, and we have to decide whether we want to go  
168 with private rights of action in this thing.

169 I understand what the bill is getting to, and I sympathize  
170 and am actually in favor of going after what I call the  
171 zealous, who are disruptive and who just want to destroy  
172 things for purely political purposes, but at the same time I  
173 think we have to be awful careful in setting precedents  
174 which might abridge both First Amendment rights protests as  
175 well as creating Federal crimes and things that ought not to  
176 be in the Federal courts at all, and I would yield back my  
177 time.

178 Mr. BROWN. Thank you, Mr. Glickman.

179 Mr. Coleman, do you have a statement?

180 Mr. COLEMAN. Mr. Chairman, I don't have an opening  
181 statement.

182 Mr. BROWN. Would you like to make up one?

183 [Laughter.]

184 Mr. BROWN. I'm not urging it.

185 Mr. COLEMAN. Mr. Chairman, I know that other members and  
186 the panel have statements, and we've got a lot of witnesses.

187 Mr. BROWN. We're going to urge the other members to be  
188 brief.



975 Mr. Glickman?

976 Mr. GLICKMAN. Yes, I would like to ask Dr. Howe and  
977 perhaps Dr. Rhode, although I did not hear your statement,  
978 the Justice Department and the FBI say they don't need a  
979 Federal statute to investigate these cases, that the law  
980 enforcement capability is strong enough with respect to, you  
981 know, doing the law enforcement work. The reason why you go  
982 after Federal crimes in these cases is usually because the  
983 States are incapable of investigating and bringing cases or  
984 else there is a compelling national interest. But for the  
985 most part we defer to the States.

986 I would ask you the question, do you have evidence that  
987 the Federal and State law enforcement authorities do not  
988 have the tools at their disposal to fight this issue?

989 Mr. HOWE. Sir, I respond in two ways. One is to say that  
990 when in a given year you have violence in Lubbock, and it's  
991 announced in Washington, when you have violence in  
992 Pennsylvania, and it gets announced in Texas, when over the  
993 past eight years you've had 70 cases of criminal acts, the  
994 system isn't working.

995 Mr. GLICKMAN. Well, wait a second, Dr. Howe. We've had 10  
996 million cases of criminal acts in this country in the last  
997 eight years all over the country. You've got to do more  
998 than just say there have been 70 cases in the last eight  
999 years. Have they been tied together? Is there evidence that

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1000 it's part of a conspiracy? Is there evidence they're moving  
1001 in interstate commerce? Is there evidence that the States  
1002 do not have the law enforcement capability of investigating  
1003 the crime? That's the question.

1004 Mr. HOWE. That's a very important question, and in my  
1005 testimony, sir, I gave that back-up in terms of the fact  
1006 that there is evidence that in fact these things are going  
1007 across State lines, and it's because of that that we came to  
1008 you and appealed to you. It's a very important question and  
1009 one that I think we feel very strongly about.

1010 Mr. VOLKMER. Will the gentleman yield? I'll yield to the  
1011 gentleman some of my time.

1012 Mr. GLICKMAN. Yes, sure.

1013 Mr. VOLKMER. I'd just like to point out, I believe one of  
1014 the statements showed this, and I believe in our earlier  
1015 hearing we had testimony to the fact that at times like the  
1016 Arizona situation, when they did that, that there was a  
1017 release the next morning claiming responsibility that  
1018 appeared in Washington. There are, in other words, signs  
1019 that this is not just some local situation, but it is  
1020 manifested by a conspiracy across State lines.

1021 Mr. HOWE. Yes, sir.

1022 Mr. GLICKMAN. Well, the Department of Justice report  
1023 indicates that they've already dealt with the Lubbock,  
1024 Texas, case. I mean, that is, the States dealt with the

1025 Lubbock, Texas, case.

1026 Mr. HOWE. I don't know what you mean by "dealt with it."

1027 Mr. GLICKMAN. Yes, the FBI has entered into an  
1028 investigation of this, but I'll get to this later. I guess  
1029 my point is that we've got a lot of problems in our society.

1030 If somebody comes to us with every problem and says, "We  
1031 need a Federal jurisdiction in Federal courts," we will  
1032 take away all power of the States, and we don't know whether  
1033 it's necessary. Sometimes people do that because they  
1034 think, "We've got an important problem, we're special, we  
1035 require Federal jurisdiction." I'm just saying that that's  
1036 a tough one for us, and it's one of the reasons why I'm  
1037 going to request if this bill goes out of here that it go to  
1038 the House Judiciary Committee for review.

1039 Now, the next question is this. Is it your intention to  
1040 prohibit normal First Amendment protected activities on  
1041 protests and speech? Is that your intention?

1042 Mr. HOWE. Sir, that particular item is carried in written  
1043 testimony in the section dealing with the First Amendment.  
1044 I think it's on page 7.

1045 Mr. GLICKMAN. Okay, so you say it's not your intention.

1046 Mr. HOWE. No, it's not.

1047 Mr. GLICKMAN. I want you to listen to the first prohibited  
1048 act, and you tell me what this could involve. "A person  
1049 commits an offense if, without the effective consent of the

1050 owner, the person acquires or otherwise exercises control  
1051 over an animal facility or an animal from that facility or  
1052 their property with the intent to deprive the owner of such  
1053 facility, animal, and property and with the intent to  
1054 disrupt or damage the enterprise conducted at the animal  
1055 facility."

1056 This requires no damage to be proved at all. No damages.  
1057 All you have to have is the intent to exercise control to  
1058 "deprive the owner of the property and the intent to  
1059 disrupt." I'm just wondering what that means, the intent  
1060 to disrupt. Would protesting in front of your front door be  
1061 an intent to disrupt? I mean, if you thought it was  
1062 disruptive to you?

1063 Mr. HOWE. Sir, I can share a Texas perspective. At the  
1064 University of Texas Health Science Center in San Antonio,  
1065 where I'm the President of that institution, we have a free  
1066 speech area that's designated by the Board of Regents,  
1067 University of Texas system, and people are free to use it on  
1068 a regular basis.

1069 Mr. GLICKMAN. Is the free speech area anywhere close to  
1070 your front door, or is it put two miles away in the middle  
1071 of some barn?

1072 Mr. HOWE. I invite you to come to San Antonio. What you'd  
1073 see, sir, is it's right on our doorstep. Specifically with  
1074 respect, sir, to what you're saying, namely that there needs

1075 to be a mechanism whereby people can express their views,  
1076 what we're talking about is something that goes beyond that  
1077 in terms of disruption of the research activities.

1078 Mr. GLICKMAN. Disruption, however, has got to be more than  
1079 just what's in your mind of disruption. Disruption has to  
1080 be in the form of something real in terms of damages. I  
1081 just must tell you I understand your fear of threats and  
1082 intimidation. That would scare the heck out of me as well.  
1083 But, you know, in order to come up with a statute, it's got  
1084 to make constitutional sense so that people know what the  
1085 crime is they are committing. That's what the courts have  
1086 repeatedly held.

1087 As I read that section of the law, I don't know what the  
1088 crime is. Intent to disrupt. No requirement of damages.  
1089 Intent to deprive the owner of the facility. I submit to  
1090 you that's unconstitutionally vague, and I won't support it.

1091 Now, I will try to work with you on some language that is  
1092 clear, that's specific, that's focused and to the point on  
1093 interstate terrorism.

1094 Mr. HOWE. I appreciate that, sir, because one of the  
1095 things that I want to share with you is that there's a sense  
1096 of helplessness when you have an act in a given State. I  
1097 mean, gosh, I come from Texas, where we're not looking for  
1098 additional Federal rules. I mean, there's a fierce  
1099 independence in our State, but when you have an incident

1100 that occurs in one part of our State and then you have the  
1101 announcement in another part of the country, there's a  
1102 certain need for interstate communication and collaboration  
1103 in terms of following up on it--

1104 Mr. GLICKMAN. But you need more than just that anecdotal  
1105 evidence. The fact of the matter is that there's got to be  
1106 some reasonable degree of proof that an interstate  
1107 conspiracy is in fact taking place, and I think the burden  
1108 is on those wanting this statute to show that. I don't mean  
1109 to demean what you're trying to do here. As I said, I  
1110 understand it.

1111 My time has expired. I just want to indicate that there's  
1112 got to be more than Dr. Howe coming to us and saying, "Help  
1113 us, we've got a problem, but we're not exactly sure where it  
1114 is, and we're being intimidated, and you've got to protect  
1115 us from that." It's got to be more than that, in my  
1116 opinion.

1117 Mr. HOWE. And I would argue, sir--

1118 Mr. GLICKMAN. There have got to be damages.

1119 Mr. HOWE. Right. It goes beyond intimidation. We're  
1120 talking about violence.

1121 Mr. GLICKMAN. Well, then the statute has to read violent  
1122 acts rather than intent to disrupt and that kind of thing.

1123 Mr. HOWE. Because it is violence that's the concern.

1124 Mr. GLICKMAN. Okay, that's good. I'm glad we got that on

1125 the record. Thank you.

1126 Mr. BROWN. Is there someone on the minority side that  
1127 would like time at this point?

1128 Mr. Grandy?

1129 Mr. GRANDY. Mr. Chairman, I don't have any questions for  
1130 the panel, but I'm wondering if there's anybody representing  
1131 the Justice Department who might comment briefly on the  
1132 revised legislation by Mr. Stenholm. I note that members of  
1133 the subcommittee have a letter from the Acting Assistant  
1134 Attorney General, Bruce Navarro, highlighting some  
1135 criticisms of H.R. 3270, but in one of the paragraphs, it's  
1136 mentioned that some preliminary efforts have been made in  
1137 this direction, and that is to say using existing laws to  
1138 inhibit acts of violence against animal research facilities,  
1139 and I'm just wondering if there's anybody from the Justice  
1140 Department that could elaborate a little bit on that.

1141 Mr. BROWN. Mr. Grandy, the Chair has been informed that  
1142 Mr. Paul Maloney from the Justice Department is here and Dr.  
1143 Morley Cook from the Department of Agriculture APHIS and are  
1144 available to answer any questions. The Chair was going to  
1145 wait until we finished with this panel.

1146 Mr. GRANDY. All right, Mr. Chairman, I'll wait until such  
1147 time.

1148 Mr. BROWN. Do you have no further questions?

1149 Mr. GRANDY. Not at this time, Mr. Chairman.

1275 Mr. GLICKMAN. Can I just ask--oh, Mr. Volkmer hasn't asked  
1276 any yet.

1277 Mr. VOLKMER. Well, you can go ahead first.

1278 Mr. GLICKMAN. Can I just ask Mr. Cotreau or Dr. Kullberg a  
1279 question, if I got your name pronounced right? What is your  
1280 organization again?

1281 Mr. COTREAU. I'm here representing the Society for Animal  
1282 Protective Legislation.

1283 Mr. GLICKMAN. Tell me a little bit about the Animal  
1284 Liberation Front or what you know about the most extreme  
1285 members of the animal rights group. What are we talking  
1286 about here?

1287 Mr. COTREAU. To be perfectly frank with you, I have no  
1288 better idea than you do. We have no contact with anyone but  
1289 animal welfare people who are our members.

1290 Mr. GLICKMAN. Dr. Kullberg, do you know anything about  
1291 this? I mean, do we have a real clear and present danger  
1292 with some of these radicals who may be prone to violent  
1293 activity?

1294 Mr. KULLBERG. It's the predictable bell curve phenomenon.  
1295 In every movement, there are individuals on both sides of  
1296 the middle, and there are extremists. Extreme  
1297 conservatives, extreme radicals.

1298 In the animal rights movement, there are some very, very  
1299 angry people, in large part frustrated by the fact that



1300 existing laws are not being enforced. The Federal Animal  
1301 Welfare Act--the average, I believe, now is 1.5 visits a year  
1302 by APHIS to research facilities, some research facilities  
1303 that are well-known to have documented cases of animal  
1304 abuse, and there are radicals, people who lead often with  
1305 their emotions rather than understanding we live in a land  
1306 of law and order, who decide they'll take matters into their  
1307 own hands.

1308 Is there a horrendous present danger of this? If I were  
1309 to suggest to you that any movement does not have that  
1310 element, you would laugh at me. Is there a danger that ALF  
1311 may be doing something right now in some laboratory or  
1312 releasing some animals that are being inappropriately cared  
1313 for on some farm, could it be happening right now? It  
1314 could. Are some of these radicals from one State and another  
1315 State, and do they get together and talk about what might be  
1316 done in a third State? I believe they do. But I believe  
1317 they are an extremely small number of people, amazingly, for  
1318 a movement as large as the animal rights/animal protection  
1319 movement.

1320 I think that existing laws certainly, when these  
1321 individuals are identified, can well adjudicate what  
1322 offenses they commit, and to steal is an offense, to destroy  
1323 is an offense, and the law certainly will deal very strongly  
1324 with these individuals if found, and it certainly isn't in

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1325 | the volume that other great movements and causes in this  
1326 | country have had as they have sought a more ethical and a  
1327 | more humane arena to include the cause that they espouse.

1328 |         Mr. GLICKMAN. Well, I think that it's important to  
1329 | recognize that, you know, there are these extreme radical  
1330 | movements in every organization, and we have taken action to  
1331 | pass laws to protect ourselves against them if we believe  
1332 | that the threat is large enough and there's some reason that  
1333 | the existing law enforcement authority is not sufficient to  
1334 | deal with it.

1335 |         I guess my concern here is, has a case been made on the  
1336 | record that the existing law enforcement authority is not  
1337 | sufficient to deal with it, or is this bill merely to prove  
1338 | a political point that we're going to pass a law that gets  
1339 | back at these people? That's not why we pass criminal laws.

1340 |         That may be why we pass resolutions of how we feel about  
1341 | issues, but criminal laws have to be based upon the fact, is  
1342 | there an ineffective law enforcement mechanism there.

1343 |         For example, Mr. Chairman, I'm not sure if there isn't  
1344 | right now a conspiracy statute under the Federal laws to  
1345 | commit arson, to cross State lines and commit arson. It  
1346 | would be interesting to know what the range of criminal  
1347 | statutes there are in existing law, Federal statutes, to  
1348 | deal with this particular kind of problem, and I guess  
1349 | that's my concern about this legislation as I think about

1350 it.

1351 Mr. KULLBERG. Mr. Glickman, could I add one other thing?

1352 All of us in this room are increasingly frustrated in our  
1353 private lives as well as what we read in the newspapers with  
1354 regard to seeming acts of vandalism, seeming horrible  
1355 examples of people taking advantage of some opportunities  
1356 they are given in their professional life, going unpunished,  
1357 getting away with it, not being found. We at times seem to  
1358 be almost in the period of anarchy in this country rather  
1359 than in a period of law and order.

1360 But the problem isn't that a law doesn't exist; the  
1361 problem is that law enforcement authorities and the courts  
1362 need proof to proceed, and simply passing another law and  
1363 then a law after this to protect extremists on the abortion  
1364 clinics and then a law after that for something else, we're  
1365 going to have a lot of laws on the books, but until we  
1366 really put meat into our law enforcement, then we're not  
1367 going to get very far in this country.

1368 Mr. GLICKMAN. Well, I guess my final point is that, you  
1369 know, in the Judiciary Committee on which I serve, right now  
1370 we're dealing with the crime bill, the basic crime bill, and  
1371 there we're talking about enough U.S. Attorneys, enough  
1372 judges to prosecute drug cases, and under this bill every  
1373 farm in America becomes an animal facility. Every single  
1374 farm in America becomes an animal facility for the purposes

1375 | of this statute. It sure does. If you define animal  
1376 | facility, if it's got--

1377 |         Counsel, is that right? Do we have a counsel there?

1378 |         Mr. VOLKMER. If the gentleman will yield, I'd just like to  
1379 | point out, I can show you a lot of farms in my State, and  
1380 | I'm sure there are in Kansas, that don't have animals.

1381 |         Mr. GLICKMAN. Well, okay, a farm that has animals. Okay.  
1382 | The gentleman is correct, but I might point out that the  
1383 | animal facility includes any vehicle, car, building--it could  
1384 | be a car that you're breeding animals in--any vehicle,  
1385 | building, structure, research facility or premise where an  
1386 | animal is kept, handled, housed, exhibited, bred, offered  
1387 | for sale, or used for recreation.

1388 |         Now, I guess my point is that we've got a limited amount  
1389 | of Federal judges in this country, we've got a limited  
1390 | amount of prosecutors in this country, and conceivably  
1391 | you're talking about every farm in America where animals are  
1392 | kept, plus a lot of places in town where they're kept as  
1393 | well. Not just on the farm. My question is, is this an  
1394 | appropriate use of very tight restricted U.S. Attorneys and  
1395 | Federal judges and prosecutors and investigators when we've  
1396 | got a drug epidemic in this country? What's the more  
1397 | serious problem for us to deal with?

1398 |         Thank you, Mr. Chairman.

1399 |         Mr. BROWN. It is the Chair's intention, as soon as the

1400 members of the subcommittee feel that they have interrogated  
1401 these witnesses sufficiently, to excuse them and then to  
1402 call the representatives of the Department of Justice and  
1403 APHIS to the table, not for testimony but to answer any  
1404 questions that we might have. Now, are there further  
1405 questions of this panel?

1406 Mr. VOLKMER. I'd like to perhaps comment on some things  
1407 that have been said by my colleague, if that's permissible.

1408 Mr. BROWN. The Chair will allow the gentleman.

1409 Mr. VOLKMER. In answer to the gentleman from North  
1410 Carolina and his proposed amendment, I would just like to  
1411 say I don't think it would be quite fair to say to an  
1412 institution that because you have a stolen animal, an animal  
1413 that had been previously stolen, on your premises that you  
1414 are no longer able to seek dollars or anything else unless  
1415 you say that they knew it to be stolen.

1416 Many times people receive stolen property, and they're not  
1417 prosecuted for it unless they know that they have received  
1418 stolen property.

1419 Mr. ROSE. Will the gentleman yield?

1420 Mr. VOLKMER. Yes.

1421 Mr. ROSE. I don't have any intention to take away any  
1422 research funds. All I'm saying is if they knowingly receive  
1423 stolen animals--

1424 Mr. VOLKMER. Knowingly receive. You didn't say that

1425 | before. It was just if you had one on the premises.

1426 | Mr. ROSE. Right. Receiving stolen property--

1427 | Mr. VOLKMER. Which means the people on the side that are  
1428 | against that institution, all they have to do is go out and  
1429 | steal a cat or a dog or whatever that institution uses,  
1430 | provide it to the institution, and then go in and say, "We  
1431 | stole it, so therefore you've got stolen property."

1432 | Mr. ROSE. All I'm trying to do is make the institutions  
1433 | take prudent steps and measures to make sure that they are  
1434 | not receiving stolen property--

1435 | Mr. VOLKMER. I have no objection to that.

1436 | Mr. ROSE.--and if they do, not cut off their research  
1437 | funds, Harold, but just to say that the Stenholm bill  
1438 | doesn't apply to them.

1439 | Mr. VOLKMER. All right. As a former prosecutor, I have to  
1440 | disagree a little bit with the gentleman from Kansas in the  
1441 | characterization of the first prohibitive act. It says, and  
1442 | there's an "and" down there "to disrupt," they have to  
1443 | "acquire or otherwise exercise control over an animal  
1444 | facility and to disrupt or damage the enterprise conducted  
1445 | at the animal facility." That's not just standing there  
1446 | talking about it.

1447 | Mr. GLICKMAN. If the gentleman will yield, it says, "with  
1448 | the intent to deprive," and the question is do they  
1449 | actually have to disrupt or damage, or is it with the intent

1450 to disrupt?

1451 Mr. VOLKMER. It says, "and to disrupt or damage the  
1452 enterprise."

1453 Mr. GLICKMAN. Okay. And my question to that is what does  
1454 disrupt mean?

1455 Mr. VOLKMER. All right. Then I'd say you also at the same  
1456 time have to exercise control over the animal facility, and  
1457 to me that envisions actually controlling it where people  
1458 cannot have free movement in it, cannot be able to enter or  
1459 leave, that's control. Therefore, I think it's a little bit  
1460 different than just standing up and using freedom of speech.

1461 The other thing I'd like to ask Dr. Kullberg a little bit  
1462 about, I've read the joint resolutions, and I see some  
1463 things in there that I think many people of the United  
1464 States disagree about. But by pushing these areas, okay,  
1465 and you're saying this is the way the world should be, but  
1466 the world, in my opinion, you're a minority, therefore isn't  
1467 going to be that way. But if others agree with you and they  
1468 see that, hey, it isn't happening, therefore I'm going to  
1469 make it happen, aren't you really promoting extremism?

1470 Mr. KULLBERG. Mr. Volkmer, I go to church every Sunday.

1471 Mr. VOLKMER. Fine. I try to, also.

1472 Mr. KULLBERG. I listen to that priest, and he puts forward  
1473 what would be the most appropriate way for me to live my  
1474 life and teach my children and protect my family, and I do

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1625 | them humanely, and if you're going to eat them, then kill  
1626 | them humanely.

1627 | I think if we can get that far in my lifetime and yours,  
1628 | we'd come a long way in this country for a more humane ethic  
1629 | down on the farm.

1630 | Mr. VOLKMER. Well, you have yet to persuade me, and others  
1631 | have yet--and I'm going to quit with this--yet to persuade me  
1632 | that there is sufficient cruelty to animals by farmers that  
1633 | I need to pass legislation to protect those animals.

1634 | Mr. KULLBERG. I hope I can change your mind one day, sir.

1635 | Mr. BROWN. The gentleman from Indiana has not had an  
1636 | opportunity to weigh in.

1637 | Do you have any questions?

1638 | Mr. JONTZ. No, I do not.

1639 | Mr. GLICKMAN. But he has an amendment.

1640 | [Laughter.]

1641 | Mr. BROWN. The Chair is probably making an unnecessary  
1642 | comment when he states that this is the kind of legislation  
1643 | that calls for the very best in legislative skills. It's  
1644 | again in many ways to the issues such as abortion or flag-  
1645 | burning, which arouses very strong emotional feelings on  
1646 | both sides of the issue, and I would urge the members to  
1647 | recognize this and to see if we can't produce some  
1648 | constructive results if indeed the situation warrants  
1649 | legislative action.

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Update

action resulting in a right to request a hearing must include a statement from the agency informing the person that a written request for a hearing must be filed with the agency within fifteen (15) days of the service of the notice.

The most controversial aspect of the bill affects intervenor's rights in environmental actions over public water supply.

Currently, any person having an interest which is or may be affected can intervene in any civil action brought under K.S.A. 65-170(e), K.S.A. 65-171(b), or the Act for Judicial Review and Civil Enforcement of Agency Actions. The Bill narrows its application by requiring the interested intervenor demonstrate an "identifiable" interest in the action. This change was controversial among environmental groups. The Kansas Natural Resource Council has filed a petition with the Environmental Protection Agency to withdraw administration of the Kansas waste water program from state control and a representative from the Kansas Department of Health and Environment suggested this amendment may forestall E.P.A. action to withdraw water pollution control permit programs.

## Employment Security Law — Employee Leasing — Rate Groups

Recognizing advantages accrue to small Kansas businesses through the use of employee leasing, the 1990 Legislature addressed the relatively new but increasing use of employee leasing agreements. This legislation was recommended by the Employment Security Advisory Council to permit employee leasing firms to operate within the purview of the Kansas Employment Security Law.<sup>7</sup>

Brokers (lessor employing unit) who supply leased workers to a business (client lessee) are liable for unemployment contributions on wages paid to the workers. "Lessor employing unit" is defined as "any independently established business entity which engages in the business of providing leased employees to a client lessee."<sup>8</sup> "Client lessee" is defined as "any individual organization, partnership, corporation or other legal entity leasing employees from a lessor employing unit."<sup>9</sup>

Lessor employing units currently engaged in the business of leasing employees to client lessees are required to comply with this new law prior to October 1, 1990. Client lessees (businesses using

*Client lessees (businesses using leased workers) are jointly and severally liable for any unpaid contributions, interest and penalty on wages paid to employees.*

leased workers) are jointly and severally liable for any unpaid contributions, interest and penalty on wages paid to employees. Brokers will also be required to keep separate records and submit separate quarterly reports for each client lessee.<sup>10</sup>

As a safeguard, businesses will not be allowed to lease back from the lessor employing unit (broker) an individual, owner, partner or corporate officer who is a shareholder or a member of the board of directors of the corporation. Furthermore, there is an exception for businesses which provide temporary workers to employers.

Subsection (c) provides:

"The provisions of this section shall not be applicable to private employment agencies which provide temporary

7. Ch. 186 amending K.S.A. 44-701 *et seq.*

8. Ch. 186, K.S.A. 44-703, new subsection (ff).

9. *Id.* at new subsection (gg).

10. *Id.* at new section 1(a).

11. *Id.* at new section 1(c).

workers to employers on a temporary help basis provided the private employment agencies are liable as employers for the payment of contributions on wages paid to temporary workers so employed."<sup>11</sup>

Schedule I Eligible Employers Computation of Contributing Employer Rates is expanded from 21 groups to 51.<sup>12</sup> This Schedule I of Contributing Employer Rates is used to assign tax rates to experience-rated employers. The Employment Security Advisory Council recommended the number of rate groups be expanded from 21 to 51. This increase applies only to positive eligible accounts and provides for a smoother employer transition in effective rates. As a result, all employers will receive a rate which more accurately reflects their individual experience with unemployment.

## Casual Labor Exemption Employment Security Law

"Casual Laborers" join movie extras<sup>13</sup> and oil and gas contract pumpers<sup>14</sup> as the most recent group of workers who will no longer be eligible for unemployment benefits.

Kansas joins twenty other states in exempting "casual labor" from the definition of "employment" in the Employment Security Law.<sup>15</sup> Individuals who perform work outside the employer's trade or business for less than \$200 in any calendar quarter will not be eligible for employment benefits. Statutory criteria is provided to determine whether the employee is a "regular employee" or "casual labor." Persons who work less than part of twenty-four days in a quarter providing some service not directly related to the business of the owner would be considered "casual labor."

12. K.S.A. 44-710a(2)(D).

13. K.S.A. 1989 Supp. 44-703(i)(4)(R).

14. K.S.A. 1989 Supp. 44-703(i)(4)(S).

15. Ch. 187.

## Agriculture & Miscellaneous Issues

by Rep. John M. Solbach

The Legislature responded to a perceived threat to animal research facilities and livestock farming operations in Kansas by organizing "animal rights" groups and what conferees testified was a nationwide fanatical effort to damage the enterprises conducted at research facilities and livestock farms. Although current laws against criminal damage to property, trespass, burglary and theft prohibit the activities prohibited under this Act, this Act redefines the law and increases the penalties when there is the additional specific "intent to damage the enterprise being conducted at an animal facility" (place where an animal is kept, handled, exhibited, bred, or offered for sale, [i.e. zoo to sale barn]) or research facility, (place, including schools at all levels where any scientific test, experiment or investigation involving any live animal is conducted or attempted).<sup>1</sup> The term "animal facility" includes research facility.<sup>2</sup>

Destruction of property with such an intent is a Class D Felony if over \$50,000 worth of property is destroyed, an E Felony if \$500 to \$50,000 worth of property is destroyed, and a misdemeanor if less than \$500 worth of property is destroyed.

It apparently is intended that the value of property destroyed would be determined not just by the value of "beakers and pipes," but the value of the labor and expertise of setup and previous research, which is effectively destroyed. It becomes an E Felony to acquire or exercise control over an animal facility: 1) without the consent of the owner; 2) with the intent to damage the enter-

### FOOTNOTES

1. Ch. 192.

2. The 1988 Legislature enacted amendments to K.S.A. 47-1701 *et seq.* and K.S.A. 21-1213 to address the "puppy mill" problem. These laws remain unchanged by Ch. 192 which is meant to address an entirely different subject and which ostensibly does not apply to government agencies or puppy mill inspectors.

prise conducted therein; and 3) with the intent to deprive the owner of the use of the facility or of an animal at the facility. (It is also an E Felony to hold an animal for ransom.) It is also an E Felony under this Act to enter such a facility not then open to the public without the owner's consent and with the intent to commit a prohibited act or remain concealed therein with such intent, or to enter and then commit or attempt to commit such an act when there is the additional intent to damage the enterprise conducted therein. An additional provision makes the simple entering the facility with the intent to take pictures or videos without the owner's consent and with the intent to damage the enterprise conducted therein an E Felony.<sup>3</sup>

It is this last provision which has sparked allegations of "puppy mill" protection and inspired the sending of truckloads of dog bones from California to our Governor's doorstep. The courts may have to determine if this provision is overly broad.

The bill provides for Class B misdemeanor penalties for simple trespass, when done with the intent to damage the enterprise conducted thereon. It is unclear, however, how one could be guilty of this provision without also being guilty of one of the felony provisions.

The legislation further provides for civil redress to anyone damaged by violation of this Act in an amount three times the actual and consequential damage sustained, plus court costs and attorney's fees, or a greater amount or other remedies if allowed by other provisions of the civil law (i.e., punitive damages).

Legislation was enacted to deal with waste-tire sites — defined as a "site with more than 1,000 waste tires."<sup>4</sup> It becomes unlawful after July 1, 1990 to maintain a waste-tire site unless the site is an integral part of a waste-tire processing facility or a retreading business.<sup>5</sup> It also prohibits the disposal of waste tires in solid waste landfills.

"Waste tire" is defined as a whole tire that was used on a motor vehicle prior to becoming a waste tire. The Secretary of Health and Environment is required to establish permits for waste tire processing and collection centers, and to establish fees for these permits. A \$.50 per tire tax is established to help finance the positions needed in the Department of Health and Environment to carry out the work mandated by this bill. The legislation was enacted in response to the problem the tires cause as breeding grounds for vermin, as potential fire hazards, and because of the extraordinary amount of space that a whole waste tire takes up in a landfill.<sup>6</sup>

The Legislature also outlawed vehicle brokering.<sup>7</sup> Vehicle dealers and salesperson's associations convinced the Legislature that vehicle brokering was not good public policy. The practice of vehicle brokering does reduce significantly the commission that a car purchaser pays by going through an independent third party who makes the deal with the car dealer.<sup>8</sup>

Another bill substantially amended statutes relating to the Kansas Uniform Commercial Driver's License Act, increased the fee for commercial driver's licenses and provided for a distribution from the truck driver training fund to schools for the support of truck driver training programs.<sup>9</sup> The bill removed the urine test as one of the tests for determining alcohol concentration but left in place the breath test under the current law.

The bill defined as a serious traffic violation speeding in excess of 15 mph over the posted speed limit, and also includes following too closely and changing lanes in traffic illegally or erratically. The air brake restriction code changed from K to L in connection with endorsements required on the commercial driver's

license. The fee for obtaining a commercial driver's driving record will be set by the Secretary of Revenue rather than by statute.

The Information Network of Kansas was created as a public entity with a ten member board, one of whom will come from the Kansas Bar Association, as it is anticipated that attorneys will be the largest initial user group. This corporation will provide public access by computer to certain State data and information which is not otherwise prohibited by law from dissemination to the public.<sup>10</sup> It will resemble Dialog or ABA-Net or other dial-in modem services. Eventually it will allow access to electronic legal research, corporate records of the Secretary of State's office, UCC documents, motor vehicle driving records, etc.<sup>11</sup>

*Eventually it will allow access to electronic legal research, corporate records of the Secretary of State's office, UCC documents, motor vehicle driving records, etc.*

#### House Bill 2299

The distribution, manufacture or sale of an imitation firearm is now prohibited and people who sell, manufacture or distribute an imitation firearm now face a civil penalty of up to \$10,000 per violation.<sup>12</sup> There are certain conditions or exceptions contained in the bill. The bill does not apply to non-firearm pellet guns and BB guns. An imitation firearm is defined as one designed to look like it would be identical to a real firearm. The law was passed at the request of law enforcement groups who were concerned about the potential shooting of innocent children who were playing with toy guns that looked so much like real guns that the law enforcement officer feels that his life is threatened.

The Legislature acted in response to what appears to be a growing market for rare intact fossils in Japan and other places.<sup>13</sup> (Fossils may not be going for as much as Van Gogh's or Monet's but they are rapidly approaching prices that the farmers in western Kansas believe would encourage fossil hunters to visit our fair state.) Fossil hunters must obtain written permission from the landowner on whose land fossils are sought and must identify himself or herself as a commercial fossil hunter who intends to sell fossils. The written permission must state that these latter day Indiana Jones' have permission to hunt fossils. Violation of these provisions by a commercial fossil hunter is a Class B misdemeanor. The bill also prohibits removal of fossils unless the landowner is provided with a description of the fossil and has approved its removal in writing. Violation of this provision of the law is a Class A misdemeanor. These new sanctions are not intended to be in lieu of trespass or theft law, but to provide additional sanction and deterrence.

Other legislation gave the attorney general and district attorney standing to bring actions concerning alleged violations of the Open Records Act.<sup>14</sup>

The director of the Division of Motor Vehicles now may enter into interstate agreements to exchange criminal and civil conviction information regarding non-resident vehicle dealers.<sup>15</sup>

New law includes, in addition to paternal, benevolent, social, educational, alumni and historical organizations, humane and public health organizations under a broader Charitable Organi-

preference for one type of legitimate business over another.

9. Ch. 41.

10. Ch. 266 as amended by Ch. 274.

11. An article by William F. "Brad" Bradley Jr. on what the Information Network of Kansas is envisioned as doing was published in the *Kansas Bar Journal*, May 1990, at page 20.

12. Ch. 96.

13. Ch. 245.

14. Ch. 190.

15. Ch. 32.

3. Entering a facility without permission to take pictures would be trespass absent this provision. Taking pictures from outside the facility is no crime at all.

4. Ch. 319.

5. Also exempt under the bill are feedlot operations and waste farm tire sites as tractor and farm equipment tires are not defined as waste tires.

6. New technology is growing to reprocess waste tires into new uses, such as repaving material. This, too, sparked new interest in reprocessing waste tires.

7. Ch. 52.

8. The attorney general has already opined that the law is unconstitutional as being a naked



# KANSAS COMPANION ANIMAL ASSOCIATION

P. O. Box 3197 • Olathe, Kansas 66062

913-829-0102

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## TESTIMONY IN SUPPORT OF SB-711

My name is Jan Price, and I'm President of the Kansas Companion Animal Association. We support repeal of the Farm Animal and Research Facilities Protection Act ("Farm Animal Protection Act"), and at the very least, the repairs contained in SB-711.

In all our years of work to enact legislation to address this state's puppy mill problems, we were always required to: (1) prove that there IS a problem (which we've done), and (2) prove that existing laws and regulations don't adequately address the problems (which we've done). The proponents of the Farm Animal Protection Act were not held to these standards, which they could never meet because (1) there never has been, nor are there now, any animal rights terrorists in Kansas; and (2) there are already adequate laws--which we wholeheartedly support--against trespassing, breaking and entering, destruction of private property, and theft.

The proponents of the Farm Animal Protection Act hysterically reacted to one alleged incident of an "animal rights' break-in" in Texas and duped the legislature into enacting a nationally embarrassing, totally needless piece of legislation. Here we don't have enough judges or prosecutors to pursue murderers and drug traffickers in a timely manner, and the proponents of that asinine piece of legislation propose clogging our judicial system with cases involving people hiding on farms.

It is truly mind-boggling how a rational person can even suggest that trespassing on, much less taking pictures of, animal facilities endangers the public more than the violence that occurred in post offices in Kentucky and Texas--or a McDonald's in California--or at abortion clinics all over this country.

We urge this Committee to look through the smoke screen of misinformation, rumor-mongering, name-calling, and hysteria that enabled such a ridiculous law to ever be passed in the first place. Please restore an image of dignity, and a sense of sanity, to our state by passing SB-711. Thank you.

*Civil Procedure Subcommittee  
March 3, 1992  
Attachment 9*

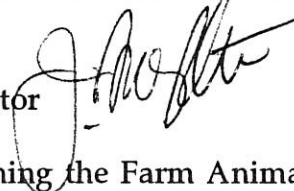


# KANSAS MEDICAL SOCIETY

623 W. 10th Ave. • Topeka, Kansas 66612 • (913) 235-2383  
WATS 800-332-0156 FAX 913-235-5114

March 4, 1992

TO: Subcommittee on Civil Procedure of the Senate Judiciary Committee

FROM: Jerry Slaughter  
Executive Director 

SUBJECT: SB 711; Concerning the Farm Animal and Research Facilities  
Protection Act Amendments

The Kansas Medical Society appreciates the opportunity to appear on SB 711, which would amend the Farm Animal and Research Facilities Protection Act. As you may recall, we supported enactment of this law, because we felt it was important to protect facilities and institutions which utilize animals in *bona fide* medical research.

While there are several amendments contained in SB 711, the only one which concerns us is the one found on page 2, subsection (i), lines 7-12. In this section "research facility" is redefined by referencing K.S.A. 47-1701. As we understand the change, it would not protect research at facilities such as the Kansas University School of Medicine. For this reason, we must oppose the suggested change in the definition. It is absolutely essential that our major training and research institutions be afforded the same protection as other facilities outlined in this bill.

We urge you to reject the proposed change in definition of "research facility." We appreciate the opportunity to offer these comments.

JS:ns

Civil Procedure Subcommittee  
March 3, 1992  
Attachment 10  
1/2

animal control officer, employee, whose duties include the assignments which require taking into custody of

ensures the humane destruction which may be accomplished by methods provided for amendments thereto.

"Shelter" means any premises for dogs, cats, or both, which are kept on such premises are maintained for sale, but only on such premises, but only for dogs or cats, or both, which are raised on such premises during the registration year of six litters of animals, whichever is less, for dogs or cats, or both. It does not include: (A) Any premises or (B) any premises which are part of three litters of dogs or cats, or both, are kept on year.

"Pet shop operator" means any person who operates a hobby kennel.

"Room" means any room, which contains a primary en-

closure for "registration year" period ending on June

by any individual, association or other entity.

"Resale" means any premises which are offered or maintained for resale to another: (A) for both; or (B) any other premises which are produced and sold, or offered for sale, by a person who

does not include: (A) Any premises; or (B) any premises which are offered or maintained for resale to another: (A) for both; or (B) any other premises which are produced and sold, or offered for sale, by a person who

"Person" means any person

(t) "Pound" means a facility:

(1) Operated by the state, or any political subdivision thereof, for the purpose of impounding or harboring any seized stray, homeless or abandoned animal; or

(2) operated for such a purpose under contract with any municipality or incorporated society for the prevention of cruelty to animals or by another person under contract with such municipality.

(u) "Primary enclosure" means any structure used or designed for use to restrict any animal to a limited amount of space, such as a room, pen, cage, compartment or hutch.

(v) "Research facility" means any place, laboratory or institution, except an elementary school, secondary school, college or university, at which any scientific test, experiment or investigation involving the use of any living animal is carried out, conducted or attempted.

(w) "Sale," "sell" and "sold" include transfers by sale or exchange.

(x) "Sanitize" means to make physically clean and to remove and destroy, to a practical minimum, agents injurious to health, at such intervals as necessary.

**History:** L. 1972, ch. 201, § 1; L. 1974, ch. 226, § 1; L. 1980, ch. 157, § 2; L. 1988, ch. 189, § 1; July 1.

**47-1702. Animal dealer license.** Except as otherwise provided by K.S.A. 1988 Supp. 47-1722, it shall be unlawful for any person, other than a person licensed under public law 91-579 (7 U.S.C. § 2131 et seq.), to act as or be an animal dealer unless such person has obtained from the commissioner an animal dealer license for each animal dealer premises operated by such person. Except as otherwise provided by K.S.A. 1988 Supp. 47-1722, on and after January 1, 1989, it shall be unlawful for any person licensed under public law 91-579 (7 U.S.C. § 2131 et seq.) to act as or be an animal dealer unless such person has obtained from the commissioner an animal dealer license for each animal dealer premises operated by such person. Application for such license shall be made in writing on a form provided by the commissioner. The license period shall be for the license year ending on June 30 following the issuance date.

**History:** L. 1972, ch. 201, § 2; L. 1980, ch. 156, § 7; L. 1986, ch. 197, § 6; L. 1988, ch. 189, § 2; July 1.

**47-1703. Pet shop operator license.** Except as otherwise provided by K.S.A. 1988

Supp. 47-1722, it shall be unlawful for any person to act as or be a pet shop operator unless such person has obtained from the commissioner a pet shop operator license for each pet shop operated by such person. Application for each such license shall be made in writing on a form provided by the commissioner. The license period shall be for the license year ending on June 30 following the issuance date.

**History:** L. 1972, ch. 201, § 3; L. 1988, ch. 189, § 3; July 1.

**47-1704. Pound or animal shelter license.** Except as otherwise provided by K.S.A. 1988 Supp. 47-1722, it shall be unlawful for any city of the first class or the officials thereof to operate a pound or any corporate entity to operate an animal shelter as a pound unless a license for such pound or shelter has been obtained from the commissioner. Application for such license shall be made on a form provided by the commissioner. The license period shall be for the registration year ending on June 30 following the issuance date.

**History:** L. 1972, ch. 201, § 4; L. 1988, ch. 189, § 4; July 1.

#### **47-1705.**

**History:** L. 1972, ch. 201, § 5; L. 1988, ch. 356, § 158; Repealed, L. 1988, ch. 189, § 15; Repealed, L. 1989, ch. 157, § 1; July 1.

**47-1706. Refusal to issue or renew or suspension or revocation of license or registration; grounds; judicial review; seizure and disposition of animals, when.** (a) The commissioner may refuse to issue or renew or may suspend or revoke any license or certificate of registration required under K.S.A. 47-1701 et seq. and amendments thereto for any one or more of the following reasons:

(1) Material misstatement in the application for the original license or certificate of registration, or in the application for any renewal of a license or certificate of registration;

(2) willful disregard of any provision of this act or any rule and regulation adopted hereunder, or any willful aiding or abetting of another in the violation of any provision of this act or any rule and regulation adopted hereunder;

(3) permitting any license or certificate of registration issued hereunder to be used by an unlicensed or unregistered person or transferred to unlicensed or unregistered premises;

(4) the conviction of any crime, an essential element of which is misstatement, fraud or dis-



# PUBLIC POLICY STATEMENT

## SENATE JUDICIARY SUBCOMMITTEE ON CIVIL PROCEDURE

RE: Senate Bill No. 711

March 3, 1992  
Topeka, Kansas

Presented by:  
Warren Parker, Assistant Director  
Public Affairs Division  
Kansas Farm Bureau

### Mr. Chairman and members of the Subcommittee:

I thank you for the time to speak to you on this very important legislation. With your permission Mr. Chairman, I would also like to wear two hats today. One as a representative of the farmers and ranchers in each of the 105 counties in Kansas, and also as a parent of a child who is alive today, only because of very recent breakthroughs in medical research.

I come before you today with the strongest of opposition to S.B. 711 in its present form. The Farm Animal and Research Facilities Protection Act was passed to increase penalties for break-ins and damage to animal facilities and send a clear message to animal "rights" extremists that Kansas places a high priority on protection of farms and ranches and life-saving research facilities in this state.

The list of cases where extremists have wrought damage and death is long. The following are but a very few examples:

Davis, California--Arsonists caused nearly \$5 million in damage to the Veterinary Diagnostic Center Laboratory at the University of California at Davis. A facility where ironically animals benefit most from the research.

Tucson, Arizona--Arson and break-ins at the University of Arizona. Over \$2000 in property damage resulted, but over 1000 animals were stolen.

Santa Rosa, California--A farm suffered vandalism and cattle theft. Animal "rights" slogans were painted on barns and other buildings. The farmer is now out of business.

New York, New York--A Columbia University scientist's home was burned after a series of animal "rights" calls.

*Civil Procedure Subcommittee  
March 3, 1992  
Attachment 11*

Lubbock, Texas--The lab and office of a researcher was vandalized and five cats and research data were stolen. Five years of lifesaving research was lost.

It is important to note the distinction between two groups. There are those groups whose prime and genuine concern is for the proper care and welfare of animals. There are those extremists and misguided groups who believe animals have the same and equal "rights" as you and I, and that animals should not be used for food, research, or many believe, even as pets. The Farm Animal and Research Facilities Protection Act was created to deal with the latter group. This measure, since its inception, has been confused with the Companion Animal program and the "Puppy Mill" issue. This is NOT a "Puppy Mill" law. The focus of the Farm Animal and Research Facilities Protection Act goes well beyond that serious cause, to true life and death issues for people in this state and around the world.

It is important that you do not underestimate the significance of this law. Twenty three states have enacted similar legislation. Some have used the Kansas law as a model. Congress is also involved. The Farm Animal and Research Facilities Protection Act of 1991 (HR 2407) would punish acts of crimes against farms and research facilities with up to 20 years in prison. It is becoming well known around the country that this issue is deadly serious.

I would like to as briefly as possible go through the bill and the amendments, explain the opposition, then offer to you a balloon amendment to this bill that I believe will answer the legitimate concerns of those in the legislature and others who have a preoccupation with this measure:

Page 1, line 16 -- fur, research, testing, and education. This removes the protection for a legal fur industry, and also removes protection for those elementary and secondary schools where in science class they may wish to dissect a frog.

Page 1, lines 20-22 -- This removes kennels from any protection. Some claim that companion animals are their only concern. If that were the case, this amendment should satisfy them in itself. It obviously doesn't. It is important to note that in order to be subject to any penalty under this law, you must do two things. 1) Be in the act of trespass, and 2) have a proven intent to do damage.

Page 1, line 42 -- As this has been understood this would apply to a case of unclear title, or if a neighbor is taking care of livestock, etc. for an owner, and someone other than a governmental agency or employees or agent thereof attempts to take that animal, the neighbor, even though not having lawful ownership of the animal, would have the ability to act as the owner.

Page 2, lines 7-12 -- This is a serious amendment that removes protection from research facilities such as those at the K.U. Medical Center and Kansas State University. It is really unthinkable to take these institutions out from under protection. They are one of the primary reasons for this law.

Page 2, line 15 and following -- Considering damage only to property and not the enterprise of a facility is inconceivable. A test tube and a few papers do not represent the years

11-2/20



of work, possible research grants lost, and certainly, as mentioned in the case of the Texas sleep research, the lives lost by such an act. It is not expected that loss of life, as pertinent as it may be, would be considered, but other damages to the enterprise must be counted as the true losses they are.

Page 2, line 29 -- Why would anyone not interested in breaking the law wish to remove a provision that says trespassing and remaining concealed on someone else's property with intent to do damage is a crime?

Page 2, line 33 -- Taking pictures by photograph. This clarifying language applies to incidents such as the case of the Silver Spring Monkey at a Maryland research facility. It was a case where animal "rights" people "staged" a picture of torture of a monkey, then used the picture in a national campaign. After an investigation it was learned the only torture the monkey endured was during the time that picture was being taken.

Page 3, lines 1-2 -- It seems rather absurd to say that fencing or other enclosure obviously designed to exclude intruders or to contain animals is not a reasonable notice that crossing such a structure would be trespassing on someone's property.

I would like to skip down to Page 3, lines 24-26 -- The removal of these stronger penalties seems to be an attempt to say, "if they will only slap my wrist, I may go ahead and try something". I don't believe that is what we want to say in this legislation. Many of these extremist groups have annual budgets well into the tens of millions of dollars, and not losing sight of the purpose of the law, the point is to make these kinds of terrorist activities more costly.

Before you now is a balloon that deals with the amendment on Page 3, lines 14-15. As the law was passed a couple of years ago, it created a felony penalty for the actions under subsection (c) in the law that deals with trespass only and not damage to the enterprise or property. The same year a trailer bill, which we supported, was passed by the Senate to change that designation, but the measure failed to garner a majority in the House that year. This balloon addresses that change.

We would ask that you adopt this balloon to deal with the true difficulty with this law, and set this issue to rest. Going beyond this amendment is dangerous for the livelihoods of farmers, ranchers, and researchers in this state, and also for the lives of many children and adults who benefit daily from lifesaving research. Please do not send a message around the country that Kansas has less of a resolve when dealing with terrorist activities. This is not a tunnel vision issue. There is too much at stake. Thank you for your time and consideration. I would be happy to try to answer any questions.

11-3/20

# Dean's murder stirs fears here

**Matt Bunker**  
Staff Writer

The murder of the dean of the University of Tennessee School of Veterinary Medicine has raised fears that other deans of veterinary schools may be in danger — fears that are being taken seriously at Kansas State University.

Cable News Network reported Saturday there was some evidence that the murder of Dean Hyram Kitchen was the first in a series of murders of veterinary medicine deans by animal rights activists concerned with animal experimentation in veterinary schools. CNN reported the investigation had turned up the possibility that future killings might be planned at a rate of one dean per month.

Investigator Michael Cheaves of the Knox County, Tenn., Sheriff's Department today said Kitchen, who was killed in his driveway in Knox County Feb. 8, was shot eight times with a small caliber weapon.

Cheaves described the theory that animal rights activists were behind the death as "one possibility of many." He said the investigation has turned up



Michael Lorenz:  
*'It is something  
I'm taking  
fairly seriously.'*

"several notes that could possibly be related," although he declined to say what the notes contained or to comment on the theory that other deans might be in danger.

"(Kitchen) was for animal rights, but due to his title he could have been singled out," Cheaves said. "We haven't ruled it out."

Cheaves said investigators had contacted veterinary medicine schools around the country seeking information about the death, but that the contacts had not amounted to warnings to the deans of the schools.

Michael D. Lorenz, dean of KSU's College of Veterinary Medicine, said he had heard about the possible threat and was not taking it lightly.

"I'm not going to totally alter my life, but it is something I'm taking fairly seriously," Lorenz said. "I know that other deans, at least in the southeastern United States, were notified of that report."

Lorenz said Kitchen had been a friend of his and that Kitchen's views on animal rights made him an unlikely candidate for assassination.

"He was known as a real moderate — he was extremely concerned about topics like veterinary ethics," Lorenz said. "He had also spoken out against actions like dog fighting in Tennessee; he had a real soft spot for animals."

"We were all shocked — if it's true, they picked on the wrong guy."

Lorenz, who said he was not aware of any threats or intimidation at KSU, has been checking through local law enforcement authorities to determine the validity of reports surrounding Kitchen's death. "There's no question he was assassinated," he said.

Lorenz has heard rumors that other faculty members at the University of Tennessee had received threatening notes prior to Kitchen's murder. He said militant animal rights activists have thus far apparently limited their actions to destroying property in the United States — including burning a diagnostic laboratory at the University of California at Davis — but that researchers in Great Britain have received letter bombs and pipe bombs from activist groups.

Lorenz said there are 27 veterinary medicine colleges in the United States, all of which do some animal experimentation. KSU's research concentrates agricultural animals like beef

cattle and swine.

Since Kitchen's death, other veterinary medicine colleges have taken steps to increase security, Lorenz said. Although KSU is not ready to go that far yet, Lorenz said he wants to "make sure our faculty, staff and students are safe if there's any problem."

Spokespeople for the Riley County Police Department and the K-State University Police said they had not received any official notification of Kitchen's death and were not in the process of conducting investigations in connection with the possible threat.

11-4/20

# Animal rights activists threaten beef industry

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The livestock industry is accustomed to so-called "environmentalists" criticizing its grazing practices.

But when a radical group takes credit for burning a California livestock market. "It may mark a new phase in our industry's struggle to continue to be stewards of the land, and in our role as authentic animal welfarists," said John Morken, president of Livestock Marketing Association.

Morken commented following a fire at the Dixon Livestock Auction Company, Dixon, Calif., early the morning of Jan. 29. The fire destroyed approximately half of the market and did about \$250,000 damage, according to owner James F. Schene.

No personal injuries were reported, nor were any livestock injured, although about 750 head of cattle and sheep were in the market at the time.

An anonymous caller told Dixon area news media that an environmental group took credit for the fire.

"We know these groups want publicity for their actions, but we're not going to oblige them by mentioning their name in our public statements," Morken said. "Anyone who feels they must know the name of the group can call our Kansas City office, at 816-891-0502."

Criticism of the industry's grazing practices "is, unfortunately, a fact of life that the industry continues to counter with facts," Morken said. "However, if the battle over this issue now includes the sabotage of producers' marketing outlets, it is regrettable in more ways than one."

"First, arson is a felony and the guilty should be punished to the full extent of the law. Destroying an individual's business is a heinous crime."

"Secondly, a livestock market is a major economic factor in its community, through its volume of business, the people it employs, and the suppliers it uses."

"And finally," Morken said,

"no group can expect to influence livestock producers over the grazing issue when the group decides to eliminate the outlet for their livestock. When it's time to market livestock, the services provided by the competitive marketing system must be there."

Schene noted his customers bombarded him with calls immediately after the fire, asking him when he would be back in business. The answer: "as soon as possible," Schene told them.

"We are determined that this incident will not get us down, and we will not let these persons put us out of business."

## Beef sales plan is implemented

A five-point plan to boost retail beef sales is being implemented in over 700 Kansas stores and 32,000 participating supermarkets across the country in conjunction with National Meat Month.

The promotion spotlights beef with the "Enjoy Beef and Foodstyle/Life Style '89" point-of-purchase merchandising kit. A consumer booklet featuring low-calorie, easy-to-prepare recipes and nutrition information, as well as a game offering \$15,000 in prizes, are a part of the plan.

National Meat Month is designed to educate consumers about leaner meats and stimulate meat sales. The month-long event last year increased meat sales 11 to 14%.

The Kansas Beef Council is making an effort to turn Meat Month into Beef Month with special beef messages during February on the 30 affiliated Kansas Information Network stations. Sue Ann Mills gives a variety of messages to listeners on beef's convenience, as well as nutritional information. The meat month campaign is just one example of how cattlemen's checkoff dollars are working to educate consumers and increase the demand for beef.

11-5/20

# Animals in the lab



Ann Landers

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Dear Readers: My good friend Dr. Michael DeBakey, chancellor of Baylor College of Medicine in Houston and chairman of its department of surgery, has written a splendid article that appeared in the *Washington Post*.

His message is of great importance. I would like to share part of it here.

## MEDICINE NEEDS THOSE ANIMALS

"As a patient advocate, both in and out of the operating room, I feel a responsibility to protect the rights of patients to reap the benefits of animal research. Had the animal legislation now pending in Congress been enacted when I began my career, it would have prevented me from developing a number of lifesaving procedures in my research laboratory.

"Instead of restoring thousands of patients to a normal life, my colleagues and I would have been helpless to offer many of our patients any real hope. This legislation, known as the Mrazek bill, seeks to ban the use of pound animals for research supported by the National Institutes of Health, the chief source of funds for biomedical research in this country.

"Even with today's technology I could not have developed the roller pump that made open-heart surgery possible, or the artificial artery that restored health to previously doomed patients with blood clots. Nor could we have attempted the first successful coronary artery bypass or implanted the first temporary mechanical heart.

"If scientists abandon cat and dog experiments for other models that are not as suitable or as well understood, many potential medical breakthroughs may be severely crippled or halted.

"Would animal-rights activists have objected to the first kidney,

heart or liver transplant? Would they forgo the protection humanity enjoys today against polio, diphtheria and whooping cough or the treatment for strep throat, ear infections and pneumonia, all products of animal research? Would they have denied the 11 million diabetics the right to life that insulin has given them? Or the additional years made possible because of radiation and chemotherapy?

"It was in monkeys that the deadly AIDS virus was isolated and that isolation is the initial step in the ultimate development of the vaccine.

"According to the American Humane Society, 7 million pet dogs are abandoned to pounds or shelters each year, 5 million of which are killed. Yet some would have you believe that killing animals in a pound is more virtuous than using them to help advance medical knowledge and benefit human and animal health.

"As a physician, I cannot conceive of telling parents that their sick child is doomed because we cannot use all the tools at our disposal. Surely those who object to animals in research laboratories must be equally distressed to see sick children hooked up to tubes. How will those parents feel about a society that legislates the rights of animals above those of their children?

"Self-preservation is a primary instinct of all members of the animal kingdom, and patients with that instinct deserve our compassion as much as other species. The American public must decide. Shall we tell hundreds of thousands of victims of heart attacks, cancer, AIDS and other diseases that the rights of abandoned animals to die in a pound supersedes the patients' rights to relief from suffering and premature death? In making that decision, let us not use anger and hatred but reason and good will."

10-6-88

# Animal rights activists are off base

DEAR ANN: Although I have been an avid reader of your column for 20 years, I have never written to you.

This morning I received a letter and pictures of animals being tortured in the name of science that made me sick. I cannot believe that such atrocities are being permitted in this country. What can we do to put a stop to it?

When I saw pictures of those adorable monkeys and precious dogs in cages my heart just broke. Animals are God's creatures, too, and we cannot allow this to go on. Please, Ann, use whatever influence you have to put an end to these cruel experiments. — Pauline F., Island Park, N.Y.

DEAR PAULINE: It's madness all right, but it's some of the "animal rights" activists that ought to be looked into.

Extremists have infiltrated laboratories posing as volunteer workers, destroyed records, bombed and vandalized research facilities, damaged computers and poured blood on the files. Research on infant blindness was halted in California for eight months while claims of animal abuse were investigated. The charges were found to be false.

The mischief visited on science has cost millions of dollars. In April 1987, the Animal Liberation Front claimed responsibility for

## Ann Landers



the fire that destroyed two-thirds of the veterinary diagnostic laboratory at the University of California at Davis, which resulted in more than \$3 million in damages.

Dr. Michael DeBakey, chancellor of the Baylor College of Medicine in Houston, a world-renowned pioneer in heart surgery, asks these questions: Would animal rights activists refuse to accept a kidney, heart or liver transplant if these alone could save their lives? Such advances would not have been possible without animal research. Would they refuse preventive measures against polio, measles, diphtheria and whooping cough, or treatment for strep throat, ear infections and pneumonia — all made possible through animal research? Do 11 million diabetics deserve the right to life that insulin has given them? Are cancer patients entitled to the benefits they receive from radiation and chemotherapy?

It was in monkeys that the AIDS virus was first identified. Should

we halt all research on this deadly plague because monkeys are "adorable"? There is no way a vaccine or a cure for this devastating disease can be found unless we use animal models for experiments. Computers won't do.

I am an animal lover, too. But when forced to make a choice between rats, mice, monkeys, rabbits, cats and dogs, and humanity, I choose humanity.

11-7/20

# Animal rights groups flex their political muscle

By RICK MOONEY

■ Livestock producers from around the country will be keeping a close eye on Massachusetts this year. Chances are that voters going to the polls there in November's general election will be casting ballots in a referendum that could give nonfarmers a major say in how livestock producers do business.

The referendum move gathered steam late last year. An animal rights group called CEASE (Coalition to End Animal Suffering and Exploitation) gathered over 70,000 signatures on a petition calling for regulations that would establish humane standards for livestock production.

The petition will go to the state legislature early this year. If both houses approve it, a referendum will be placed on the November ballot. If passed, the referendum would:

- Require livestock producers to use anesthetics whenever they're castrating or dehorning animals.
- Make it illegal to keep veal calves in

crates that prevent calves from lying down, grooming themselves or turning around. It would also govern the use of milk replacer in veal calf rations.

- Set up an animal care advisory board within the state's Department of Food and Agriculture. The board would make recommendations on the care, housing, feeding and transportation of all farm animals. CEASE envisions a five-member board. Four members would be veterinary medicine specialists nominated by "at least two non-profit humane societies." The director of the state's division of animal health would be the fifth member on the board. There would be no farmer representation on the board.

- Establish an indemnity fund that would be used "to assist farmers in the adoption of more humane methods."

"[The referendum] condemns the entire livestock production system as we know it," says Steve Kopperud, spokesman for the Farm Animal Welfare Coalition (FAWC), a loose-knit, national organization representing livestock producer groups and related ag businesses on animal rights issues. "What you have is a group of well-meaning, but very ill-informed people," says Kopperud. "They want to control livestock production without knowing anything about it."

The indemnity fund provision is a case in point. "As they see it, farmers could use this money to buy more land for pasture so animals wouldn't have to be raised in confinement," he explains. "Doing that in Massachusetts would be a mean trick. There isn't any land available. It's incredibly naive."

Massachusetts ag leaders are shocked by the wide scope of the CEASE petition. But they aren't surprised animal rights groups picked their state as a potential battleground. Pam Comstock, of the Massachusetts Farm Bureau, points out that Massachusetts is home-base for a number of "large,

wealthy animal rights organizations" including CEASE. Also, Comstock says, the state's ag sector (less than 5,000 farmers) is quite small compared to its urban sector and that means ripe pickings for animal rightists.

"It's probably one of the easiest places to establish this kind of precedent," she says. "Most of the people have been removed from the farm for several generations. They don't have any idea of what farming is all about."

Going head to head with groups like CEASE is a prospect state farm groups don't relish. "We don't know how we're going to fight it," says Comstock. "We don't have the money or the staff. And most of our members don't realize how much money is behind these groups."

One group that plans to sit out the battle is the Department of Food and Agriculture. "We're not taking a negative or positive stand on this," says Mabel Owen, director of the division of animal health. "Our position is we don't need this. We already have laws on the books that give very broad powers to the state's humane organizations."

Ag leaders are worried that a successful effort by CEASE will encourage animal rightists to push for similar legislation in other states.

"This is a test case for the animal rights groups," says FAWC's Kopperud. "They see this as landmark legislation that could serve as a model for other states and the whole country."

Already there are moves in that direction. In California, a bill introduced in the state assembly would set standards for the dimensions of veal crates. "The veal industry is small, so these groups try to take it on first," says Grover Roberts, of California Farm Bureau. "It's just a stepping stone for people who think we shouldn't be raising any animal for human consumption."

Rep. Charles Bennett (D., Fla.) introduced a similar bill in the U.S. House of Representatives last year. Bennett's bill would impose a \$5,000 fine on veal producers who use traditional housing and feeding practices. It also offers half of the fine money to the person or group reporting a violation.

"The bounty aspect of that bill is terrifying," says Russ Weisensel, of the Wisconsin Agri-business Council. "That kind of money would make a nice little nest egg for one of these animal rights groups." Bennett's bill did not make it to committee last year. But the fact that the bill once had 40 co-sponsors is unsettling, says Weisensel. "If only one or two people were supporting it, you'd shrug your shoulders and let it go away. That many co-sponsors gets your attention." ◀



PHOTO DEAN HOUGHTON

A REFERENDUM PROPOSED in Massachusetts could give more power to animal rights groups like this one, demonstrating in Toronto.

OPINIONS

# ANIMAL RIGHTS: THE BIG LIE

by Jane M. Hughes

**Y**ou see them every day on the streets of New York. They man the small stands plastered with large color photographs of suffering dogs, cats and monkeys. They're animal rights activists. They want you to believe that your precious Fido's brother is being tortured needlessly by sadistic scientists in white coats. They say they have the best interests of both humans and animals in mind. They want your support — and your money. And some of them will lie to you to get it.

Yes, some animal rights supporters are perfectly innocent. Like, say, the movie stars who sign petitions attacking veal cutters, cosmetics manufacturers and rich ladies with expensive fur coats. That's their business — as long as they don't spray red paint on your mink stole at high noon on Fifth Ave.

But other animal rights activists are dangerously rigid fanatics who are more than willing to endanger the lives of thousands of humans — and, on occasion, of animals — in order to impose their bizarre visions of "animal liberation" on an unwilling public.

### Fido's new order

What do animal rights activists want? In the words of one brochure, they believe "that humans are morally obliged to free themselves as fully as possible from all forms of discrimination and oppression [and] struggle for total liberation of planet Earth and its inhabitants. 'Animal Liberation' means the liberation of all animals from exploitation — both humans and non-humans."

Translating that into plain English, it means that the only legitimate relationship between man and beast (sorry, I meant to say "life in the non-human format") is one of love and nurturing, something like what is found between pets and their owners (oops — in a liberated world, "pets" would not be "owned").

Practically speaking, this adds up to no leather clothing (shoes included), no down or fur coats, no meat-eating (including fowl, fish and dairy products), no wool or silk clothing — only cotton and synthetic fibers.

It also means no biomedical research. Organizations like Transpecies and People for the Ethical Treatment of Animals are devoted to stopping the use of animals in biomedical research. Transpecies relies on emotional rhetoric and graphic materials — like those long-size

photos of monkeys with open wounds — in order to grab public attention and mobilize opinion against scientific research.

Look at it this way. If animal rights activists had been successful in the time of Pasteur in eliminating or severely limiting the use of animals in biomedical research, what would life be like today?

- There would be no polio vaccine.

- There would be no insulin for diabetics.

- The U.S. would experience 1.5 million cases of rubella (German measles) annually.

- 50 million Americans would risk death from complications resulting from high blood pressure.

- 100,000 more people each year would be confined to wheelchairs without hip replacements.

- Over 10,000 people would die each year for lack of kidney transplants.

And what about now? What if the animal rights activists get their way? Ongoing research for new surgical techniques to repair congenital heart defects in newborn babies will come to a screaming halt. The search for a cure for diabetes, for an AIDS vaccine, for treatments for such diseases as cystic fibrosis, multiple sclerosis, schizophrenia and Alzheimer's disease — all depend heavily on the

useless and doomed anyway." Is it fair to judge an entire movement by a single crackpot letter writer? Of course not. So let's hear from Ingrid Newkirk, national director of People for the Ethical Treatment of Animals. Says Newkirk: "It's immoral even if it's essential. You just cannot justify the torture and destruction of innocent animals. If my father had a heart attack, it would give me no solace at all to know his treatment was first tried on a dog."

but the pain is a necessary part of the experiments, which frequently include studies on pain specifically.

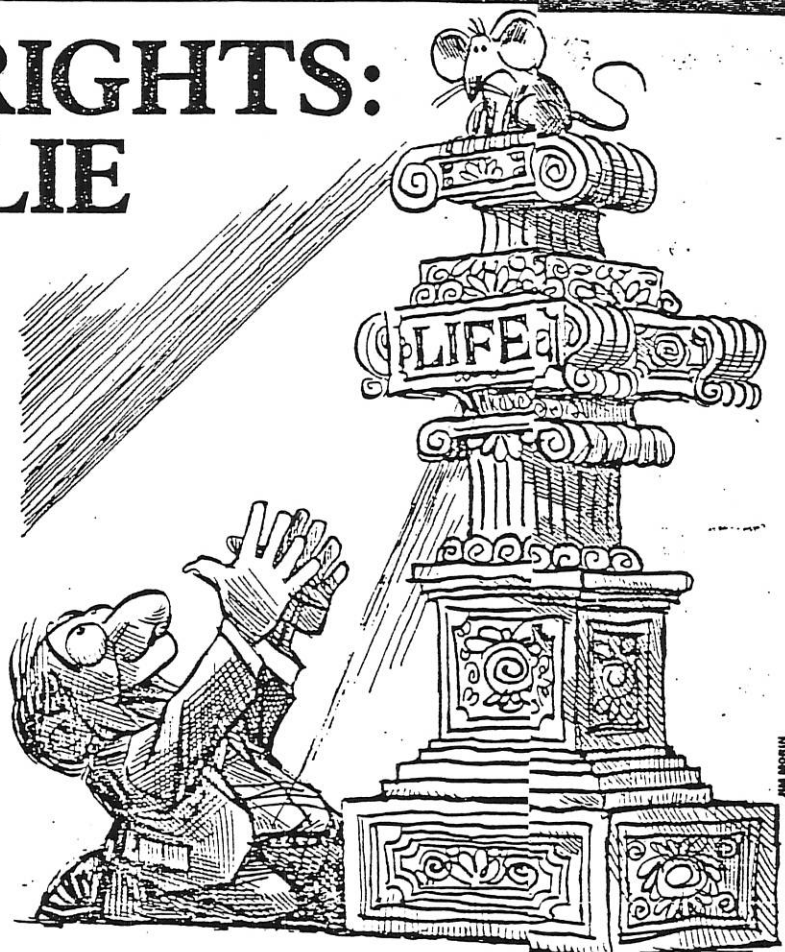
The Animal Welfare Act, passed by Congress in 1966 and most recently amended in 1985, stipulates standards for housing, cleaning, feeding, ventilation and veterinary care for lab animals. Oversight at each registered or licensed facility is conducted through an "Animal Care and Use Committee," which includes a veterinarian and a member of the lay public.

An overwhelming majority of labs obey the current laws and regulations concerning the use of animals in biomedical research. Furthermore, these responsible institutions are constantly upgrading their facilities in order to provide better living environments for their animals. It makes sense. After all, animals are expensive to maintain — and their health and well-being are essential for accurate research results.

No, you didn't hear any of that from your neighborhood animal rights freak. And you won't. Activists frequently distort the truth to serve their purposes.

After a successful campaign against Cornell University Medical Center two years ago, Transpecies trained its sights on New York University, where drug addiction experiments are currently being conducted. At a rally held this spring, Transpecies produced several "experts" to explain that the use of animals in these experiments provides no benefit to human health.

None of the protesters seemed troubled by the fact that their experts included an oncologist, a cancer specialist, two political activists and a plastic sur-



*Some activists are more than willing to endanger the lives of thousands of humans*



use of animals. All would stop in a world run by animal rights activists.

Sounds unlikely? Think again. While the activists claim they value human life, at heart they are not concerned with science but with advancing their own peculiar beliefs — a pseudo-theology that puts animal life on an equal footing with human life.

One Los Angeles Times reader put it like this: "It will never be right to slaughter animals on behalf of mankind for any reason. . . . If subjects are needed to render accurate knowledge about the workings of the human organism, there is an endless supply. Take the extreme elderly and senile. . . . They are large-

Even taken on their own terms, are the animal rights activists telling you the truth? No way. Here's the straight story behind those gory posters: Ninety percent of animals used in biomedical research are rats, mice or other rodents. Dogs and cats each make up less than 1% of the animals used. Likewise nonhuman primates like monkeys. The pain these animals suffer is also presented out of context by animal rights activists. Sixty-two percent of the experiments conducted do not cause pain or distress to the animals involved. In another 32%, pain is relieved through painkillers or anesthesia. What about the other 6%? Yes, the animals do feel pain —

geon. Nobody with direct experience in drug addiction studies was to be found.

Not only are animal rights activists willing to distort the truth, their views are so dogmatic that, in a twisted perversion, they sometimes actually hurt the creatures they intend to help. In 1987, Stanford University spent \$13 million on a state-of-the-art research facility — significantly upgraded to improve the quality of life for lab animals. Says Stanford president Donald Kennedy: "To the university's surprise, the building permit was opposed before the Santa Clara County Board of Supervisors by a coalition headed by the Palo Alto Humane Society."

### Think twice

So the next time you walk past a Transpecies display, think twice before contributing your name or time or money to the animal rights cause. You could be lending your support to a movement that "cares" so much for animals that it's willing to let millions of humans suffer.

Jane M. Hughes, who writes about science issues, owned a dog, a cat and a fish at different times during her childhood. The only thing currently standing between her and an apartment full of pets is her husband.



11-9/20

## 3 Animal Rights Activists Charged With Felonies

*Government Using Bethesda Demonstration to 'Draw the Line'*

By Paul W. Valentine  
Washington Post Staff Writer

BALTIMORE, July 25—Three animal rights activists were indicted in federal court today, two accused of assaulting a police officer and one of destroying government property, in connection with an animal rights demonstration at the National Institutes of Health in Bethesda on April 24.

Alexander F. Pacheco, 30, and Carol Lyn Burnett, 37, both of Kensington, were charged with assaulting NIH Officer Timothy Pickett during the demonstration, in which several hundred activists protested the use of animals in medical research.

Edward M. Ashton, 40, of Bea-

con, N.Y., was charged with destroying government property when he broke open the front door of the NIH administration building, according to the indictment.

Maryland U.S. Attorney Breckinridge L. Willcox acknowledged that felony charges such as those filed today mark a new hard line by the government against animal rights demonstrators, who in the past typically were charged with trespass or other misdemeanors when arrested.

"But these [animal rights] people have become more and more violent," Willcox said, "and it is time to draw the line."

Ingrid Newkirk, national director of People for the Ethical Treatment

of Animals, a sponsor of the demonstration, said the government's tougher policy will generate more activism by animal rights demonstrators. "It's not going to work," she said. "It's going to backfire."

According to police reports, several hundred demonstrators converged on NIH. Some blocked Wisconsin Avenue and, according to Willcox, 30 charged the administration building and got inside by breaking the door. Twenty-one people were arrested on trespass charges.

Pacheco and Burnett face up to three years in prison and \$250,000 in fines if convicted of assault. Ashton could get up to 10 years and \$250,000 in fines if convicted of property destruction.

11-10/20



# Animal Worship

## It's Become A Clear and Present Danger to U.S. Health and Welfare

"NOW an equally gamy campaign of vilification is afoot against the fur trade. While the more discriminating critics have confined their efforts to protection of the Somali leopard, the cheetah and other allegedly threatened species, the elite mob has spread a wider net. 'I go up to people who are wearing seal coats and go blah,' snarled one feminine voice of reason. . . .

"In New York City, which is miles ahead of the rest of the U.S. down the road to serfdom, Mayor John V. Lindsay last week signed an incredible statute which, come July 1, will ban the manufacture and sale of American alligator products in the five boroughs. In the Congressional Record last month, Sen. Gaylord Nelson (D., Wis.), great friend of the anopheles mosquito and gypsy moth, inserted a paean of praise to the timber wolf. How about a society for the succor of the man-eating shark?"

"The true need lies elsewhere. All unwittingly perhaps, Jacques Kaplan, who was largely responsible for launching the flap over fur (and happens to be in the business himself), has come close to the mark. Aghast at what he has wrought, Kaplan recently mused: 'Wouldn't it be funny if we wound up having to protect the furriers?'"

\* \* \*

Kaplan must have had a crystal ball. Since the foregoing comments first appeared nearly 20 years ago on our editorial page, furriers have become an endangered species. During the recent holiday season, one television personality led several thousand followers down New York City's Fifth Avenue to protest the wearing of fur coats. Like-minded folk in Cincinnati destroyed dozens of similar garments—donated by sympathizers—by pouring simulated animal blood on the expensive pelts. Next weekend, with the enthusiastic support of various show biz types, a group known as People for the Ethical Treatment of Animals will stage an extravaganza called Rock Against Fur.

Other forms of protest have been less peaceful. Within the past year, furriers throughout the country have had their windows splattered with paint or shot out by pellets; customers have been harassed as they left the premises; a few merchants have received death threats. In the United Kingdom, where an openly violent (but otherwise covert) group of terrorists called the Animal Liberation Front has thoroughly cowed buyers and sellers alike, fur sales have dwindled to the vanishing point.

Come to think of it, the two political figures cited above, though never in their party's mainstream and doomed to wind up like beached whales, have now begun to loom as simply ahead of their time. For in growing numbers people seem to be swinging around to their once-bizarre point of view. Last December, for example, one group of animal activists spent \$240 to "liberate" seven live lobsters from a Chinese restaurant in Maryland and fly them to a new home off the coast of Maine. The Los Angeles Times, which fell for the stunt, had a field day with the headline: "Ac-

tivists Play Santa Claws, Give A Happy Ending to Lobster Tale."

In California, the Animal Legal Defense Fund and Defenders of Wildlife succeeded in cancelling the state's first officially sanctioned—after reports of attacks on domestic pets and children—mountain lion hunt in many years, while in parts of Los Angeles coddled coyotes have grown commonplace. In Taylor, Texas, a group called Earth First last winter organized a coalition to picket the 16th National Rattlesnake Sacking Championship. "Earth First," said a spokesman, "abhors and protests this obscene tradition of hunting and mass murdering a helpless and ecologically important creature."

Nuts and kooks, one is tempted to say, and turn the page. Not so fast. So-called animal rights groups today number their membership in the millions, and their growth lately has been phenomenal. Nor are they content with harassing wearers of fur coats, protesting rattlesnake hunts and liberating lobsters. On the contrary, they have launched a campaign of disinformation and political harassment against animal husbandry. Specifically, in Massachusetts (where else?) last November they managed to place on the ballot a referendum, supposedly in support of more humane agriculture, that would have put many of the state's dwindling herd of farmers out of business. While Question Three, as it was designated, suffered a crushing defeat, activists have enjoyed far more success at the federal level, where new regulations under the Animal Welfare Act of 1985 will cost the private sector more than a billion dollars.

Most alarmingly, the animal rights movement has launched an assault—using tactics both legal and illegal—against the use of animals in scientific laboratories. Through lawsuits and other kinds of pressure, they have forced several leading universities in California either to delay or halt construction of new research facilities. In an episode which Science said "has sent tremors through the biomedical research community," it has coerced Cornell into terminating a promising project on barbiturate addiction. One of the more rabid types recently was caught planting a radio-controlled pipe bomb outside the corporate headquarters of U.S. Surgical Corp. in Norwalk, Conn., and will soon

stand trial for attempted murder.

Such episodes, so one director of medical research bitterly says, are "anti-intellectual, anti-science and anti-human." He might have added, anti-life. Because of the billions of dollars devoted to research, this country's animal husbandry boasts a productivity second to none; it's not happenstance that only in America can three percent of the population feed—at less and less cost relative to the national income—all the rest.

Owing to the medical progress made possible by research, including the carefully controlled use of animals in biomedical testing, mankind—at least the part of it that's free—has made great strides in everything from antibiotics and anesthetics to the rehabilitation of victims of stroke; that leaves Alzheimer's disease, AIDS, cancer and other latter-day plagues still to go. "Thanks to animal research," proclaims the headline on the first of a new series of ads, in a meaningful reference to the postwar rise in U.S. life expectancy, "they'll be able to protest 20.8 years longer." Time enough to live and learn.

To judge by their recent outrageous behavior, animal rights activists seem determined to do neither. According to The Information Digest, authoritative source of data on radical causes, both domestic and foreign: "Many regard Peter Singer, professor of philosophy and director of the Centre for Human Bioethics at Monash University, Australia, as the philosopher-king of the Animal Liberation Movement. . . . In the academic year 1973-74, Singer accepted a visiting position in the Department of Philosophy at New York University. From this New York base, he was able to promote his theories to students at more than a dozen private and state universities. Subsequently . . . speaking tours were organized in the U.S., and the Singer message was further spread by his lectures and the promotion of his books, *Democracy and Disobedience*, *Animal Liberation*, *In Defense of Animals*, and *Animal Rights and Human Obligations*."

Information Digest continues: "The most extreme advocates of animal rights, often the leadership cadre, are committed to a number of goals, including but not confined to: 1) The total elimination of commercial and sport hunting and trapping; 2) The total dissolution of

commercial 'animal agriculture'; 3) The total abolition of the use of animals in science."

In Canada and the U.S., by one count, there are 219 animal rights groups, ranging from Action For Animals to the World Society For the Protection of Animals, some of which pursue goals more moderate than those cited above. The most openly violent is the Animal Liberation Front, which Scotland Yard has called "an international underground terrorist organization." ALF has claimed credit (if that is the word) for burning a fur store in Santa Rosa, Calif., vandalizing cars and homes of employees of the San Diego Zoo, and torching—total damages ran into millions of dollars—an animal research laboratory on the UCLA campus.

Lawlessness is bad enough (although dealing with animal rights terrorists as common criminals, not social critics, as authorities in many places tend to do, would go a long way toward putting a lid on the violence). Other aspects of the movement strike us as more frightening. Like radicals of every stripe, animal activists make no bones about infiltrating, influencing and sooner or later seizing control of more established, less aggressive groups whose names have grown synonymous with humane treatment for cats, dogs and other household pets.

Furthermore, the movement—to be as kind as possible—is deeply irrational. Thus, while hunting of course is taboo, one spokesman has publicly made an exception for primitive tribes who have no other way of keeping body and soul together. Furthermore, despite one's personal repugnance, hunting seasons do serve to keep animal numbers under control—wild creatures, after all, comprise predators like coyotes and mountain lions, as well as those lovable Bambi-like deer.

And animals (pets especially) also benefit from advances in medical science. We used to share our home with a ginger cat who survived a dozen trips to New York's Animal Medical Center; thanks to its devoted and highly trained personnel, our beloved Yankee lived to the feline equivalent of over 90.

\* \* \*

But as sages millennia ago knew, man is the measure of all things. Without animal research, to quote the Foundation for Biomedical Research, "we couldn't have put an end to polio, smallpox, rubella and diphtheria. Now some would like to put an end to animal research. Obviously, they don't have cancer, heart disease or AIDS."

Small wonder that the American Medical Association has finally mobilized to form a "first line of defense," or that 2,000 victims of AIDS, Alzheimer's, cancer, cystic fibrosis and multiple sclerosis, members of an organization called the Incurably Ill For Animal Research, have lined up alongside. Let's stamp out animal worship before it's too late.

—Robert M. Bleiberg

## BARRON'S MAILBAG

A MESSAGE FOR MR. RUDER  
To the Editor:

Thank you for the fine message to SEC Chairman David Ruder from Benjamin J. Stein ("Dear Mr. Ruder," Jan. 23).

Somewhere in fairly recent history, the owners of public corporations (the investors) allowed management (the hired help), to usurp control.

Years ago, I read that when a corporation's board of directors meets, its first

order of business should be to consider this question: "Should we fire the president?" If the answer is no, the next question should be: "What can we do to help him do a better job?"

But when management stacks the board with its cronies, the first order of business never comes up.

Perpetuated in power, management gave us different classes of voting stock and all of the other evils designed to

Continued on Page 30

# Tragedy of SIDS is that no one knows exactly what causes it

**D**ear Abby: Last November, my husband and I went to awaken our 3½-month-old son, only to find him dead in his crib! The cause: sudden infant death syndrome, more commonly known as crib death. There are no symptoms.

Almost as devastating as the loss of our son was the confusion and frustration that followed. Because so little is known about SIDS, parents are often left to face cruel questions from well-meaning but unenlightened friends and family. It is difficult to understand how a child who appears to be perfectly healthy and normal could die so suddenly for no apparent reason. It can lead to false accusations and unnecessary guilt for people who have already suffered enough.

Abby, will you please print the following facts to enlighten your readers:

1. SIDS is the sudden and unexpected death of an apparently healthy infant; the cause remains unexplained, even after an autopsy.
2. SIDS is the No. 1 cause of death among infants between the ages of 1 week and 1 year, although it is most likely to occur between the ages of 2 to 4 months.
3. An average of 7,000 babies die of SIDS every year.
4. SIDS is not caused by suffocation, aspiration or regurgitation.



## DEAR ABBY

### ABIGAIL VAN BUREN

Most SIDS victims appear to be healthy before death, although a few may show symptoms of a slight cold shortly before death.

5. SIDS is not caused by child abuse or an immunization; it's neither contagious nor hereditary; and it occurs in families of all social and economic levels.

6. SIDS cannot be predicted or prevented. While the chilling question, "Why did your baby die?" still cannot be answered, SIDS experts today believe that some subtle abnormality in infant development occurring in the fetal stages predisposes some babies to SIDS. Our only hope in learning more about this tragic death lies in research.

Parents who experience this tragedy have special needs. The best advice I can offer to their families and friends is: Don't say, "You'll have more children." don't set limits on how long the parents should grieve. And, above all, don't try to substitute other chil-

dren in the family to replace the one they've lost. Each child is irreplaceable.

The best advice I can offer parents is: Please become better educated about SIDS. Had I known more about it, I wouldn't have tortured myself with guilt and blame for my baby's death. Sign me MISSING MY BABY IN ASHLAND, KY.

DEAR MISSING: Please accept my condolences on the loss of your beloved son. Your letter is both helpful and informative, and I'm printing it to alert other parents, their friends and families.

Those who are interested in learning more about SIDS can obtain a free booklet titled "Facts About SIDS." Send your name and address to: The Sudden Infant Death Syndrome Alliance, 10500 Little Patuxent Parkway, Suite 420, Columbia, Md. 21044. The toll-free National SIDS hotline number is (800) 221-7437.

October is National SIDS Awareness Month. And since the only hope for learning more about this tragic problem lies in research, voluntary contributions are gratefully accepted.

Abigail Van Buren is a syndicated columnist. Problems? Write to Dear Abby, Wichita Eagle, P.O. Box 820, Wichita, Kan. 67201-0820. For a personal reply, enclose a self-addressed, stamped envelope.

OCT 22-90 TOPEKA CAPITAL

Advice

# Animal rights groups blasted

**D**EAR ANN LANDERS: I worked my way through college, graduate school and four years of doctoral training, while raising a family. My goal was to do medical research.

I work 12 hours a day and generate my own salary and the salaries of two technicians. I do basic research in cardiology, lecture to university faculty and medical students, write papers and consult on a project for lowering cholesterol. I don't do this for the money, because the pay is poor. I don't do it for fame, because the public neither knows nor cares. I do it because I want to be a contributing member of society.

These last several months, I've been thinking about calling it quits. Why? Because I live in fear my lab will be destroyed and my family harmed. The animal rights people are becoming increasingly militant and powerful. They keep denying it, but their intention is to



Ann Landers

stop all animal research. Their tactics are brutal and frightening.

I do not blame the general public for not understanding any of this. Scientists don't communicate very well with lay people. We aren't good at public relations, and we aren't organized. The public needs to be reminded that the medical advances they enjoy today are the result of basic research done 10 or 20 years ago. Now, only 10 percent of all requests for federal grants for medical research are approved. The results of this travesty soon will be felt in emergency rooms and operating rooms throughout the nation.

A few nights ago, I turned on the TV news and watched the latest animal rights demonstration. I wanted to yell, "Don't come to me when you have your heart attack. Don't cry on my shoulder when your child dies from sudden infant death syndrome. Don't ask me to help your son who has AIDS. Don't expect sympathy when your father has Alzheimer's or Parkinson's. Don't call me up when your wife has cancer. Don't expect me to console you when your grandchild is losing his sight because of juvenile diabetes. I did all I could!" If this letter sounds bitter, it's because I am. — NO NAME, NO CITY

DEAR NO NAME: You are not

the first scientist to say you are abandoning medical research because of fear and worry for your family's safety, but please don't quit. We need you.

I've been on your side for a long time, and so has Louis Sullivan, secretary of the Department of Health and Human Services. He has called the animal rights people terrorists. He also has made it clear he is against unnecessary research and the cruel treatment of animals. I'm with him there, too.

It is not true that computers can now replace animals in the labs. For example, an important part of AIDS research is done with monkeys. They are indispensable.

Many people who give money to animal rights organizations believe they are supporting worthwhile projects, such as spay and neuter programs, but actually their money goes for ads and propaganda opposing the use of animals for medical research. The sums collected are staggering.

Guerrilla tactics have cost researchers millions of dollars that could have gone to save human lives. This is an obscenity and an outrage. If dedicated researchers like you drop out now, our children and the generations to follow will pay a terrible price. Please don't let this happen.

Creators Syndicate

11-13/20

July 17 included the face-off between Volkmer and the ASPCA's Kullberg.

Subcommittee Chairman George E. Brown Jr., D-Calif., says he plans to move the bill though his subcommittee within the next several weeks. A markup set for July 17 was postponed because Stenholm was not available.

Meanwhile, Rep. Henry A. Waxman, D-Calif., has introduced another bill (HR 3349) toward similar ends and may attach it to a bill to reauthorize the National Institutes of Health that is moving through his Energy Subcommittee on Health.

A similar bill (S 727), aimed at more serious acts such as burglary and limited to research labs, was quietly approved by the Senate on a voice vote late last year at the behest of sponsor Howell Heflin, D-Ala.

This year, animal-protection groups are fighting harder against the measures, arguing that they are designed to intimidate whistleblowers, inhibit the flow of negative information and unfairly brand their entire movement as terrorist.

"This bill is nothing but a PR exercise," says William Joseph Cotreau, a lobbyist for the Society for Animal Protective Legislation. "They're saying, 'Don't pay any attention to animal-welfare activists because they're all nuts.'"

### Attacks on the Rise

Though animal-research advocates and farm industry lobbyists deny any such intentions, painting animal-rights groups as zealous outlaws at times appears to be one of their aims.

At his news conference, Sullivan decried "so-called animal-rights activists who are in fact nothing more than animal-rights terrorists." The American Feed Industry Association told Brown's subcommittee, "The U.S. animal-rights movement is quickly becoming radicalized, abandoning any semblance of moderation."

The bills were drafted in response to 100 or more illegal acts committed over the past decade or so, including arson, attempted bombings, vandalism, burglary, the theft of animals and records, and lots of pettier incidents. Three serious attacks, perpetrated in 1987 and 1989 by an anonymous group known as the Animal Liberation Front (ALF), have been labeled terrorist acts by the Justice Department. Damage has ranged into the millions. (Box, this page)

Behind the legislation are hundreds of farm and research groups, headed by Trull's National Association for Bio-

## Animal-Rights Incidents

Here is a sampling of incidents compiled from House testimony believed to involve animal-rights activists. The first three were the work of a group calling itself the Animal Liberation Front (ALF) and have been classified by the Justice Department as terrorist acts:

April 16, 1987: Davis, Calif. Arsonists caused \$4.5 million to \$5 million in damage to the Veterinary Diagnostic Laboratory at the University of California at Davis.

April 2, 1989: Tucson, Ariz. Four buildings were broken into and two were set on fire at the University of Arizona. Estimated damage was \$200,000, and more than 1,000 animals were stolen.

July 4, 1989: Lubbock, Texas. The lab and office of a researcher were broken into. Equipment was vandalized and five cats and research data were stolen. Estimated damage was at least \$50,000.

January 1990: New York. A Columbia University scientist's home was burned after a series of animal-rights calls.

Jan. 26, 1990: Philadelphia. Two rats were stolen from a University of Pennsylvania psychology lab.

Jan. 29, 1989: Sacramento, Calif. Arsonists hit Dixon Livestock Auction Market with damage estimated at \$350,000. Animal-rights slogans were spray-painted in the facility.

Aug. 12-13, 1987: Las Vegas. Three goats were stolen from the University of Nevada at Las Vegas. ALF claimed responsibility.

April 16, 1987: Milan, Pa. Wolfe Poultry Farm had 40 chickens stolen; slogans were spray-painted on buildings. Farm Freedom Fighters claimed responsibility.

—Sheldon P. Yett



medical Research, who fear that the violence will escalate as it has in England, where they say animal-rights activists bombed two cars earlier this year, seriously injuring a baby in one.

"Does someone have to get killed before they take this seriously?" Trull says. "There's a climate of fear within the research community." The aim of the bills, she adds, is to get the FBI involved in a fight against what her group believes may be a coordinated campaign of attacks.

Trull has become an effective force for her group's cause — so effective that her photograph is printed alongside allegedly mistreated animals in animal-rights pamphlets.

Versions of the researchers' model break-in bill have been enacted in 11 states since 1988 and one appears well on its way to becoming a federal law over the objections of the Justice De-

partment. Trull coordinated efforts to drum up so many cosponsors for Stenholm's bill that Research Subcommittee Chairman Brown says he has no choice but to shepherd it to the floor, even though he thinks it goes too far. And Brown is considered one of the activists' best friends on Capitol Hill.

### Exemptions in Current Law

Trull also has successfully lobbied hard against what her allies see as overly stringent federal research-animal-welfare regulations.

Rules to enforce a tough set of 1985 amendments to the Animal Welfare Act were not made final until last year; some have just recently been published, and many have still not been issued. That is partly because Trull's allies fomented "lots of controversy" in the form of thousands of letters sent to the Agriculture Department while the

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rules were being drafted.

Trull says she considers the regulations issued so far to be reasonable compromises on a law that could have cost researchers up to \$2 billion. Animal-protection activists call them "toothless," as Cotreau puts it. They exempt farm animals, rats and mice and allow continued use of some cages that do not meet the new rules' specifications, animal activists complain.

The 1985 law, a part of that year's farm bill (PL 99-198), was seen at the time as the animal-welfare movement's crowning achievement. Though it had been around for nearly a century, the movement did not really pick up steam until the late 1970s and 1980s, claiming hundreds of thousands of members.

Momentum for federal action grew in 1981 after a co-founder of PETA, Alex Pacheco, got a job under false pretenses with a research lab in Silver Spring, Md., and took photographs of monkeys that were so gruesome that the National Institutes of Health withdrew the researcher's grant. PETA crowed after the passage of the 1985 animal-welfare bill, running newspaper ads saying, "We've won the battle, now let's win the war."

Some elements of the movement have indeed treated the fight as a war. As with any cause, the animal-activist organizations run the gamut from moderate to radical.

Moderate organizations, such as Kullberg's ASPCA, the Humane Society and Cotreau's group, consider themselves "animal-welfare" groups, most of whom accept the use of animals for experimentation and food as long as they are humanely treated.

Kullberg put himself in that category when Volkmer posed this pointed question: "Is it cruelty to animals to raise chickens in order to eat them — chop off their heads, pluck their feathers and fry them and eat them?"

"My concern," Kullberg replied, "is with how the chicken is raised. If you're going to raise them, raise them humanely. If you're going to eat them, kill them humanely."

Then there are the meat-is-murder and antivivisectionist adherents, such as many members of PETA who voice National Director Ingrid E. Newkirk's slogan, "A rat is a pig is a dog is a boy." Members of this wing, who call themselves animal-rights advocates, appear to be gaining ground within the movement. At the Washington rally June 10, actor Christopher Reeve, speaking for the cause, was hissed and booed when he preached moderation.

PETA insists that it does not condone violence. "Violent acts for any reason are to be deplored," Newkirk told Brown in a letter.

Nevertheless, the organization acts as a conduit for ALF's news releases and has no qualms about using information gained during burglaries to further its cause.

#### Allies in Congress

The animal-rights groups are not without allies in Congress. Several Senate leaders, led by Democratic Whip Alan Cranston of California, sent the administration a letter recently calling for tougher animal-welfare regulations. House members led by Tom Lantos, D-Calif., and Robert C. Smith, R-N.H., recently formed the Congressional Friends of Animals Caucus (a counterpart to Minnesota Republican Vin Weber's Animal Welfare Caucus, which is allied with researchers).

"Is it cruelty to  
animals to  
raise chickens  
in order to eat  
them — chop  
off their heads,  
pluck their feathers and fry  
them and eat them?"



—Rep. Harold L. Volkmer, D-Mo.

Bills introduced this year by Sen. Harry Reid, D-Nev., (S 891) and Rep. Barbara Boxer, D-Calif., (HR 1676) seek to severely limit the use of so-called LD-50 tests, which measure product toxicity by finding the median dose that will kill 50 percent of the test animals in a specified time. Their bills have attracted 122 cosponsors in the House, five in the Senate.

The animal activists even have friends on the House and Senate Agriculture committees.

The Senate panel's farm bill, being debated on the floor (S 2830), includes a version of Kentucky Democrat Wendell H. Ford's Pet Theft Act, which passed the Senate in 1988 but not the House. It attempts to stop people from stealing pets and selling them for research by requiring more extensive record-keeping and five-day waiting periods to give owners time to recover lost pets.

At the July 17 hearing, Rep. Char-

lie Rose, D-N.C., showed his colleagues an exposé on the problem aired recently on the television show "20/20." Co-host Hugh Downs called it "a low and repulsive crime" that involved a million pets a year. (An Agriculture Department official said the problem is not widespread.)

Said Downs: "It could be your dog."

Added Rose: "The medical community is knowingly allowing stolen animals to be used." Rose said he wanted to amend Stenholm's bill to exempt from its protection animal facilities that house stolen animals or violate the Animal Welfare Act.

Rose makes no secret of his disdain for bills such as Stenholm's. While he has introduced a measure (HR 3223) that would fine those who damage or burglarize research facilities, his bill also would prohibit fines when the illegal act uncovered documented violations of federal animal-care rules.

Rose's bill has attracted its own criticism from the Bush administration.

"We should all oppose this 'the end justifies the illegal means' bill," Bromley, Bush's science adviser, said in an internal memo to the Office of Management and Budget.

Bromley supported the three other bills aimed at protecting animal facilities but was overruled by the Justice Department, which argues that the bills duplicate existing statutes and may raise false hopes that the FBI will jump into every future case.

"We do not need any additional jurisdictional hooks," Paul Maloney, a deputy assistant attorney general, told Brown's panel.

The Justice Department found a sympathetic ear with Dan Glickman, D-Kan., who, even though he is a cosponsor and favors some sort of legislation, argued that Stenholm's bill goes way too far.

Glickman said the bill is so vague that it could be interpreted to protect the home of every pet owner from trespass.

"We ought not make simple trespass a federal crime. Our judiciary is overloaded as it is," he said.

Glickman said he favors "going after the zealots" by narrowly focusing the bill to include only the most severe acts, and he offered to broker a compromise with Stenholm.

Such a move, however, would likely address only the most severe incidents, such as arson and bombings — federal crimes the FBI already actively pursues.

"What would be the point?" asks an Agriculture Committee aide. ■

11-15/20

SENATE BILL No. 711

By Committee on Judiciary

2-20

8 AN ACT amending the farm animal and research facilities protection  
9 act; amending K.S.A. 1991 Supp. ~~(47-1826, 47-1827 and 47-1828)~~  
10 and repealing the existing ~~sections~~

section

11 *Be it enacted by the Legislature of the State of Kansas:*

12 ~~Section 1. K.S.A. 1991 Supp. 47-1826 is hereby amended to read~~  
13 ~~as follows: 47-1826. As used in this act:~~

14  
15 (a) "Animal" means any warm or coldblooded animal used in food,  
16 ~~fur~~ or fiber production, agriculture, ~~research, testing or education~~  
17 ~~or research~~ and includes dogs, cats, poultry, fish and invertebrates.

18 (b) "Animal facility" includes any vehicle, building, structure,  
19 research facility or premises where an animal is kept, handled,  
20 housed, exhibited, bred or offered for sale. *Animal facility does not*  
21 *include any premises licensed or registered pursuant to K.S.A. 47-*  
22 *1701 et seq., and amendments thereto.*

23 (c) "Consent" means assent in fact, whether express or apparent.

24 (d) "Deprive" means to:

25 (1) Withhold an animal or other property from the owner per-  
26 manently or for so extended a period of time that a major portion  
27 of the value or enjoyment of the animal or property is lost to the  
28 owner;

29 (2) restore the animal or other property only upon payment of  
30 reward or other compensation; or

31 (3) dispose of an animal or other property in a manner that makes  
32 recovery of the animal or property by the owner unlikely.

33 (e) "Effective consent" includes consent by a person legally au-  
34 thorized to act for the owner. Consent is not effective if:

35 (1) Induced by force or threat;

36 (2) given by a person the offender knows is not legally authorized  
37 to act for the owner; or

38 (3) given by a person who by reason of youth, mental disease or  
39 defect or under the influence of drugs or alcohol is known by the  
40 offender to be unable to make reasonable decisions.

41 (f) "Owner" means a person who has title to the property, pos-  
42 session of the property, ~~whether lawful or not~~, or a greater right  
43 to possession of the property than the actor.

11-16/20

1 ~~(g) "Person" means any individual, state agency, corporation, as~~  
2 ~~sociation, nonprofit corporation, joint stock company, firm, trust,~~  
3 ~~partnership, two or more persons having a joint or common interest~~  
4 ~~or other legal entity.~~

5 (h) "Possession" means actual care, custody, control or  
6 management.

7 (i) "Research facility" means any ~~place, laboratory, institution,~~  
8 ~~medical care facility, elementary school, secondary school, col-~~  
9 ~~lege or university, at which any scientific test, experiment or~~  
10 ~~investigation involving the use of any living animal is carried~~  
11 ~~out, conducted or attempted research facility as defined by K.S.A.~~  
12 ~~47-1701, and amendments thereto.~~

13 Sec. 2. K.S.A. 1991 Supp. 47-1827 is hereby amended to read  
14 as follows: 47-1827. (a) No person shall, without the effective consent  
15 of the owner and with the intent to damage ~~the enterprise con-~~  
16 ~~ducted at the animal facility property,~~ damage or destroy an animal  
17 facility or any animal or property in or on an animal facility.

18 (b) No person shall, without the effective consent of the owner,  
19 acquire or otherwise exercise control over an animal facility, an  
20 animal from an animal facility or other property from an animal  
21 facility, with the intent to deprive the owner of such facility, animal  
22 or property and to damage ~~the enterprise conducted at the animal~~  
23 ~~facility property.~~

24 (c) No person shall, without the effective consent of the owner  
25 and with the intent to damage ~~the enterprise conducted at the~~  
26 ~~animal facility property:~~

27 (1) Enter an animal facility, not then open to the public, with  
28 intent to commit an act prohibited by this section; *or*

29 ~~(2) remain concealed, with intent to commit an act prohib-~~  
30 ~~ited by this section, in an animal facility;~~

31 ~~(3) (2) enter an animal facility and commit or attempt to commit~~  
32 ~~an act prohibited by this section; *or*~~

33 ~~(4) enter an animal facility to take pictures by photograph,~~  
34 ~~video camera or by any other means.~~

35 (d) (1) No person shall, without the effective consent of the owner  
36 and with the intent to damage ~~the enterprise conducted at the~~  
37 ~~animal facility property,~~ enter or remain on an animal facility if  
38 the person:

39 (A) Had notice that the entry was forbidden; *or*

40 (B) received notice to depart but failed to do so.

41 (2) For purposes of this subsection (d), "notice" means:

42 (A) Oral or written communication by the owner or someone  
43 with apparent authority to act for the owner; *or*

11-17/20

1 ~~(B) fencing or other enclosure obviously designed to ex-~~  
2 ~~clude intruders or to contain animals; or~~

3 ~~(C) (B) a sign or signs posted on the property or at the entrance~~  
4 ~~to the building, reasonably likely to come to the attention of in-~~  
5 ~~truders, indicating that entry is forbidden.~~

6 (e) (1) Violation of subsection (a) is a class D felony if the facility,  
7 animals or property is damaged or destroyed to the extent of \$50,000  
8 or more. Violation of subsection (a) is a class E felony if the facility,  
9 animals or property is damaged or destroyed to the extent of at least  
10 \$500 but less than \$50,000. Violation of subsection (a) is a class A  
11 misdemeanor if the facility, animals or property damaged or de-  
12 stroyed is of the value of less than \$500 or is of the value of \$500  
13 or more and is damaged to the extent of less than \$500.

14 (2) Violation of subsection (b) ~~or (c)~~ is a class E felony.

15 (3) Violation of subsection (c) ~~or (d)~~ is a class B misdemeanor.

16 (f) The provisions of this section shall not apply to lawful activities  
17 of any governmental agency or employees or agents thereof carrying  
18 out their duties under law.

19 Sec. 3. K.S.A. 1991 Supp. 47-1828 is hereby amended to read  
20 as follows: 47-1828. (a) Any person who has been damaged by reason  
21 of a violation of K.S.A. 1991 Supp. 47-1827, *and amendments thereto*,  
22 may bring an action in the district court against the person causing  
23 the damage to recover:

24 (1) An amount equal to ~~three~~ times all actual and consequential  
25 damages; and

26 (2) court costs and reasonable attorney fees.

27 (b) Nothing in this act shall be construed to affect any other  
28 rights of a person who has been damaged by reason of a violation  
29 of this act. Subsection (a) shall not be construed to limit the exercise  
30 of any such rights arising out of or relating to a violation of K.S.A.  
31 ~~1991 Supp. 47-1827, and amendments thereto.~~

32 Sec. 4. K.S.A. 1991 Supp. ~~[47-1826, 47-1827 and 47-1828 are]~~ \_\_\_\_\_ is  
33 hereby repealed.

34 Sec. 5. This act shall take effect and be in force from and after  
35 its publication in the statute book.

Section 1. KSA 1991 Supp. 47-1827 (see attached)

11-18/20



Section 1. K.S.A. 1991 Supp. 47-1827 is hereby amended to read as follows: 47-1827. (a) No person shall, without the effective consent of the owner and with the intent to damage the enterprise conducted at the animal facility, damage or destroy an animal facility or any animal or property in or on an animal facility.

(b) No person shall, without the effective consent of the owner, acquire or otherwise exercise control over an animal facility, an animal from an animal facility or other property from an animal facility, with the intent to deprive the owner of such facility, animal or property and to damage the enterprise conducted at the animal facility.

(c) No person shall, without the effective consent of the owner and with the intent to damage the enterprise conducted at the animal facility:

(1) Enter an animal facility, not then open to the public, with intent to commit an act prohibited by this section;

(2) remain concealed, with intent to commit an act prohibited by this section, in an animal facility;

(3) enter an animal facility and commit or attempt to commit an act prohibited by this section; or

(4) enter an animal facility to take pictures by photograph, video camera or by any other means.

(d) (1) No person shall, without the effective consent of the owner and with the intent to damage the enterprise conducted at the animal facility, enter or remain on an animal facility if the person:

(A) Had notice that the entry was forbidden; or

(B) received notice to depart but failed to do so.

(2) For purposes of this subsection (d), "notice" means:

(A) Oral or written communication by the owner or someone with apparent authority to act for the owner;

(B) fencing or other enclosure obviously designed to exclude intruders or to contain animals; or

(C) a sign or signs posted on the property or at the

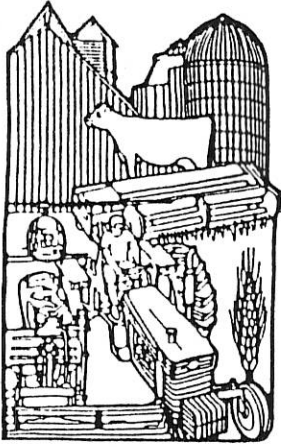
entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden.

(e) (1) Violation of subsection (a) is a class D felony if the facility, animals or property is damaged or destroyed to the extent of \$50,000 or more. Violation of subsection (a) is a class E felony if the facility, animals or property is damaged or destroyed to the extent of at least \$500 but less than \$50,000. Violation of subsection (a) is a class A misdemeanor if the facility, animals or property damaged or destroyed is of the value of less than \$500 or is of the value of \$500 or more and is damaged to the extent of less than \$500.

(2) Violation of subsection (b) ~~or (e)~~ is a class E felony.

(3) Violation of subsection (c) or (d) is a class B misdemeanor.

(f) The provisions of this section shall not apply to lawful activities of any governmental agency or employees or agents thereof carrying out their duties under law.



# Committee of Kansas Farm Organizations

STATEMENT OF POSITION

COMMITTEE OF KANSAS FARM ORGANIZATIONS

RE: SB 711

SENATE JUDICIARY SUBCOMMITTEE ON CIVIL PROCEDURE

MARCH 3, 1992

**Al LeDoux**  
Legislative Agent  
Route 1  
Holton, KS 66436  
(913) 364-3219

Committee of Kansas  
Farm Organization Members

Associated Milk Producers, Inc.  
Kansas Agri-Women Association

Kansas Association of Soil  
Conservation Districts

Kansas Association of  
Wheat Growers

Kansas Cooperative Council

Kansas Corn Growers Association

Kansas Electric Cooperatives

Kansas Ethanol Association

Kansas Farm Bureau

Kansas Fertilizer and  
Chemical Association

Kansas Grain and Feed Association

Kansas Livestock Association

Kansas Meat Processors  
Association

Kansas Pork Producers Council

Kansas Rural Water  
Districts Association

Kansas Seed Industry Association

Kansas Soybean Association

Kansas State Grange

Kansas Veterinary Medical  
Association

Kansas Water Resources Association

Kansas Water Well Association

Mid America Dairymen, Inc.

Western Retail Implement and  
Hardware Association

Kansas Grain Sorghum Producers

Kansas Association of Nurserymen

Mr. Chairman, Members of the Committee: My name is Al LeDoux and I am presenting testimony to you this morning on behalf of the Committee of Kansas Farm Organizations. As you well know, our group is made up of twenty-five (25) Ag and Ag related organizations operating here in Kansas.

CKFO has elected to unanimously oppose Senate Bill 711.

However, after discussion on Senate Bill 711, our committee became aware of an amendment which one of our members would be offering. This amendment would alter the penalty for violation of subsection (c), lines 14 and 15, page 3.

If such an amendment were to meet with your approval, we, the Committee of Kansas Farm Organizations, could in fact support Senate Bill 711.

Respectfully submitted,

Al LeDoux

*Civil Procedure Subcommittee*  
*March 3, 1992*  
*Attachment 12* 1/1

3-3-92

Committee on Judiciary  
Testimony opposing SB 711

I am appalled that the very people, (animal rights groups), we want protection from have produced an amendment to this law. They want to come on private property, when no is home, steal or release or kill animals, take pictures (possibly false) and destory property. It takes very little time to do a lot of harm and damage and cost the owner irreparable financial loss.

One picture is worth a thousand words. The same is true with a counterfeit picture. That is why we dont need these amendments to this law. A lot of pictures were used against us in committee to pass the original kennel law. In at least one picture of a so called puppy mill the owner had been dead for a very long time. In several other pictures the owners had been closed by U.S.D.A. years before. All were portrayed as being in operation at the time the pictures. The whole truth could not be seen from the pictures.

The present law as it is written (FarmAnimal Protection Act), does not in any way restrict the lawful activities from law enforcement officials. The federal inspection program, state inspection program or from any county zoning laws, or city ordinances. It only takes access from private property away from people who have no buisness being there in the first place. If there is no intent of damage or harm to an animal facility, no on should be trying to amend this law. Evidently there are people in this state anxiously wanting access to farms that house animals, research facilities and kennels and catteries.

Margaret L Kerr

*Margaret L. Kerr*  
Member Companion Animal Advisory Board

*Civil Procedure Subcommittee  
March 3, 1992  
Attachment 13*

# The St. Marys Star

St. Marys, Ks. 66536 — OFFICIAL PAPER — CITIES OF ST. MARYS AND EMMETT

Tuesday, July 17, 1990

## Police Are Still Investigating Shooting Death of Dog

portions of item from  
"Topeka Capital-Journal"

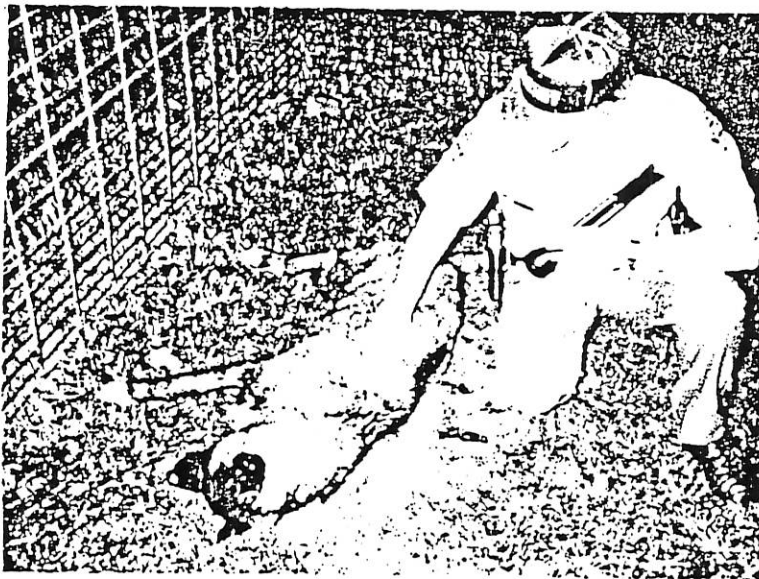
Authorities in Jackson County are continuing their investigation of the shooting death late Friday, July 13, of a dog owned by a man who recently sued the state of Kansas over the licensing of kennels.

A dispatcher for the Jackson County Sheriff's Department said Saturday that deputies are investigating the shooting death of an Akita, a Japanese hunting breed, owned by Berkley Kerr.

Kerr, 51, operates Kerr Kennels near Silver Lake and also has a kennel in Jackson County.

Kerr said he believes the dog was shot by someone upset about his stand on the licensing law and his stand toward animal rights groups.

"We've been quite vocal against these animal rights activists," Kerr said. "Whoever went in there Friday night went in there to deliberately kill the dog," he said. "I feel someone is sending a warning because I have been 100% pro-ag and have dug



AKITA, a Japanese breed of dog belonging to Berkley Kerr, was shot to death. The dog is being examined by a Jackson County Sheriff's deputy.

Photo furnished

up a lot of material on animal rights groups that shows in black and white that they intend to harm all Kansas agriculture (it may be by passing laws in other

states, or boycotting pork, or saying 'beef stinks') but it all hurts the Kansas farmer," Kerr continued.

Kerr filed suit against the state

for a 1988 state law requiring the licensing of kennels. Kerr lost the case, and Friday happened to be the deadline for appealing. Kerr said he did not appeal the case. Deadline for appealing the case was at 5 p.m. Friday; the dog, a family favorite, was found dead by Kerr's son, Bret, about 11 p.m.

The dog was a friendly animal, Kerr said. It usually put its front paws on the fence railing of the dog run and stood up on its hind legs to greet people. Kerr said he believes the dog was up in that position when it was shot in the chest. The bullet entered the dog's chest and exited through its back.

"Somebody knew that was our favorite dog," he said. "Somebody walked down there and shot him through the chest."

Kerr said his dog was not running loose but was in a temporary 8x32-foot dog run. The permanent runs will be 8x48, he said.

Kerr said the dog was American Kennel Club registered and was worth at least \$1,000.

# Mink research OK by federal standards

MAR 02 1992

By JEPFL KART  
State News Staff Writer

Mink are used in research as model animals because they are extremely sensitive to environmental contaminants.

MSU animal science Professor Richard Aulerich has conducted animal research projects for 32 years.

The professor's mink studies focused on nutrition, physiology, diseases and management, Aulerich said.

By exposing the animals to substances like DDT, PCBs and dioxins, Aulerich discovered the long-term effects of the chemicals.

In some of these tests, the toxins were applied directly to the animal's skin, he said.

Aulerich's research was used by the Environmental Protection Agency to establish water quality standards for people.

His latest research was devoted to determining why the numbers of wild mink and otter were declining in the Great Lakes area.

A feeding study used carp from the Saginaw Bay in the animal diet. Several generations of mink fed on fish from the Great Lakes were observed.

Fur animal physiology, management  
Please see STUDY, page 2

## STUDY

MAR 02, 1992

continued from page 1

agement and toxicology also are included in Aulerich's research.

There are some 1,200 mink farmers in the United States that produce more than 4.5 million mink annually. Aulerich's mink projects received \$10,000 in funding from the Mink Farmer's Research Foundation in 1991, he

said.

His programs also were funded by an additional \$50,000 to \$100,000 grants from the EPA, the U.S. Department of Agriculture and the U.S. Department of Commerce.

The state of Michigan provided \$83,000 for a two-year study beginning in 1991, Aulerich said.

All of Aulerich's research was periodically reviewed by the All-University Committee on Animal Use and Care, as required by federal law.

# Animal rights group's tactics provoke anger

MAR 02 1992

By MARC RODRIGUEZ  
State News Staff Writer

The dust may have settled, but the debate continues.

Be it "terrorism" or "humanitarian desperation," many students are questioning the effectiveness of Friday morning's animal rights demonstration which destroyed part of Anthony Hall.

The Animal Liberation Front (ALF), a national animal rights group, claimed responsibility for breaking in and ransacking the office of an animal science professor. The group released a statement through the People for the Ethical Treatment of Animals, citing statistics on alleged animal abuse at MSU facilities.

The group also poured sulphuric acid on feeding equipment and removed the identification tags of 350 research minks. The group justified its actions as an attempt to raise public awareness and warned it would be back.

And some students are ready for the group.

Veterinary medicine freshman Sharisse Berk said Friday's demonstration was "totally asinine." She said she questions the acts of

any group that justifies violence as a means of proving its point.

Berk, who is involved with ferret research, said the group didn't act out of altruism. If the ALF intentions were based on humanitarian aims, it would respect the professionals who work on the behalf of animals, she said.

"They're not using their heads," Berk said.

Veterinary medicine freshman Douglas Eckert said the act was not effective because it attempted to relieve animal suffering through potentially fatal means.

Eckert said negative connotations are often elicited through such radical demonstrations and inadvertently mute the original aim. He believes in the group's right to an opinion, but said it needs to find different ways of expressing its ideas.

"It's certainly not going to further their cause," he said.

Veterinary science freshman Melissa Behrens said she learned in an animal science class that the ALF is labeled a terrorist group by the FBI. In a particular manual circulated to members, the animals rights group explained

Please see MINK, page 6

## MINK

MAR 02 1992

continued from page 3  
how to create a homemade bomb.

Calling its acts "self-defeating," Behrens said the group needs to distinguish between the rights of animals and humans.

William Foster, a veterinary medicine freshman, said he was sickened when he heard about Friday's event. He challenged the ALF to develop an effective dialogue before resorting to violence.

Foster said if he could speak face to face with a representative of the ALF, he would call them "cowards." He said he couldn't condone violence as a tool of persuasion.

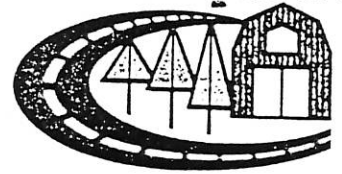
"The more I think about it, the angrier I get," he said.

13-4/5

July 18, 1990

Berkley Kerr  
RR # 1  
Silver Lake, KS 66539

**Countryside**



**Animal  
Clinic**

Dear Berkley,

A 6 to 8 month old Akita male was presented following death due to an apparent gunshot wound on Saturday, July 14, 1990.

The entrance hole was approximately 5-6 mm in diameter between the right 4th and 5th rib approximately 10-12 cm off the midline. The exit hole was approximately 10-12 mm in diameter, approximately 15-17 cm off the topline at the level of approximately the 5th rib. There was evidence of blood in the mouth and from the appearance of the hair around the mouth the death was agonal.

The chest cavity was filled with both clotted and free blood. The right lung was collapsed. The wound extended through the right cardiac lung lobe into and through the anterior right diaphragmatic lung lobe. The 5th rib was fractured at the point of exit from the body.

The main bronchi and trachea were filled with frothy blood indicating suffocation from drowning on his own blood as a portion of the cause of death along with intrathoracic hemorrhage. This would coincide with earlier findings of blood in the oral cavity and further supports a rather prolonged, agonal type death.

From the entrance and exit wounds, lung damage and rib fracture. I would suspect a 22 gauge or 22 Magnum caliber projectile at a fairly close range as the cause of death.

Sincerely,

A handwritten signature in black ink, appearing to read 'Larry Snyder' with a flourish at the end.

Larry Snyder, D.V.M.

cm

13-5/5



Committee Members:

Being a farmers wife, I want to have the Farm Animal and Research Facility Protection Act left just as it is and no new amendments put on it. I believe we definitely need protection from people coming on our place without permission and taking pictures and entering facilities. This is our private property and they have no rights to come on our property.

Audrey Rottinghaus  
R.R. 3  
Seneca, Kansas

*Civil Procedure Subcommittee  
March 3, 1992  
Attachment 14*



6031 S.W. 37th Street • Topeka, Kansas 66614-5128 • Telephone: (913) 273-5115  
FAX: (913) 273-3399

Owens and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

March 3, 1992

TO: Senate Judiciary Subcommittee on Civil Procedure  
FROM: Mike Beam, Executive Secretary, Cow-Calf/Stocker Division  
RE: Senate Bill 711, Amending the Farm Animal and Research Facilities Protection Act

Mr. Chairman and subcommittee members, I'm Mike Beam with the Kansas Livestock Association. Our organization supported the passage of this law in 1990. KLA is opposed to SB 711. It substantially weakens current law regarding the protection of animal and research facilities.

In 1990, we testified that this law was needed to address problems livestock operations, auction markets, research facilities, and others have experienced with harassment and damages caused by radical animal rights and environmental factions. Unfortunately, some groups believe their cause gives them the right to trespass, destroy or take property, and jeopardize the life and safety of humans.

Since 1986, at least 20 cases of break-ins, thefts, acts of vandalism, harassments or death threats have been reported within the agriculture community. The National Association of Biomedical Research has documented over 80 incidents of threats, thefts, break-ins, vandalism, or trespassing in the last ten years. The necessity of a strong Farm Animal and Research Facilities Protection Act is even greater today and we would be disappointed if this legislature weakens the law with the proposed changes in SB 711.

Apparently, other states are following the Kansas Legislature's lead and considering similar "break-in" laws. In 1992, Colorado, Missouri, and Virginia have bills introduced to protect research and agriculture facilities from illegal activities of animal rights extremists. Colorado SB 21, introduced and referred to the Senate Judiciary Committee on January 2, would make it a Class 6 felony if any person "...intentionally releases any animal which is lawfully confined for scientific, research, commercial, or education purposes without the consent of the owner or custodian of such animal... ." A hearing was held January 21 by the Senate Agriculture and Rural Business Committee on Missouri SB 498 and companion bill HB 880. Penalties for releasing, stealing, vandalizing and damaging animals or property, possessing records, data or other materials, range from a misdemeanor to a Class B felony and violators would also be subject to pay restitution. Virginia HB 148 would make the unauthorized release of animals a misdemeanor and violators could face a year in jail, a \$5,000 fine and could be held "... civilly liable to the owner..."

*Civil Procedure Subcommittee*  
*March 3, 1992*  
*Attachment 15* 1/2

*I'll briefly touch on the most objectionable provisions of the bill:*

*(1) In section 2, the language "enterprise conducted at the animal facility" is stricken. I'm uncertain of the affect, but it appears the activity (i.e. research) would no longer be specifically protected by the law.*

*(2) On lines 29 and 30 of page 2, the act of remaining "concealed, with intent to commit an act prohibited" in this law is repealed.*

*(3) The act of entering a facility without consent of the owner to photograph a facility would also be repealed.*

*(4) Currently, a fence designed to elude intruders or to contain animals is considered sufficient "notice" prohibiting trespassing. Lines 1 and 2, at the top of page 3, strike this provision of law.*

*(5) In section 3, the provisions of current law allowing triple damages and the recovery of reasonable attorney fees is repealed.*

*Because of these provisions of the bill, the Kansas Livestock Association is opposed to SB 711. I urge this subcommittee to carefully consider any changes in our Farm Animal Research Facilities Protection Act. Let's avoid sending any false signals that this state is softening it's policy against acts of violence or damages to private property from any person or group trying to get their message to the public. Thank you.*

COMMENTS  
before  
SENATE JUDICIARY SUBCOMMITTEE ON CIVIL PROCEDURE

TOPEKA, KANSAS

March 3, 1992

Regarding S.B. 711

by

FARMLAND INDUSTRIES, INC.  
KANSAS CITY, MISSOURI

On behalf of the Farmland cooperative system and our member-owners in Kansas, we oppose S.B. 711, the amendments to radically change The Farm Animal and Research Facilities Protection Act. We strongly believe that restrictive laws are needed to address the growing animal rights movement and are needed to deter its actions toward animal research facilities. Senate Bill 711 attempts to change the language so these needs are not met.

Farmland owns a Research and Development Farm in Bonner Springs, which is utilized for animal nutrition research. The research consists of energy and amino acid digestion, metabolism, animal growth, milk production and feed ingredient evaluation.

We are very concerned about actions to needlessly destroy facilities, records and research in an attempt to prohibit what's perceived as poor treatment of animals in research facilities and on farms. Livestock and other animals are

well treated at our Research facility and on our producer members' farms. We feel that current Cruelty to Animal laws already address mistreatment to animals as does the work of the Humane Society.

If S.B. 711 passes into law as is, the current protection of such facilities is lost. We strongly urge your support of the balloon amendment that has been introduced, which will delete the recommended amendments in S.B. 711 excluding the amendment changing the violation from a felony to a misdemeanor.

On behalf of the Farmland cooperative system, thank you for your consideration. If you have any questions, please call me at 800/821-8000, extension 6745.

Thank you.