

The Animal Rights Legal Advocacy Network Report

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LETTER FROM CANADA: IS IT TIME TO DISENGAGE FROM THE CODE PROCESS?

by Peter Sankoff

Over the past few months, I've done a fair bit of thinking about codes of welfare and their place in New Zealand's animal welfare scheme. As we reach the five year anniversary of the enactment of the Animal Welfare Act 1999 (AWA) (the AWA was proclaimed into force in January 2000), it is becoming apparent that the battle over animal welfare standards has moved away from a need to create better laws (as provided by Parliament) and towards trying to ensure that these laws are actually recognized by the various codes of welfare. The admirably worded standards of the AWA aside, there is good reason to be concerned that these codes are being utilized as a means of legitimizing practices that are simply antithetical to any civilized notion of animal welfare.

Codes of welfare have a huge role to play within the structure of New Zealand's animal welfare regime. Rather than defining specific types of animal cruelty, the AWA instead governs most animal owners by setting out general standards and leaving particular practices to be dealt with through codes of welfare, a form of supplemental legislation. The structure is slightly complicated. Sections 10 and 11 of the AWA set out general obligations that must be maintained towards animals, including the need for owners to provide, amongst other things, proper food and water, adequate shelter, and the opportunity to display normal patterns of behaviour. Where an owner or person in charge of animals fails to comply with these standards, they will have *prima facie* committed an offence under the AWA.

This is straightforward enough. Unfortunately, the matter is complicated by s 13(2) of the AWA that provides the following defence:

[I]t is a defence in any prosecution for an offence... if the defendant proves –

(c) That there was in existence at the time of the alleged offence a relevant code of welfare and that the minimum standards established by the code of welfare were in all respects equalled or exceeded.

This is in accord with the legislation's design. Rather than trying to address every conceivable type of harm caused to animals, the AWA creates a number of general and relatively vague standards about how animals should be treated using words like "proper treatment" "adequate care" and "reasonable precautions", but fails to define these in regards to particular practices. In most cases,
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ARLAN REPORT

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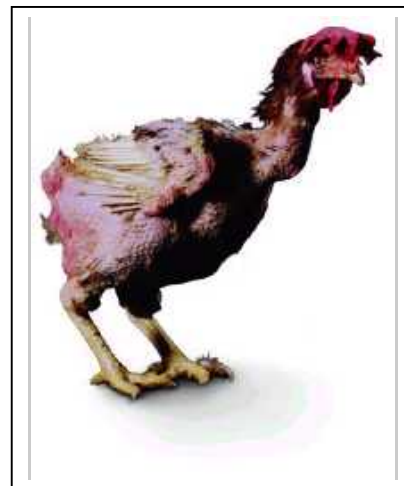
CODES SET BARE MINIMUM STANDARDS

however, it is unnecessary to do so, for no practice - however 'unreasonable' it might seem – qualifies as illegal where it can be demonstrated that the conduct was in accord with a relevant code of welfare. In other words, it is the codes that actually define how most animals can be treated, and the basic standards of the AWA become effectively irrelevant where a relevant code exists that trumps the statute.

Not surprisingly, ARLAN believes the particular details of a code are a major concern. Consider the following example, where a farmer keeps his battery hens in squalid conditions that ultimately lead to numerous deaths. Using the offence provisions of the AWA, a judge may well find that the farmer was negligent when he failed to provide appropriate food or shelter to the hens, with the deaths demonstrating that ill treatment occurred. This finding notwithstanding, a conviction will not be entered if the farmer can show that his conduct was no worse than he was required to provide by the minimum standards set out in the relevant code of welfare. These standards have a huge impact in determining whether cruelty against animals – as defined in the AWA – is actually occurring or not. The lower the minimum standard, the more ill-treatment is permitted, with the converse proposition – that the higher the standards the less ill-treatment is permitted – being equally true.

Technically, conflicts between the AWA and the codes should not occur, for two reasons. First, Parliament created a quasi-independent body, the National Animal Welfare Advisory Committee (NAWAC), to ensure that codes are reviewed by a variety of experts in the field of animal treatment and that these codes reflect good science, rather than any particular type of interest. Second, section 73(1) of the AWA provides that NAWAC should not recommend acceptance of a Code unless it is satisfied that

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NEW CODES ARE DISCOURAGING

the proposed standards comply with the purposes of the AWA, and under s73(3), cannot recommend standards that do not meet the general obligations provided for by the AWA unless there are “exceptional circumstances”.

Since ARLAN's formation in late 2001, drafting submissions on the various codes of welfare has been a major part of our existence, and to date, we have drafted submissions on four codes of welfare (broiler chickens, layer hens, pigs and circuses). Unfortunately, with a few minor exceptions, the submission process has been completely disheartening. The first two codes approved by NAWAC (addressing the treatment of broiler chickens and animals in rodeos) left a great deal to be desired, and did little more than legitimize practices that are extremely troubling in practice. (See: C. Gum, “The New Code of Welfare for Broiler Chickens: It’s New But is it Improved?” (2003), 7 ARLAN R. 4.)

Coming soon is the new code for layer hens and all indications are that this one will be the greatest disappointment of all, with virtually no changes mandated to the practice of stowing large numbers of chickens into cramped “battery” cages, despite wide spread opposition to the practice amongst the New Zealand public. While entirely discouraging, such a result would hardly be surprising, for it would follow NAWAC's approach to welfare for broiler chickens, where in spite of evidence that such an approach would cause severe harm, the committee accepted a maximum stocking limit that was 50% higher than the maximum permitted in the European Union.

My one meeting with members of NAWAC, at a committee meeting held in Christchurch in June 2004, provided some insight into the committee's approach to animal welfare. While the members were all polite individuals who seemed to take their job seriously, I was not convinced that the best interests of animals was their primary concern. I had one discussion with a committee member about the recently enacted code dealing with rodeos who tried to explain to me how calf-roping (legitimized under the Code of Welfare for Rodeos) was acceptable because there was no *clear evidence* that the calves felt anything more than “temporary” pain when they were physically yanked backwards by the neck. When I asked about the many calves that have their necks injured or broken in this event, she replied that “this doesn't happen very often” and “isn't the goal of calf-roping”.

With attitudes like this, it is hardly surprising to see the results that emerge from the code process. To put it in the most charitable way possible, NAWAC's approach to animal welfare seems to rest on a conservative notion that unless harm can be definitively proven through scientific means, the particular practice in issue should be allowed. In other words, to ban a practice, animal advocates bear an unreasonable burden of proof. To prove harm, we must definitively establish: a) that the animal in question can feel the particular type of pain, and b) that the given practice is definitively harmful and causes some form of lasting damage. Any uncertainty in these areas, it would seem, ultimately leads to the practice being permitted.

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CODES BELOW AWA STANDARDS

In my view, this is a nonsensical way to approach animal welfare, and frankly, is a complete misunderstanding of the role that science should play in this area. At times, it feels like NAWAC is acting like an ostrich with its head in the sand, refusing to examine scientific evidence that doesn't accord with the result it hopes to achieve. In this area, like any other, scientific certainty is unlikely to exist. My question, as it always has been, is why this should automatically be held against the animals? Can some standard of reasonable probability not be adopted? Is it necessary, as NAWAC did with the Code of Welfare for Broiler Chickens, to dismiss international studies as being "inapplicable to the New Zealand environment" without explaining how such an environment would change the results of the studies?

It seems like people interested in animals almost have to go so far as to *disprove* any claim by the relevant industries suggesting that the animals are not being harmed. Frankly, with a standard of proof that high, few practices will ever be held to be in conflict with the AWA. At a certain point, this makes me wonder whether it is even worth getting involved in the process. It's not just our time that is at stake, but also, it would seem, our reputation, through the government's choice to co-opt the participation of animal advocacy groups by trumpeting the fact that code reform is some sort of "joint enterprise" whereby NAWAC manages the competing claims of animal producers and animal welfare groups. Indeed, when it finally released the new Code for Broiler Chickens in July 2003, Jim Sutton, the Minister of Agriculture and Forestry, stated that the "the code was... drafted *in consultation* with organisations such as the SPCA, the New Zealand Veterinary Association, and the Animal Behaviour and Welfare Research Centre."

Consultation? It's hardly clear that the approach promoted by NAWAC involves any real form of consultation – aside from their decision to receive (and apparently ignore) our submissions at all, and I'm not entirely convinced that we should continue to feed into to a process that seems severely flawed. Perhaps at some point, it behooves ARLAN to reconsider its decision to make submissions on future codes of welfare. Rather than participate in the legislative process, perhaps our energies would be better directed towards the judicial arena. There is good reason to believe that a number of the codes of welfare simply do not measure up to the standards of the AWA, and hence, are not in compliance with s.73(3) of the Act. If this is indeed the case, it might be possible to bring some sort of judicial review against the codes themselves, on the ground that they are, in effect, illegal.

I am not sure we've reached that point just yet. Still, it certainly says something about the code process, and more importantly, about the results that have been achieved, that only five years into the new animal welfare regime, I am sitting around thinking about whether or not to disengage from the process altogether.

FINAL REMINDER: ARLAN'S SECOND FUNDRAISING DRIVE

In the August/September Report we published ARLAN's achievements for 2004 and objectives for 2005. As you are most likely aware, ARLAN receives no government funding or sponsorship and relies primarily on donations from its members in order to be able to achieve its objectives. Thank you for your continuing support! When you donate to ARLAN you will be directly helping us to support our existing projects and help launch several new ones. If you wish to help, please fill out this form and send a cheque for any amount you wish, made out to ARLAN, to: ARLAN P.O. Box 6065, Wellesley St, Auckland, New Zealand.

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A receipt will be provided for all donations received. Thank you again for supporting ARLAN and for helping us improve the lives of animals.

Peter Sankoff and Deidre Bourke, on behalf of ARLAN's Executive Committee.

Donations of \$50 or more will receive their choice of: a) one year hard copy colour subscription to our newsletter mailed to your home or office, or, b) DVD/Video copy of 'Prosecutions under the Animal Welfare Act 1999: Are We Succeeding or Failing?' Chaired by Peter Sankoff, Lecturer, University of Auckland. (Please indicate your choice with your donation. If choosing b), please indicate DVD or Video).

UPDATE - INTERNATIONAL DOG MEAT TRADE

by Cherie Gum

In September 2002, Elly Maynard and Deidre Bourke reported on the flourishing International Dog Meat Trade - (See: E. Maynard and D. Bourke, "Fighting The International Dog Meat Trade" (2002), 1 ARLAN R. 5.). Leafing through old ARLAN Reports a little while back, this issue in particular caught my attention. I was very interested to see whether, after two years, the trade had diminished or not, and what legal progress had been made in addressing the problem.

Countries where dog eating is common include China, North and South Korea, and the Philippines. The cruelty associated with this trade is widespread, with dogs routinely transported long distances in tiny cages and slaughtered inhumanly. South Koreans enjoy dog meat soups in Seoul restaurants. Still dog meat or dog soup is very popular among South Koreans particularly during hot summer days.

The Philippines legislated five years ago banning the dog meat trade, but the market continues to grow. In early August 2004, Philippine Police rescued 80 dogs which were on their way to a slaughterhouse and have saved more than 2,000 dogs in the past four years, according to animal welfare activists.

In South Korea and China, WSPA investigators visited dog farms, slaughterhouses and dog meat markets witnessing abhorrent cruelty levels on every occasion. Both countries have problems with stray dogs, which are collected from the streets and sold for food. The unbearable issue is those raised on special farms. In China, WSPA inspected farms where St Bernard dogs are cross-bred with indigenous breeds to produce larger, faster-growing meat dogs. Many of the St Bernard's used to set up these farms were imported from breeders in Europe.

Transportation from farms to markets is by way of tiny overcrowded cages with a floor area of 1.2 x 1.2 meters containing up to 20 animals. Inside these cages, dogs still alive, are piled on top of the other, resembling nothing more than a heap of entwined fur.

The most common forms of killing the dogs are either by being clubbed over the head and then having their throats cut, or by being hung from the neck. Korean authorities have stated that electrocution is now being used at many meat markets. They are also often beaten with pipes, bats or hammers, then electrocuted.

A Thailand governor, Panchai Borvornratanapran, has been forced by villagers in a district of Thailand, acclaimed for its dog meat industry, to abandon plans to close them down, because they want to continue their trade. **[Continued on page 7]**



CAMBODIANS ENCOURAGED TO EAT MORE DOG MEAT

Tha Rae district in Sakhon Nakorn province, 650km northeast of Bangkok, slaughters 300 to 400 stray dogs, illegally rounded up, daily. A survey taken of 500 villagers in Tha Rae evidenced that 79 per cent want to continue eating and selling dog meat. The survey showed that 62 per cent of respondents regularly ate dog meat, while 64 per cent believed eating and selling dogs was not tarnishing their district's image.

In Cambodia, Phnom Penh's Mayor, Kep Chuktema, encourages Cambodians to eat more dog meat saying it's tasty and affordable for the poor. He is cited in *The Cambodia Daily* newspaper encouraging people that dog meat is delicious and that the Vietnamese and Koreans love it. The capital of Cambodia has just a few restaurants specialising in canine dishes.

In mid-December 2003 the Taiwan Legislative Yuan passed new rules under Taiwan's Animal Protection Law to ban the selling of dogs and other companion animals for human consumption. The fine for those who violate the rules against killing dogs and other companion animals increased from NT\$10,000.00 (approx NZ\$3,000.00) to NT\$250,000.00 (approx NZ\$15,000.00). It is believed that as many as one third of the stray dogs in public shelters in Taiwan end up being sold to restaurants for human consumption. Prior to the passing of new rules, the old rules only prohibited the butchering and selling of pet meat without giving law enforcement officials the power to punish violators. The new rules give law enforcement officials the power to directly file charges and levy fines against any person or restaurant caught violating the rules.

WSPA's Pet Respect programme is seeking to improve the status and treatment of all companion animals throughout Asia. The programme promotes various forms of birth control for cats and dogs to prevent the growth of unwanted populations of strays. Where large numbers of stray animals exist, WSPA is working with municipalities to introduce humane management methods. WSPA is also encouraging the registration of pets and the introduction of legislation to protect their welfare.

Although the consumption of dog meat is more prolific in Asian countries, places such as Hawaii are not immune to such issues. There have been reports that dog meat has been sold in Kalihi, Waianae and downtown Honolulu. Hawaii have never legislated against dog meat for human consumption as it has never had a problem. However, these reports have prompted legislators to ban the dog meat trade before it gains momentum. It is, however, still legal in Hawaii to kill and eat one's own dog, providing it is put to death in a humane manner, thus meaning killing the animal in the fastest way possible. Honolulu Police are concerned that someone might be stealing and slaughtering dogs for their meat. Although it is not a crime to eat dog meat, it is a crime to steal a dog. Killing some else's dog would amount to cruelty to animals, punishable in Hawaii by up to one year in prison. There have been reports of theft however, not enough to spark the investigators into action. **[Continued on page 13]**

**VIDEOS/DVDs, VIDEOS/DVDs, VIDEOS/DVDs
ANIMAL WELFARE LAW CONFERENCE**

ARLAN is currently in the process of producing a series of 5 videos/DVD's documenting workshops held at our 2004 Animal Welfare Law Conference. Videos will be made progressively available so please check our website regularly for updates! There are currently two videos available for purchase, the third in the series is expected to be available in Dec 2004/Jan 2005.

Purchasing and Pricing Information:

One video/DVD: \$20 (plus postage)

Two videos/DVD's: \$35 (plus postage)

Please add an additional \$5 per item ordered to cover postage.

Orders and cheques (made out to 'ARLAN') should be posted to ARLAN at P.O. Box 6065, Wellesley St, Auckland, New Zealand. Please specify whether you require a video or DVD.

Overseas orders and pricing details are also available, contact us at: contact@arlan.org.nz

Conference Videos/DVDs Available:

1. Conference Introduction and Main Plenary Session

Main Plenary: Prosecutions under the Animal Welfare Act 1999: Are We Succeeding or Failing? Chaired by *Peter Sankoff*, Lecturer, University of Auckland.

Panelists:

Neil Wells, Programme Leader, Animal Welfare, UNITEC School of Natural Science

Jim Boyd, SPCA Investigator (Bay of Islands)

Earl Culham, Senior Animal Investigator, MAF Special Investigation Group

2. Forfeiture / Search and Seizure

The second ARLAN video/DVD contains a copy of the following conference workshops:

Forfeiture Under the AWA (Workshop No.3) Presented by *Gina de Graaff* from the Crown Law Office.

Search and Seizure under the Animal Welfare Act (Workshop No. 6) Presented by *Scott Optican*, Senior Lecturer, University of Auckland

Coming Soon! Conference Video/DVD No 3 - 'Sentencing Issues'

The third video/DVD in the series should be available from Christmas 2004 and will contain copies of conference workshops dealing with sentencing issues under the Animal Welfare Act including a copy of:

Relevant Factors in Sentencing for Animal Welfare Act Offences (Workshop No. 2)

Presented by Judge David Harvey, Manukau District Court

Sentencing Submissions from the Prosecution Perspective (Workshop No. 5) Presented by Annabel Markham, Crown Law (Wellington)

If you wish to be contacted as new videos/DVD's become available email us at: contact@arlan.org.nz and we place you on our notifications list.

Reviews of all the above seminars can be reviewed in our April/May 2004 Report, Vol.3 No. 3.

ANIMAL LAW IN THE NEWS

by Cherie Gum

PUPIL EXPELLED AFTER BEHEADING KITTEN

A 17 year old year 12 Hastings boy was expelled from Hastings Boys' High School after severing the head of a kitten on a school bus in late October. He took a wild cat's head on to a school bus and held it up by the ears. The kitten was believed to be already dead. A year 9 pupil then threw the kitten's head out of the bus window towards a girl walking on the roadside. The principal of the school called the Police and the SPCA immediately after confirming the act.

FISH CAN FEEL PAIN – AND CRUELTY PROSECUTIONS MAY FOLLOW

A Northland SPCA Inspector, Jim Boyd, is taking animal welfare in New Zealand into a new realm. He has warned big gamefishers in Northland that they could be faced with fines of up to \$125,000.00 and/or six months in prison. The purpose of the warning is to encourage big gamefishers to change their attitude towards gamefishing.

Mr Boyd is concerned that gamefishing can involve playing a fish for up to several hours. He says "The SPCA will not be targeting normal recreational or commercial fishing - what we will be looking at is the "extremes" - the person who catches a big game fish on light tackle, taking many hours to "play" and land the creature."

Mr Boyd further says "Fishing and hunting are not illegal in law, however, there are two words [in the Animal Welfare Act 1999] that can change the activity from legal to illegal. Those words are; "unreasonable and unnecessary". If those words are applied to an extreme case where, for example, a marlin weighing a little under 400 kilograms, was fought for over 14 hours using light breaking strain line, it becomes very difficult to justify the pain and distress that would have been suffered by the creature."

Mr Boyd's argument is that fish can feel pain and that fishing causes them "severe stress". He argues further that "People tend to look upon fish as creatures that do not feel pain, but this is just not the case. Their perceptions of pain may not be the same as that of people, but it can now be scientifically proved that they feel pain. Professor John Montgomery, a marine biologist from Auckland University, has recently undertaken work that proves what anyone who took the time to think, already knew. Fish react to painful stimuli and behave in an abnormal manner. When the same fish are given morphine to counteract the pain, they return to a normal pattern of behavior."

On these grounds, Mr Boyd is prepared to prosecute under the Animal Welfare Act 1999.

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ANIMAL LAW IN THE NEWS – Cont'd

MANCHESTER - JAIL FOR BURGLARS WHO BEHEADED CAT

In early August 2003, Steven Browitt and Andrew Maloney, broke into a property in Wigan, Greater Manchester. The two burglars beheaded a cat and cooked a live mouse in a microwave. They have each been jailed for three years.

They used a blunt axe to behead Greta, a blind 19-year-old tortoiseshell cat. They left her severed head on a living room coffee table for Greta's owner, David Byrne, to find when he returned home. Browitt and Maloney, aged 35 and 26, both from Wigan, also killed Mr Byrne's pet mouse Snowy by putting it in the microwave along with some vegetables.

Mr Byrne said that his animals were his life and feels a big part of him has been taken away.

Browitt and Maloney were each sentenced to three years imprisonment when they appeared at Bolton Crown Court.

The Court was told that Browitt and Maloney had been drinking heavily when they decided to break into Mr Byrne's house, in the Scholes area of Wigan, at 11.45pm on August 11 last year. The pair had known Mr Byrne for around 18 months but have never explained why they targeted him.

Mr Byrne, 48, who lived alone with only his pet dog, cat and mouse for company, was at a friend's house when the break-in took place. They were accompanied by two teenage girls, but one of the girls left in disgust when one of the men held the cat's severed head aloft.

After leaving Mr Byrne's house, they went to the house where he was sleeping and goaded him. Prosecutor Sharon Amesu said: "Defendant Maloney said to Mr Byrne 'I've chopped your cat's head off'.

ARIZONA - PUPPY STABBER RECEIVES DEFERRED SEVEN MONTH JAIL SENTENCE AND THREE YEARS' PROBATION

Robert Escobedo, the Glendale man accused of savagely abusing a three-month-old puppy in July, rejected a plea deal recently in Maricopa County Superior Court.

Escobedo is accused of a brutal attack on a puppy who was rescued July 17 from a trash bin at a Glendale apartment complex. The puppy had been stabbed repeatedly, bound with duct tape and thrown away. She was rescued by the Arizona Humane Society and adopted five days later by the AHS pet paramedic who saved her. **[Continued on page 11]**

ANIMAL LAW IN THE NEWS – Cont'd

Meanwhile, Glendale police arrested Escobedo just two days after the alleged incident occurred. On Nov. 5, Escobedo pleaded guilty to a felony charge of cruelty to animals, court records show.

Escobedo was sentenced recently to three years' probation. He also received a deferred seven-month jail sentence from Judge Jeffrey Cates of Maricopa County Superior Court.

Delayed terms are imposed by the court to give probationers an incentive to stay out of trouble. Under court rules, Escobedo may petition later to have the jail sentence dropped.

SPCA BACKS PLAN TO BAN CHILDREN FROM BUYING PETS

The Wellington SPCA says a proposal by Australian animal welfare authorities to ban children from buying pets should be considered in New Zealand.

Under the Australian RSPCA plan, children will be banned from buying pets. The plan is to be presented to the Victorian state Government.

Under the plan, pet shops, markets and private breeders would be banned from selling pets to children under 16 without parental permission. Children would not be allowed to give away unwanted litters of pets at school, and relatives and friends would be banned from giving pets to children without the consent of their parents.

Wellington SPCA chief executive Judy Weir said the Australian proposal should be considered in New Zealand. Judy Weir, Wellington SPCA chief executive, says that such measures would contribute to reducing the number of abandoned animals. She further says "In turn, this also may reduce the number of animals that are no longer wanted by families when children get older and leave home."

Victorian RSPCA president Hugh Wirth said the radical proposal was aimed at punishing unscrupulous pet shop owners and irresponsible pet owners who intimidated children into taking pets from unwanted litters.

The proposed regulations mirrored an Animal Welfare Bill before the British Parliament, Dr Wirth said. In New Zealand last year the SPCA received 52,000 abandoned animals nationwide, and managed to find homes for around half of them.

Dr Wirth said the regulations were really aimed at the pet shop industry and people who give away pets to children under the threat that if they don't take this kitten, it will be killed by the vet.

Barks, Meows and Squawks....

A collection of notable quotes on animals and the law.

“It is clear that the term "exceptional circumstances" when viewed against the purposes of the Act is that a dog must be kept under control at all times. Unless the circumstances of the attack (to be contrasted to those of the owner or the attacking dog) are not exceptional an order for destruction of the dog is mandatory. It may be that there are circumstances relating to the owner, or dog, which make the attack exceptional but they must have direct bearing on and be related to the attack. Simply by way of example, a person may have a dog securely under their control whilst walking it. But they faint because of some medical condition so that the dog escapes their grasp and attacks another animal. There might be circumstances where, for example, a person enters someone else's property and baits or intimidates a dog which is tied or chained up so that it attacks and causes serious injury (s58). Such circumstances could well be exceptional so as not to justify destruction...That is what exceptional means. The standard is not necessarily one of reasonableness of steps taken by the owner to secure the dog because otherwise the word "exceptional" would not have been used by the legislature.”

Milner v Hastings District Council, 30 March 2004, Gendall J, High Court, Wellington. The Appellant was charged and convicted under s57(5) of the Dog Control Act which relates to dogs which attack persons, stock, poultry, domestic animals or wildlife **and** upon conviction of an owner where a dog makes any such attack, apart from liability for fines and costs upon the owner “...the Court shall, on convicting the owner, make an order for destruction of the dog unless satisfied that the circumstances of the attack were exceptional and do not justify destruction of the dog.”

“Section 127(1) of the Act empowers an inspector to enter, without warrant, any land for the purpose of inspecting any animal on that land. However, such power does not extend to entry into any dwelling (ss(3)). Pursuant to ss(5) an inspector who has reasonable grounds to believe that any animal found in the course of the inspection has been wilfully ill-treated, or that its needs have not been met or that it requires veterinarian treatment may take such animal into care. Where the s127 power of inspection is exercised in the absence of the occupier, a notice of entry must be left on the land or premises specifying when entry was gained, its purpose, whether animals have been removed, by whom and to where they have been taken.”

“Section 131 of the Act enables an SPCA inspector to obtain a search warrant by showing that there are reasonable grounds for believing that an offence against the Act has been committed, that animal suffering could thereby be mitigated, or that real evidence or evidence which may establish the commission of an offence is obtainable at a given place.”

R v Lynn Walker, 9 December 2003, Tipping J, Panckhurst J, Salmon J, New Zealand Court of Appeal. This appeal is against a ruling given in the District Court at New Plymouth, whereby the inspection and search for evidence was ruled to be admissible. The Court of Appeal upheld the decision.

DOG TRADE [continued from page 5]

Pet dogs can look forward to better treatment in the near future in Korea as the Ministry of Agriculture and Forestry (MAF) announced a proposed bill for the amendment of Korea's Animal Protection Law in October this year. All the animal protection groups in Korea worked hard making submissions and were the driving force of the new amendment.

Under the newly revised Animal Protection Law released 5 October 2004, anybody who abuses dogs will be punished with a heavy fine or even lengthy jail sentence. The new law comes into force in 2006. Slaughtering dogs in public for meat or caning canines in public can lead to up to six months in jail or a two-million won (\$1,735.00) fine. However, the ban on the dog meat trade and consumption is not included in this amendment.

Just over 90 per cent said that if sales of dog meat were banned they would be adversely affected.

The Matichon Daily said the survey results had prompted the new governor to drop his planned campaign to persuade the villagers to stop the trade.

Local traders in the province purchase dogs from villagers for 30-40 baht(\$1.04) each and sell them to exporters for 70-80 baht (\$2.42 - \$2.77) each. If the dogs reach Vietnam, they will fetch a price of up to 200-300 baht (\$6.94-\$10.41) each.

ANIMAL LAW WEBSITE OF THE MONTH

This month's review, by *Amie Wolken*, is on The National Centre for Animal Law which is based at the Lewis and Clark Law School in Oregon. The center aims to strengthen the voice of animals in the legal system, by educating students and potential students on animal law in their options regarding the best places to study and the courses that are available.

The site includes many useful links to relevant information concerning animal advocacy competitions within the United States, conferences, courses, events, employment and volunteer opportunities. Targeted at potential students of animal law, the courses link contains a list of all the law schools in the United States that offer animal law courses. Additionally, there is information on other animal related courses and an offer of support to anyone who wishes to establish a course.

The National Center for Animal Law website serves to connect animal law attorneys and advocacy organisations with law students around the country. Eighteen employment pages within animal organisations are listed under the animal law opportunities link – an excellent resource for anyone looking to work in the States! The site also has its own list of employment and volunteer opportunities.

This site is highly recommended for anyone wishing to further their animal law career, and for those looking for work in the animal law industry. Already a comprehensive site containing an amalgamation of relevant information and links, the site is looking to expand further, making it a valuable resource and one to remember. Also see the Animal Law Review, a group based at the Lewis and Clark Law School whose website was reviewed in the September 2002 edition of ARLAN.

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.

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 Report** 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.