

the Animal Rights Legal Advocacy Network Newsletter

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February 2003

DO WE REALLY NEED A HARSHER DOG CONTROL ACT?

by Peter Sankoff

Without a doubt, the last few weeks have made for depressing reading for those of us who love dogs. The savage attack of a young girl – Auckland resident Carolina Anderson – by an unleashed dog in late January was both sobering and tragic. Anderson's recovery has been featured on newscasts and in newspapers across New Zealand on an almost daily basis.

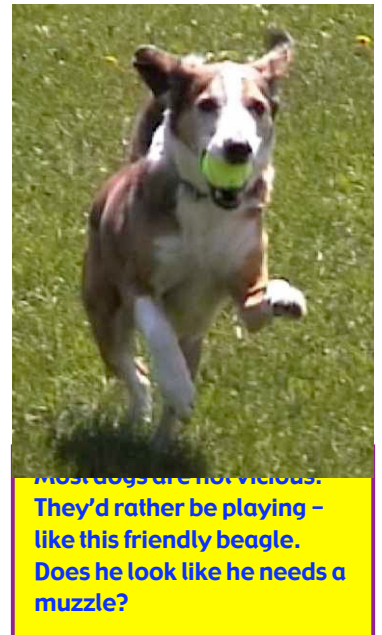
The attention to Anderson's recovery has been accompanied by a torrent of press calling for changes – much harsher changes – to the Dog Control Act 1996. The Sunday Star Times has called for immediate alterations to the Act, with a series of measures envisaged. While dog attacks have happened in New Zealand before, this one seems to have galvanized public opinion, and it would not be surprising if changes to the Dog Control Act 1996 do occur, with politicians motivated by the public outrage – as portrayed by the media - resulting from the Anderson attack.

It goes without saying that an attack upon a helpless child – or anyone for that matter – cannot be condoned, and measures must be taken to protect New Zealanders from uncontrolled and dangerous animals. That said, there is a strong possibility that the outrage will lead to unnecessary changes to an Act that is already amongst the harshest in the world in the way it treats dogs.

To date, suggestions have included calls for:

- **Breed Banning** – Forbidding certain “dangerous” breeds from New Zealand.
- **Mandatory Leads and Muzzles** – Dogs would have to be kept on muzzles in any public place.
- **Harsher Penalties for Non-Compliance** – Owners who did not abide by these restrictions would face severe penalties. Penalties would also be augmented where a dog causes a serious injury.
- **More Destruction of Dogs** – The plan is to destroy dogs who “might” be dangerous in future.

To be sure, some of these changes deserve careful scrutiny, but others are downright excessive. While there is good reason to believe that many dog owners have been derelict in caring for their animals and need to be punished for their negligence, **[Continued on page 2]**



ARLAN NEWSLETTER

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DOG CONTROL – ARE CHANGES NEEDED?

what is equally frightening is the ratcheting up of the level of rhetoric to an unprecedented level and the whipping up of public sentiment into a near frenzy against all dogs. What is really needed is careful thought about what alterations would be effective, and most importantly, a change in philosophy in the way New Zealand's legislation treats the relationship between dogs and humans.

To begin with, any changes to legislation must recognize the obvious links between animal welfare offences and dog control issues. Research has demonstrated that very few dogs attack in an unprovoked manner. Rather, aggressive animals tend to come from aggressive owners, and it would not be in the least surprising if the animals who are committing attacks are those who receive ill-treatment at home.

Equally important is the need to recognize that most attacks occur because of improper supervision. In other words, the fault lies with the owner – not necessarily the animal. The current focus of the Act tends to punish the animal (with destruction) for even the smallest transgression, while often letting the owner avoid any penalty. Dog Control strategies must recognize that control is the responsibility of the owner, and penalties for severe attacks should reflect the gravamen of the problem. At least in cases of serious or repeated attacks, injuries caused by the dog should be treated as injuries caused by the dog's guardian or owner, with criminal liability imposed.

But at the same time, the approach to dog control cannot be entirely punitive. The call for extreme measures involving muzzles on every dog at all times and pre-emptive destruction of animals "believed to be dangerous" is reason for alarm. There also needs to be more "carrot" options proposed – with local governments putting a priority on creating "dog-friendly" parks where animals can be exercised without leads.

ARLAN believes that wanton changes to the Dog Control Act will only lead to the unnecessary destruction of a greater number of animals. Members are URGENTLY needed who wish to assist on this issue! ARLAN hopes to draft a submission to Minister Chris Carter urging him to take careful consideration and act with restraint before making harmful changes to the Act. If you wish to assist, please contact: newsletter@arlan.org.nz

The ARLAN Newsletter

Welcome to the 1st edition of the ARLAN Newsletter for 2003. We hope you enjoy reading it and keeping up to date with our ongoing activities. A major goal for us in 2003 is to increase our circulation numbers! Think of someone who might enjoy this newsletter and urge them to subscribe. Please pass it on!

FIRST STRIKE TARGETS LINKS BETWEEN ANIMAL AND CHILD ABUSE

By Catriona MacLennan

Reciprocal reporting of child abuse, domestic violence and animal cruelty is required in New Zealand if this country is serious about tackling its shocking record of abuse of animals, children and women.

An umbrella group comprising representatives from Child, Youth and Family Services, the SPCA, Plunket, the New Zealand Police, Women's Refuge, local councils, the New Zealand Veterinary Association and Animal Management has been set up in Auckland to explore how the organisations can co-operate. ARLAN also has a representative on this group. The move follows more than 25 years of research in the United States which has established strong correlations between youthful abuse of animals and adult violence.

The American research resulted in the creation of the First Strike programme, which involves co-operation and reciprocal reporting between child protection, domestic violence and animal welfare groups in the United States. Psychologist and United States Human Society vice-president Randall Lockwood visited New Zealand in 2001 to outline the programme and speak about the research. He said that American social scientists had conducted multiple studies over the past 20 years demonstrating strong connections between animal cruelty and family violence.

FIRST STRIKE

"We are now beginning to realise how often there is a connection between domestic violence and animal cruelty."

-Randall Lockwood

"We now know that these acts begin in elementary school, if not pre-school. Cruelty to animals, if it is there as a symptom of later conduct disorder, is usually there by the age of 6 or 7. It is the earliest indicator. The biggest flaw in our criminal justice system today is its inattention to supposedly minor crime. We are now beginning to realise how often there is a connection between domestic violence and animal cruelty."

A 1997 Massachusetts study of 268 animal abuse cases found that 97 per cent of the animal abusers were male, and that those charged with animal cruelty were five-and-a-half times more likely to have been arrested for other violence offences. A 2001 study of Florida State Penitentiary inmates revealed that 56 per cent of the violent offenders had a history of animal abuse, compared with only 20 per cent of non-violent offenders.

In 1995, researchers interviewed a small sample of domestic violence victims in Utah and found that 71 per cent of those with pets reported that an animal has been threatened, harmed or killed by the abuser. In 57 per cent of the cases, the pet was killed. A similar study that year of domestic violence victims at 12 shelters in Utah found that 80 per cent of those with pets reported violence to the animals. **[Continued on page 4]**

FIRST STRIKE – ABUSE LEADS TO ABUSE

The outcome of the research has been rapidly-expanding programmes of collaboration between child, domestic violence and animal groups in the United States. More than 100 programmes have been set up involving co-operation between women's refuges and animal shelters.

In California, humane officers were added to the list of mandated reporters of suspected child abuse in 1996. They are now trained to recognise the symptoms of child abuse, and educated about reporting it. In Colorado, vets are required to report suspected child abuse. Meetings between animals shelters, police and child protection agencies began in San Diego in 1997 and have spread to other parts of America.

Dr Lockwood carries out training sessions for vets and other animal workers in respect of child abuse, such as a session he conducted for 250 Ontario SPCA inspectors. Suspicious animal injuries are increasingly being regarded as pointers towards family violence and child abuse.

There is much New Zealand should be learning both from the American research and from the programmes being set up in the United States. The American First Strike campaign is also operating in Scotland, and New Zealand has now been authorized to develop its version to encourage co-operation between different agencies. ARLAN has been involved in early meetings to see how it can help coordinate efforts in the legal community.

CYFS and the SPCA are working on a protocol for co-operation and reciprocal reporting of abuse. Moves are also underway to provide temporary shelters for the animals of domestic violence victims. Women may often be reluctant to go to refuges because they are fearful about what will happen to pets who are left behind.

CYFS Otara office supervisor Briar Humphrey is urging training for frontline social work staff and animal welfare inspectors, and inclusion of information about treatment of animals in the Social Work Risk Assessment carried out by social workers.

Most of these moves are taking place in Auckland. They need to be expanded to the rest of New Zealand. It is also time for a mindset change away from treating cruelty to animals as trivial and an almost normal part of children growing up.

The opposite is in fact the case. Children who abuse animals are more likely to continue that abuse into adulthood and to extend it to women and children. It is simply no longer acceptable to laugh at teasing and ill-treatment of animals and say "Boys will be boys."

Childhood abuse of animals should be treated as a serious matter, and steps should be taken to deal with it at a young age. Again, much can be learned from the American model.

Positive interaction with animals is being used in the United States to address violence in teenagers. Project Pooch in Oregon involves youths from a juvenile detention facility working with dogs to teach them dog-training skills. In Dallas, the Patience, Responsibility, Empathy and Partnership programme brings children and dogs together, while a Chicago programme for substance-abusing young women teaches them animal care skills and then has them socialising dogs to be used for seeing-eye work.

The unfortunate reality is that, in households where children are abused, the women and animals may also be ill-treated. Dealing effectively with all forms of abuse requires a co-operative approach.

A MOVEMENT TO CREATE GREATER PROTECTION FOR GREAT APES IN NEW ZEALAND

by Deidre Bourke

The treatment and welfare of great apes is receiving increasing attention internationally as more and more is learnt about their many attributes - both behavioural and mental - that demonstrate their close genetic relationship and similarity to human beings. This includes self-awareness, self-control, a sense of time, their capability of relating to others, blaming others for their own mistakes, and even their ability to learn sign language.

In the wake of such debate, Labour MP Russell Fairbrother is currently drafting a private member's bill that aims to put in place special safeguards for the welfare of great apes living in New Zealand. It is estimated that there are approximately 29 great apes in New Zealand living in zoos, circuses or private ownership around the country. While most great apes are cared for better today than they were in the past Mr. Fairbrother believes that our treatment of great apes should improve constantly, to reflect our increasing knowledge of them, stating that "they have long lives, they're intelligent and sensitive" ... "it's not good enough to say they look happy and humorous."



Background

The call for specific protections for great apes is not a new idea. When the Animal Welfare Act 1999 was first being drafted, the status and treatment of Great Apes in New Zealand was one of the issues discussed. An international group of scientists, philosophers, and lawyers, known as the Great Ape Project, lobbied the government seeking certain rights for the Great Apes (chimpanzees, gorillas, orangutans, and bonobos). The core rights that were discussed were:

1. The right to life – this would ensure that great apes are not killed except in strictly defined circumstances such as self defence;
2. The protection of individual liberty – this aims to ensure great apes cannot be arbitrarily deprived of their liberty or detained unless it can be shown that it is for their own benefit or is necessary to protect the public;
3. The prohibition of torture – this would prevent deliberate infliction of severe pain either wantonly or for the alleged benefit of others.

After much discussion, the majority sitting on the Primary Production Committee, who was responsible for drafting the Act, decided that it was not appropriate for the Act to include these rights. Many felt that rights and welfare concepts did not sit easily together and that the confirmation of rights such as a right to life were inappropriate and would change the intent and approach of the Act. **[Continued on page 6]**

MEMBER OF PARLIAMENT STEPS UP FOR THE GREAT APES

While none of these core rights were included in the Act, section 85, which prevents great apes from being experimented on unless it is in the best interests of the individual animal, is the legacy of those discussions.

The Need for a Bill for the Great Apes

Mr. Fairbrother, who has a particular interest in animal welfare and animal rights, says that the initiative comes after discussions with animal rights groups, who are concerned that current codes of welfare affecting great apes are not always closely followed.

It is certainly true that chimpanzees held in New Zealand circuses have been a particular concern in the past, for example:

- It is common practice in New Zealand, for circuses to euthanize chimpanzees as they approach maturity (at around 8 years of age) because they often become too strong or aggressive to easily manage.
- SAFE has repeatedly raised concerns regarding inadequate housing, lack of behavioural enrichment and exercise programmes for primates in New Zealand circuses. Ridgeway circus for example, has consistently failed to meet the standards in the Code governing circus animals. Despite this, MAF, the body responsible for enforcing those standards, never prosecuted the circus and their licence was continually renewed despite the clear breaches. Records released under the Official Information Act show that over a 9 year period Ridgeway circus was permitted to operate unregistered for over two and a half years, and while regulations required MAF to carry out a minimum of 27 inspections during that time, only 3 were documented.
- In 1999, Circus chimp Lola was sold to a circus in Samoa. Lola was found dead at the airport, she died of dehydration because of lack of fluids after being left in her packing crate for up to 7 days in sweltering 40 degree heat.

In light of such concerns and in order to ensure that the welfare of great apes is not forgotten, the proposed Bill would provide a specific regulatory framework for dealing with great apes and their welfare.

Links and further reading:

Great Ape Standing and Personhood: <http://www.personhood.org/main/org.html>

Great Ape Project International: <http://www.greatapeproject.org/>

Great Ape Legal Project: <http://www.aldf.org/>

Hansard to the Animal Welfare Act 1999: http://rangi.knowledge-basket.co.nz/hansard/han/text/1999/06/16_chron.html

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REPORT FROM WELLINGTON

by *Tiffany McNeill*

Happy New Year from ARLAN's Wellington branch. We are pleased to report that we are off to a busy start in the Windy Capital. In our first meeting of 2003 on 10 February, we enthusiastically discussed so many ideas for the next few months that we were oblivious to our meeting running over time. We have more plans than people so we would love to see any keen newsletter readers in the Wellington region at our next meeting in March.

Here is a small preview of some of our plans for 2004:

- We are hoping to tap into Victoria University by getting more law students involved in our activities. This will be a win-win situation with students getting the opportunity to work with "real" lawyers on a variety of research projects.

- Members are in the process of researching legal issues raised at our recent meeting with the acting director of the Wellington SPCA.

- We are soon to establish a litigation subgroup in Wellington as we have a number of very experienced practitioners eager to bring a test case on animal welfare matters. This will be a valuable opportunity to raise the profile of ARLAN and the cause of animal welfare law reform.

- Like our Auckland counterparts, we will also be keeping a close watch on reform of the Dog Control Act and looking for opportunities to offer a reasoned and rationale view on the subject.

It's shaping up to be a busy and exciting year. Keep an eye on this newsletter for other upcoming meetings and activities. Our next meeting will take place in early March. You can email Shannon Austin – Shannon.Austin@buddlefindlay.com - for details of how to get involved.

ANIMAL LAW WEB SITE OF THE MONTH

This month's profile, by *Stephen Gallagher*, is www.animallawintl.org

This website is produced by "The International Institute for Animal Law". They have very similar objectives to ARLAN in that they were established to encourage the development of legal scholarship and advocacy skills on behalf of animals.

Included in the website are links to news and resources that the group has published. Furthermore, The Institute directs a wide range of research projects to further advance scholarship in the field of animal law. Current and future projects include the development of model laws, the comparison of animal law on a country-by-country basis, and the development of a pleading and a legal memorandum file.

The most interesting feature of the website for research purposes is the link to a tool called AnimalLaw.com. AnimalLaw.com is presented by the International Institute for Animal Law, and is intended to serve as a clearinghouse for animal-related legal information, from pending legislation through relevant case law digests. While still in the developmental phase, AnimalLaw.com strives to present both objective and authoritative commentary, as well as guidance for individuals who wish to become advocates for animal issues.

AnimalLaw.com provides access to legislation and legal matters pertaining to the rights and welfare of animals.

One criticism of the website from a New Zealand viewpoint is that it only utilizes information contained on state and federal websites from the United States. Nevertheless, researchers will still find it very helpful as a tool for analyzing a wide range of cases touching on differing aspects of animal law.

ANIMAL LAW IN THE NEWS

by Peter Sankoff

SMOKEY GAINS A SMALL MEASURE OF JUSTICE

Those of you who have been reading this newsletter over the past year are undoubtedly aware of the horrifying case from Rotorua that involved Smokey the pitbull terrier. Last year, Smokey was taken into the custody of the Rotorua SPCA after an investigator discovered the dog with severe cuts on his ears. Apparently, his owner Kelvin James Bonnar has sliced the ears in half to make the dog look “meaner”. Smokey’s ears were left to bleed and became quite seriously infected.

On January 20, Bonnar pleaded guilty to charges of ill-treatment of an animal and failing to get veterinary help. He was sentenced to 100 hours of community service and ordered to pay vet bills totaling more than \$700. Most importantly, Smokey was seized from Bonnar’s possession, and in the story’s major silver lining, was awarded to a family who is thrilled to have his company.

The penalty imposed in the case is hardly severe, but it is not inconsequential either. Given sentencing tariffs in New Zealand, a 100 hour community service order for a first time offender who pleaded guilty to the charges cannot be viewed as a slap on the wrist. It certainly dwarfs many “penalties” imposed by District Court judges under the Animal Welfare Act 1999, which often amount to nothing more than court costs.

What is slightly unfortunate is that Bonnar was only charged and convicted of the relatively minor offences of ill-treatment of an animal and failing to get veterinary help. SPCA investigator Nicola Martin, quoted in the New Zealand Herald correctly noted that Bonnar could not be charged with cropping the dog’s ears, for the definition in the Act requires that the cutting of the ears be accomplished for a specific purpose.

Bonnar also could not have been charged for performing a surgical procedure for which he was not trained. Several sections of the Animal Welfare Act 1999 sensibly attempt to restrict laypersons from performing surgical procedures on animals, and hefty penalties are available for non-compliance. Unfortunately, for reasons which are unclear, the procedures in question are set out in explicit language, and there does not seem to be a residual section available for invasive alterations to an animal of the nature that occurred here. As stated above, the definition of “cropping” a dog’s ears, requires that the cutting be done for the purposes of making the dog’s ears stand upright.

This is a clear legislative gap, but it is one that is open to correction. Section 6(2) of the Animal Welfare Act 1999 provides that the government may by order in council declare certain surgical procedures to fall within the confines of the prohibitions in the Act. **[Continued on page 9]**

The responsible Minister, upon consultation with the National Animal Welfare Advisory Committee, must consider a number of factors (generally designed to ensure that surgical procedures utilized by commercial operators covered by a Code of Welfare do not fall within the confines of the section) before making the declaration. None of the concerns that are designed to be protected by that section come into play here. One hopes that urgent consideration will be given to declaring that ANY alteration of a dog's ears (or other parts of the anatomy) should be viewed as a significant surgical procedure under the Animal Welfare Act.

AUSTRALIAN RSPCA CALLS FOR MANDATORY MINIMUM PENALTIES FOR ANIMAL WELFARE OFFENCES

Frustrated by minimal penalties being awarded for acts of animal cruelty, Australia's RSPCA has urged the New South Wales Government to consider introducing mandatory minimum jail sentences for extreme cases of animal cruelty.

The situation in Australia differs little from that in New Zealand, where acts of cruelty are often met by judicial indifference, with penalties of trifling significance being imposed for severe acts of maltreatment. In New South Wales, lobbying efforts eventually resulted in legislators increasing maximum penalties, but much as has been the case in New Zealand, this change has not resulted in heavier sentences for offenders.

"When those maximums at present aren't imposed, you've really got to question whether or not we're wasting our efforts, wasting our time in trying to maximise or increase those maximum penalties," said RSPCA deputy chief executive Steve Coleman.

Unfortunately, it's not clear that mandatory minimum penalties are the answer either. Imposition of these penalties has generally been met with stiff judicial resistance. Normally, mandatory minimums are imposed only for the most serious crimes, which in this case would probably mean willful cases of cruelty resulting in serious harm. Traditionally, the insertion of a minimum drops the conviction rate for the designated offence considerably, as judges ratchet up the need for proof for these crimes. Instead, they often convict of lesser included offences, which allows for discretionary sentencing.

It must be recognized that proper sentencing is not merely a judicial process. As we have stressed before in this newsletter, better sentences will be the result of a combined legislative, prosecutorial and judicial attitude to let the penalty reflect the crime. This approach takes patience, a coordinated effort and time.

CAN A DOG BE A VICTIM OF CRIME?

A strange case from Alexandra District Court tested the limits of the new Sentencing Act 2002, and unfortunately, did a great disservice to those who live with pets. **[Continued on page 10]**

Madeline and Peter Wilson live with their pet English Spaniel Gus. Six months ago, Graeme Dobson crashed into the Wilson's vehicle near Wanaka. He was found guilty of careless driving causing injury, and was sentenced on 21 January 2003.

Gus was sitting on Madeline's lap at the time of the accident, and ran off after the crash. He could not be found. The Wilson's went to a great deal of time and expense to find Gus, and even hired a helicopter for half a day to look for the dog. Eight days later, Gus was found, and happily, is doing well after being reunited with his caretakers.

During sentencing, the Wilsons presented a reparation claim which included \$830 spent on expenses incurred during the search. The Sentencing Act 2002 makes reparation for loss a central part of a judge's sentence mandate. It entitles victims of crime to be reimbursed for loss incurred.

District Court Judge Saunders clearly felt that Dobson was able to pay, as he imposed a \$3700 reparation order in relation to losses suffered by the Wilsons. Nonetheless, he declined to order any reparation in relation to the search for Gus. The reason? Judge Saunders agreed with arguments made by defence counsel Russell Checketts who said he did not think the dog could be classified as a member of the family so could not fall under the order of reparation.

With respect, and assuming this is what Judge Saunders found, as I am not privy to the court transcript, this reasoning simply cannot be correct. The Sentencing Act 2002 clearly states that reparation can only be paid to a person (s.32) who suffered loss of or damage to property, emotional harm, or loss or damage consequential on any emotional or physical harm or loss of, or damage to property. It also states that emotional harm can only be claimed by a victim, defined in section 4, which is the direct victim of the offence, or in certain instances, a member of the family (though only when the direct victim dies).

It is entirely unclear how the dog being defined as a member of the family is in any way relevant to the finding (or non-finding) of reparation. The fact is, any way you slice it, the Wilsons were entitled to reparation. Why? Like it or not, in New Zealand, dogs are considered property. The Wilsons were victims of the offence in question, and as a consequence of that offence, they lost the enjoyment of that property. Indeed, it could be argued that they suffered considerable emotional harm in relation to the loss as well. Either way, Judge Saunders would have been acting well within the statute to order recovery in relation to the lost property – Gus. It is highly ironic, to say the least, that a dog was not considered property for the sake of a New Zealand statute and instead the argument concentrated on whether or not a dog could sue for reparation.

To put it another way, imagine that the Wilsons had a diamond ring in their possession instead of Gus. If the crash had caused them to lose that ring, and it cost them \$830 to recover it, would Judge Saunders have concluded that they could not gain this in reparation because the ring was not a member of the family??

This decision is difficult to accept, and hopefully, it will not be followed.

CALL FOR HELP!

One of ARLAN's central mandates is to improve the understanding and accessibility of the law relating to animal welfare. We have made no secret of our dissatisfaction with the difficulty in accomplishing this. New Zealand law in this area is notoriously hard to research, as most judgments are unreported, and scattered across the country.

Peter Sankoff, Lecturer at Auckland University's Faculty of Law, and member of ARLAN's Executive Committee, has begun research and organization for a short text tentatively entitled Animal Welfare Law in New Zealand. The idea for the text is to provide practitioners, judges and legislators with handy access to the law relating to animals. It will discuss the theoretical underpinnings of Animal Welfare law and make recommendations for improvements.

Unfortunately, we recognize that most of the law in this area is unreported and somewhat difficult to access. As a result, we are hoping to circumvent this problem by calling on you, ARLAN's members and newsletter readers, to assist in any way you can. We urgently require copies of ANY unreported cases with some legal significance decided under:

- The Animal Protection Act 1960
- The Animal Welfare Act 1999
- The Dog Control Act
- The Marine Mammal Protection Act

A database of all the cases in ARLAN's possession has now been compiled. Rather than sending copies of case material, send a list of cases in your possession that can be checked against our database.

Case names can be mailed to:

Peter Sankoff
9 Eden Crescent
Faculty of Law
University of Auckland
Auckland

Case names and numbers can also be e-mailed to: p.sankoff@auckland.ac.nz

The creation of a text on animals will hopefully promote better consistency and accuracy in the law. Your assistance is invaluable to this exercise.

ARLAN NEWS

AUCKLAND GENERAL MEETING

ARLAN is pleased to announce **our upcoming general meeting for ARLAN Members or prospective members in the Auckland area.** This event has two purposes: a) to allow members to meet one another and b) to brainstorm and discuss our agenda for 2003. ARLAN, unlike other non-profit organizations, has no full time staff and operates through the good graces of its volunteers. This meeting will give you a chance to discuss what you wish to achieve through ARLAN and let people eager to help animals meet each other.

The meeting will be held at the University of Auckland Law Faculty on Wednesday 16 February 2003. It will be held in the Staff Lounge and run from 5:30. Refreshments will be provided. Please come along and spread the word to prospective members for 2003! All are welcome.

ARLAN SEMINAR SERIES UPDATE

Established in 2002, the ARLAN seminar series is designed to advance legal scholarship relating to animals and the law in New Zealand. In 2002, ARLAN members, law students and legal practitioners enjoyed two informative and thought-provoking seminars from Peter Sankoff "Animal Law: A Subject In Search of Scholarship" and Sue Kedgley "Animal Ethics Committees: The Secrecy of Animal Research in New Zealand".

ARLAN is pleased to announce the following confirmed speakers for the 2003 Seminar Series:

March - Peter Sankoff Lecturer, The University of Auckland, Faculty of Law.
April - Neil Wells The School of Animal Health and Welfare, Unitec
May - Virginia Williams The School of Animal Health and Welfare, Unitec

Additional speakers are currently being negotiated for August, September and October. Potential topics of discussion include:

- An introduction to animal rights law – Rights or Welfare?
- The Animal Welfare Act 1999 and amendments
- Codes and duties of SPCA inspectors
- Wildlife protection
- Conscientious objection for students of science
- The treatment of companion animals in custody disputes
- Statutory interpretation in animal law
- The "expert witness" in animal cruelty cases and conflicts of interest
- Animal activism – defamation and legal rights
- First strike – animal abuse and the link to spousal and child abuse

Keep an eye on the ARLAN newsletter for an announcement of the date, time and venue for the first seminar of 2003.

ARLAN Auckland Meeting

Wednesday
16th February 2003
5:30 pm
Faculty of Law
University of Auckland
9 Eden Crescent
Auckland
Faculty Lounge, 4th Floor

Barks, Meows and Squawks

A collection of notable quotes on animals and the law.

“As for Frei, sec.1983 applies only to a "person" who acts under color of state law...A suit against a dog poses a host of other problems. Was Frei served with process? Did he retain as his lawyer Lynn E. Kalamaros, who purports to represent all three defendants? Was Frei offered the right of self-representation under 28 U.S.C. sec.1654? What relief does Dye seek from a dog--Frei's awards, perhaps... If a reasonable person in the defendant's position would not have understood that what he was doing violated the Constitution, damages are unavailable... Must we then ask whether a reasonable dog in Frei's position should have understood that he was violating Dye's constitutional rights? Dye's lawyer replied that he deemed Frei an "employee" of the City and was hoping to hold the City vicariously liable for his deeds... Anyway, treating a dog as an "employee" would raise thorny issues under the Fair Labor Standards Act. Should Frei get time-and-a-half for overtime?”

-Easterbrook C.J. of the United States Court of Appeals, 7th Cir. in *Dye v. Wargo and a K-9 named Frei*, 11 June 2001, rejecting the plaintiff Dye's attempt to sue Frei the police dog who bit Dye while he was attempting to flee police custody.

“[I]n many respects the fact that this case has attracted such publicity only confirms the extent of feeling within our community about people who neglect or mistreat the vulnerable, who of course include not only children but also animals. Furthermore, the Animal Welfare Act 1999 ... is clearly intended to highlight and emphasize the importance of the proper care of animals.”

-Abbot J. of the District Court sounding the right note, and imposing a comparatively harsh sentence, in *RSPCA v Gilbertson* [2002] DCR 617. The defendant was sentenced to 150 hours of community service after being found guilty of severely mistreating seven horses. Judge Abbot also ordered the defendant to pay for the veterinary expenses of the horses and prohibited him from exercising authority over any horse for five years.

Animal Rights Legal Advocacy Network

Improving the law to improve the conditions of animals

ARLAN is an organization of New Zealand lawyers and law students established in 2001, working to improve the law as it affects animals. We need your help to make this a reality.

How you can help?

- **Information**– By joining our e-mail chat group you can learn more about animal law issues in New Zealand. In turn, you can keep us posted about issues arising near you. E-mail: contact@arlan.org.nz to join in. Also, check out our web page: www.arlan.org.nz
- **Become an Active Member of ARLAN** – ARLAN urgently needs dedicated lawyers and law students who care about the plight of animals to join our cause. We succeed only to the extent that we have supporting volunteers who are willing to help. There are a number of ways you can assist, and what we need most is your time and enthusiasm! Several projects are underway and require assistance:
 - the **ARLAN Newsletter** needs volunteers to assist in writing and production. We also require volunteers outside of Auckland to assist in distributing our newsletter. To help out contact: newsletter@arlan.org.nz
 - the **ARLAN Animal Cruelty Committee** needs volunteers to help us ensure that better animal cruelty prosecutions are undertaken where animals are deliberately hurt. This committee is still in the process of being established, but for more information, contact: cruelty@arlan.org.nz
 - the **ARLAN Legislative Review Committee** needs volunteers to assist in reviewing and making submissions on legislative initiatives at different levels of government. To help contact: betterlaws@arlan.org.nz
 - support ARLAN and learn about Animal Law by attending one the **ARLAN Seminar Series**. Watch out for notices in this newsletter.
- There are other ways to help!** If you're not sure what you wish to do, just send us an e-mail at any of the addresses listed above. We'll find a way for you to help!
- **Support ARLAN Financially** – ARLAN is a non-profit organization that exists through the generosity of its members and supporters. While we endeavour to keep costs low, several of our activities require some degree of financial support including the maintenance of our website, and distribution of this newsletter. Any amount you can give would be hugely appreciated. To make a financial contribution, contact: contributions@arlan.org.nz, or simply send a cheque made out to ARLAN to: ARLAN, PO Box 6065, Wellesley St., Auckland, New Zealand.