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94-55 ANIMAL WELFARE IMPROVEMENT ACT OF 1975

GOVERNMENT DOCUMENTS

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KANSAS STATE UNIVERSITY

HEARING
BEFORE THE
SUBCOMMITTEE ON THE ENVIRONMENT
OF THE
COMMITTEE ON COMMERCE
UNITED STATES SENATE
NINETY-FOURTH CONGRESS

FIRST SESSION

ON

S. 1941

TO INCREASE THE PROTECTION AFFORDED ANIMALS IN
TRANSIT AND TO ASSURE THE HUMANE TREATMENT OF
ANIMALS, AND FOR OTHER PURPOSES

S. 2070

TO AMEND THE ACT OF AUGUST 24, 1966, AS AMENDED, TO
ASSURE HUMANE TREATMENT OF CERTAIN ANIMALS,
AND FOR OTHER PURPOSES

S. 2430

TO AMEND THE ACT OF AUGUST 24, 1966, AS AMENDED, TO
ASSURE HUMANE TREATMENT OF CERTAIN ANIMALS,
AND FOR OTHER PURPOSES

NOVEMBER 20, 1975

Serial No. 94-55

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ANIMAL WELFARE IMPROVEMENT ACT OF 1975

THURSDAY, NOVEMBER 20, 1975

U.S. SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON ENVIRONMENT,
Washington, D.C.

The subcommittee met at 1:35 p.m. in room 5110, Dirksen Senate Office Building, Hon. Lowell P. Weicker, Jr., presiding.

OPENING STATEMENT BY SENATOR WEICKER

Senator WEICKER. The hearings on S. 1941, S. 2070, and S. 2430 will come to order.

Today the Environment Subcommittee has scheduled a hearing on legislation intended to assure the humane treatment of animals in transit. The bills to be considered are S. 1941, introduced by myself and the distinguished chairman of the Commerce Committee, Senator Magnuson; S. 2070, introduced by Senator Dole; and S. 2430, introduced by Senator Magnuson.

These three bills contain needed amendments to improve the original Federal Laboratory Animal Welfare Act of 1966, and the Animal Welfare Act Amendments of 1970, which established Federal standards and enforcement of humane treatment of laboratory animals and pets.

The legislation under consideration by the subcommittee today would plug inexplicable loopholes in the act exempting common carriers and other intermediate handlers from provisions of present animal shipment regulations. The measures constitute comprehensive legislation to assure the proper care of animals and pets shipped by commercial airlines and air carriers.

Provisions in these bills would not only bring airline and terminal facilities under regulations of the Animal Welfare Act but also remove the partial exemptions extended to pet shops, the most active handlers and shippers of pets. Significantly, this legislation directs the Secretary of Agriculture to promulgate strict standards for the care of animals in transit, including standards for containers, feed, water, ventilation, temperature, and veterinary care.

I do not believe we need to elaborate further on the problems and tragedies involved in the transportation of animals by air. Documentation through congressional hearings, articles in the media, and the efforts of animal welfare associations have been all too descriptive of the urgent need for corrective legislation in this area. My own personal observation on a tour of air freight facilities at Washington National Airport 3 years ago revealed a number of animals in flimsy

Staff member assigned to this hearing: Kathi Korpon.

crates and afforded no better treatment than regular air freight. Apparently, the situation has not improved at this facility or at those across the country.

It is my hope that, with both bodies proceeding with positive committee consideration on bills amending the Animal Welfare Act, the Congress will speedily enact this imperative animal welfare legislation. I might interject a note of personal satisfaction that the Congress is finally exercising legislative leadership to assure the humane treatment of animals transported in air commerce. I would also like to express my thanks to the distinguished chairman of the Commerce Committee, Senator Magnuson, for his support of animal welfare legislation and for his efforts to assure the humane treatment of animals.

It is my understanding that the House Agriculture Livestock and Grains Subcommittee after a markup session last Wednesday, the 12th, voted 7-1 to report a companion measure, H.R. 5808, amending the Animal Welfare Act, to the full Agriculture Committee. The committee has indicated that it will proceed to mark up the bill some time after the House returns from the Thanksgiving recess.

[The bills and agency comments follow:]

94TH CONGRESS
1ST SESSION

S. 1941

IN THE SENATE OF THE UNITED STATES

JUNE 13 (legislative day, JUNE 6), 1975

Mr. WEICKER (for himself and Mr. MAGNUSON) introduced the following bill;
which was read twice and referred to the Committee on Commerce

A BILL

To increase the protection afforded animals in transit and to assure the humane treatment of animals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Animal Welfare Improve-
4 ment Act of 1975".

5 SEC. 2. The Act of August 24, 1966, as amended (7
6 U.S.C. 2131 et seq.) is amended by inserting before the first
7 section thereof: "That this Act may be cited as the Animal
8 Welfare Act".

9 SEC. 3. Section 1 of the Animal Welfare Act, as amended
10 (7 U.S.C. 2131) is amended by inserting after "treatment

1 of such animals by" and before "persons or organization" the
2 term "common carriers or by".

3 SEC. 4. Section 2 of the Animal Welfare Act, as amended
4 (7 U.S.C. 2132) is amended—

5 (1) by striking out subsections (c) and (d) there-
6 of and inserting in lieu the following:

7 "(c) The term 'commerce' means trade, traffic, trans-
8 portation, communication, or exchange—

9 "(1) between a place in a State and any place out-
10 side of such State; or

11 "(2) which affects trade, traffic, transportation,
12 communication, or exchange described in paragraph (1)
13 of this subsection.

14 "(d) The term 'State' means a State of the United
15 States, the District of Columbia, the Commonwealth of
16 Puerto Rico, the Virgin Islands, Guam, American Samoa, or
17 any other territory or possession of the United States;"

18 (2) by amending subsection (e) thereof by striking
19 out the term "affecting commerce" and inserting in lieu
20 thereof "in commerce";

21 (3) by amending subsection (f) thereof (A) by
22 striking out the term "affecting commerce" and inserting
23 in lieu thereof "in commerce"; (B) by striking out
24 "except as a common carrier,"; and (C) by striking
25 out, "but such term excludes any pet store except such

1 store which sells any animal to a research facility, an
2 exhibitor, or a dealer," and inserting in lieu thereof "
3 The term does not include a hobby breeder of dogs or
4 cats, as defined by the Secretary;";

5 (4) by amending subsection (g) thereof (A) by
6 striking out "or as a pet; but such term excludes" and
7 inserting in lieu thereof the following: "or as a pet. The
8 term includes, solely with respect to any use in con-
9 nection with a retail pet store or with a zoo, any live or
10 dead bird. The term does not include"; and (B) by
11 striking out "and" at the end thereof;

12 (5) by amending subsection (h) thereof by striking
13 out ", which were purchased in commerce or the in-
14 tended distribution of which affects commerce, or will
15 affect commerce," and inserting in lieu thereof "in com-
16 merce"; and

17 (6) by adding at the end thereof the following
18 two new subsections:

19 "(i) The term 'intermediate handler' means any person
20 who is engaged in any business in commerce which involves
21 in whole or in part, receiving or maintaining custody of ani-
22 mals in connection with their transportation in commerce,
23 except that the term does not include a dealer, a research
24 facility, an exhibitor, a hobby breeder of dogs or cats, an
25 operator of an auction sale, a common carrier, a person

1 exempted from the definition of 'research facility' by regula-
2 tion, or a person excluded from the definition of 'exhibitor';
3 and

4 “(j) The term 'common carrier' means the owner or
5 operator of any airline, railroad, shipping line, or other enter-
6 prise, which is engaged in, or authorized to engage in, the
7 business of transporting any animals for hire or any person
8 designated as such by the Secretary of Transportation, the
9 Interstate Commerce Commission, the Civil Aeronautics
10 Board, or the Federal Maritime Commission.”.

11 SEC. 5. Section 3 of the Animal Welfare Act, as
12 amended (7 U.S.C. 2133) is amended by inserting after
13 “his facilities” and before “comply” in the first proviso
14 thereof the following: “, including any terminal facilities
15 used by such person,”.

16 SEC. 6. Sections 4, 11, and 12 of the Animal Welfare
17 Act, as amended (7 U.S.C. 2134, 2141, and 2142) are
18 amended by striking out “affecting commerce” and inserting
19 in lieu thereof “in commerce”.

20 SEC. 7. Section 6 of the Animal Welfare Act, as
21 amended (7 U.S.C. 2136) is amended by inserting after
22 “research facility” and before “and every” the following:
23 “every intermediate handler, every common carrier,”.

24 SEC. 8. Section 9 of the Animal Welfare Act, as amend-
25 ed (7 U.S.C. 2139), is amended by inserting after “dealer,”

1 the first time the term appears, the following: "an intermedi-
2 ate handler, a common carrier", and the second time the term
3 appears, the following: "intermediate handler, common car-
4 rier,".

5 SEC. 9. Section 10 of the Animal Welfare Act, as
6 amended (7 U.S.C. 2140), is amended to read as follows:

7 "SEC. 10. Dealers, research facilities, intermediate han-
8 dlers, common carriers, and exhibitors shall make and
9 retail for such reasonable period of time and on such forms
10 as the Secretary may prescribe such records with respect to
11 the purchase, sale, transportation, identification, receiving,
12 handling, delivering, and previous ownership of animals as
13 the Secretary may prescribe. Such records shall be made
14 available by the Secretary to interested persons at all rea-
15 sonable times, for purposes of examination and copying."

16 SEC. 10. Section 13 of the Animal Welfare Act, as
17 amended (7 U.S.C. 2143), is amended—

18 (1) by amending the title thereof to read as follows:

19 "HUMANE STANDARDS FOR ANIMALS";

20 (2) by designating the provisions thereof as sub-
21 section "(a)" of such section by inserting "(a)" imme-
22 diately before the first sentence thereof;

23 (3) by amending the second sentence of subsection
24 (a) thereof, as designated by this section, by inserting
25 after "Such standards" and before "shall include" the

1 following: "shall apply with respect to the facilities of
2 any person licensed under this Act and with respect to
3 any terminal facilities used by a common carrier subject
4 to this Act and";

5 (4) by adding the following new subsection at the
6 end of subsection (a) thereof, as designated by this
7 section:

8 "(b) The Secretary shall promulgate standards to gov-
9 ern the transportation in commerce, and the handling, care,
10 and treatment in connection therewith, of any animals as to
11 which such transportation is purchased or ordered by a
12 dealer, a research facility, an owner of a pet, an exhibitor,
13 an operator of an auction sale, a department, agency, or
14 instrumentality of the Federal Government or any State or
15 local government, or any other person. Such standards shall
16 apply to all air carriers and other common carriers and to
17 intermediate handlers, with respect to the transportation in
18 commerce of animals. Such standards shall include, but need
19 not be limited to, minimum requirements with respect to
20 containers, feed, water, rest, ventilation, temperature, air
21 pressure, handling, veterinary care, and other factors deter-
22 mined by the Secretary to be relevant to assuring the hu-
23 mane treatment of animals in the course of their transporta-
24 tion in commerce. Such standards may prohibit the trans-
25 portation in commerce of dogs, cats, and other designated

1 animals that are less than eight weeks of age (or less than
2 such other age as the Secretary may prescribe), and they
3 may prohibit such transportation unless the animal involved
4 is accompanied by a certificate issued by a licensed veteri-
5 narian certifying that such animal as delivered to an inter-
6 mediate handler or common carrier is sound, healthy, and in
7 such condition that it can reasonably be expected to with-
8 stand the rigors of the intended transportation without
9 adverse consequence.”.

10 SEC. 11. Section 15 of the Animal Welfare Act, as
11 amended (7 U.S.C. 2145) is amended by adding the follow-
12 ing new subsection at the end thereof:

13 “(c) In addition to other applicable requirements, the
14 Secretary shall consult and cooperate with the Secretary
15 of Transportation with respect to the establishment and en-
16 forcement of humane standards for animals in the course of
17 their transportation in commerce and in terminal facilities
18 prior to and after such transportation. And no standard
19 with respect to transportation by air shall become effective
20 without the approval of such Secretary with respect to
21 flight safety. The Secretary of Transportation is authorized
22 and directed to take such steps as are necessary to assist the
23 Secretary in any matter relating to the transportation of
24 animals in commerce. The Interstate Commerce Commission,
25 the Civil Aeronautics Board, and the Federal Maritime

1 Commission, to the extent of their respective lawful author-
2 ities, shall take such action as is appropriate to implement,
3 enforce, or reinforce any determination by the Secretary
4 with respect to a person subject to regulation by it, includ-
5 ing, but not limited to, suspension of operating licenses.”.

6 SEC. 12. Section 16 (a) of the Animal Welfare Act, as
7 amended (7 U.S.C. 2146) is amended—

8 (1) by inserting “intermediate handler, common
9 carrier,” in the first sentence thereof after the term
10 “exhibitor”, each time such term appears in such
11 sentence;

12 (2) by striking out “or” before “(4)” in the third
13 sentence thereof;

14 (3) by inserting before the period at the end of the
15 third sentence thereof the following: “, or (5) such
16 animal is held by an intermediate handler or by a
17 common carrier”; and

18 (4) by adding the following new sentence at the
19 end thereof: “It shall be the duty of United States
20 attorneys to prosecute all criminal violations of this Act
21 reported by the Secretary and to initiate civil actions to
22 recover all civil penalties assessed and reported by the
23 Secretary, or which come to their notice or knowledge
24 by other means.”.

1 SEC. 13. Section 19 of the Animal Welfare Act, as
2 amended (7 U.S.C. 2149), is amended—

3 (1) by inserting after “exhibitor,” each time the
4 term appears, the following: “intermediate handler,
5 common carrier,”; and

6 (2) by adding the following new subsection at the
7 end thereof:

8 “(d) Any dealer, exhibitor, intermediate handler, com-
9 mon carrier, or operator of an auction sale subject to this
10 Act who is determined by the Secretary, after notice and an
11 opportunity for a hearing, to have knowingly committed an
12 act which is in violation of a provision of this Act or of a
13 standard prescribed pursuant to this Act, shall be liable to
14 the United States for a civil penalty. The amount of such
15 penalty shall be not more than \$2,000 for each violation, and
16 if any such violation is a continuing one, each day of violation
17 constitutes a separate offense. The amount of any such
18 penalty shall be assessed by the Secretary by written notice.
19 In determining the amount of such penalty, the Secretary
20 shall take into account the nature, circumstances, extent, and
21 gravity of the violation committed and, with respect to the
22 person found to have committed such violation, the degree
23 of culpability, any history of prior offenses, ability to pay,
24 effect on ability to continue to do business, and such other
25 matters as justice may require.”.

94TH CONGRESS
1ST SESSION

S. 2070

IN THE SENATE OF THE UNITED STATES

JULY 9 (legislative day, JULY 7), 1975

Mr. DOLE introduced the following bill; which was read twice and referred jointly by unanimous consent to the Committees on Agriculture and Forestry and Commerce

A BILL

To amend the Act of August 24, 1966, as amended, to assure humane treatment of certain animals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Animal Welfare Act
4 Amendments of 1975".

5 SEC. 2. The Federal Laboratory Animal Welfare Act
6 of August 24, 1966 (80 Stat. 350, as amended by the
7 Animal Welfare Act of 1970, 84 Stat. 1560; 7 U.S.C.
8 2131-2155) is hereby further amended by adding the fol-
9 lowing at the end of the first section thereof: "It is also
10 essential for humane reasons to prohibit certain animal fight-
11 ing ventures. The Congress hereby finds that animals and

1 activities which are regulated under this Act are either in
2 interstate or foreign commerce or substantially affect such
3 commerce or the free flow thereof, and that regulation of
4 animals and activities as provided in this Act is necessary to
5 prevent and eliminate burdens upon such commerce, to
6 effectively regulate such commerce, and to carry out the
7 objectives of this Act.”.

8 SEC. 3. Section 2 of such Act is amended by deleting
9 paragraph (d) defining “affecting commerce”; and by
10 amending paragraph (c) defining “commerce” by chang-
11 ing the last clause to read “or within any State, territory, or
12 possession, or the District of Columbia, or the Common-
13 wealth of Puerto Rico.”.

14 SEC. 4. Such Act is further amended by deleting the
15 term “affecting commerce,” from paragraphs (c) and (f)
16 of section 2 and sections 4, 11, and 12, wherever the quoted
17 term appears therein, and by substituting therefor the term
18 “in commerce,”; and by deleting, from paragraph (h) of
19 section 2, the phrase “or the intended distribution of which
20 affects commerce, or will affect commerce,” and substituting
21 therefor the phrase “or are intended to be moved in
22 commerce,”.

23 SEC. 5. Section 2 of such Act is further amended by
24 adding thereto two new paragraphs to read:

25 “(i) The term ‘intermediate handler’ means any per-

1 son (other than a dealer, research facility, exhibitor, any
2 person excluded from the definition of a dealer, research
3 facility, or exhibitor, an operator of an auction sale, or a
4 carrier, who is engaged in any business in which he receives
5 custody of animals in connection with their transportation
6 in commerce.

7 “(j) The term ‘carrier’ means the operator of any air-
8 line, railroad, shipping line, or other enterprise, which is
9 engaged in the business of transporting any animals for
10 hire.”.

11 SEC. 6. Section 6 of such Act is amended by inserting
12 after the term “research facility” a comma and the term
13 “every intermediate handler, every carrier,”.

14 SEC. 7. Section 9 of such Act is amended by inserting
15 after the term “Section 12 of this Act,” the term “or an
16 intermediate handler, or a carrier,” and by deleting the term
17 “or an operator of an auction sale as well as of such person”
18 at the end of section 9 and substituting therefor the following
19 term: “operator of an auction sale, intermediate handler, or
20 carrier, as well as of such person.”.

21 SEC. 8. Section 10 of such Act is amended by deleting
22 the phrase “upon forms supplied by the Secretary” from the
23 first sentence and by adding after the second sentence a new
24 sentence to read as follows:

25 “SEC. 10. Intermediate handlers and carriers shall make

1 and retain for such reasonable period of time as the Secretary
2 may prescribe, such records with respect to the transporta-
3 tion, receiving, handling, and delivering of animals as the
4 Secretary may prescribe.”.

5 SEC. 9. Section 13 of such Act is amended by designat-
6 ing the provisions thereof as paragraph (a) and by adding,
7 after the second sentence therein, a new sentence to read:
8 “The Secretary shall also promulgate standards to govern
9 the transportation in commerce, and the handling, care, and
10 treatment in connection therewith, by intermediate handlers,
11 air carriers, or other carriers, of animals consigned by any
12 dealer, research, facility, exhibitor, operator of an auction
13 sale, or other person, or any department, agency, or instru-
14 mentality of the United States, for transportation in com-
15 merce. The standards shall include such requirements with
16 respect to containers, feed, water, rest, ventilation, tempera-
17 ture, handling, adequate veterinary care, and other factors as
18 the Secretary determines are relevant in assuring humane
19 treatment of animals in the course of their transportation in
20 commerce.”.

21 SEC. 10. Section 13 of such Act is further amended by
22 adding at the end thereof new paragraphs (b), (c), and
23 (d) to read:

24 “(b) No dogs or cats, or additional kinds or classes of
25 animals designated by regulation of the Secretary, shall be

1 delivered by any dealer, research facility, exhibitor, operator
2 of an auction sale, or department, agency, or instrumentality
3 of the United States, to any intermediate handler or carrier
4 for transportation in commerce, or received by any such han-
5 dler or carrier for such transportation from any such person,
6 department, agency, or instrumentality unless accompanied
7 by a certificate issued by a veterinarian licensed to practice
8 veterinary medicine, certifying that he inspected the animal
9 or animals on a specified date, which shall not be more than
10 ten days before such delivery, and, when so inspected, the
11 animal or animals were sound and healthy. Such certificates
12 received by the intermediate handlers and the carriers shall
13 be retained by them, as provided by regulations of the Sec-
14 retary in accordance with section 10 of this Act.

15 “(c) No dogs or cats, or additional kinds or classes of
16 animals designated by regulation of the Secretary, shall be
17 delivered by any person to any intermediate handler or car-
18 rier for transportation in commerce except to registered re-
19 search facilities if they are less than eight weeks of age, or
20 such other age as the Secretary may by regulation prescribe.
21 The Secretary shall designate additional kinds and classes
22 of animals and may prescribe ages different than eight weeks
23 for particular kinds or classes of dogs, cats, or designated ani-
24 mals, for the purposes of this section, when he determines
25 that such action is necessary or adequate to assure their

1 humane treatment in connection with their transportation in
2 commerce.

3 “(d) No intermediate handler or carrier involved in
4 the transportation of any animal in commerce shall partici-
5 pate in any arrangement or engage in any practice under
6 which the cost of such animal or the cost of the transporta-
7 tion of such animal is to be paid and collected upon delivery
8 of the animal to the consignee, unless the consigner guaran-
9 tees in writing the payment of transportation charges, includ-
10 ing, where necessary, both the return transportation charges
11 and an amount sufficient to reimburse the carrier for all out-
12 of-pocket expenses incurred for the care, feeding, and storage
13 of any live creatures.”.

14 SEC. 11. Section 15 of such Act is amended by inserting
15 after the term “exhibition” in the first sentence, a comma
16 and the term “or administration of statutes regulating the
17 transportation in commerce or handling in connection there-
18 with of any animals”, and by adding the following at the end
19 of the sentence: “Before promulgating any standard govern-
20 ing the air transportation and handling in connection there-
21 with, of animals, the Secretary shall consult with the Secre-
22 tary of Transportation who shall have the authority to
23 disapprove any such standard if he notifies the Secretary,
24 within thirty days after such consultation, that changes in its
25 provisions are necessary in the interest of flight safety.”.

1 SEC. 12. Paragraph (a) of section 16 of such Act is
2 amended by inserting the term "intermediate handler, car-
3 rier," in the first sentence after the term "exhibitor," each
4 time the latter term appears in the sentence; by inserting
5 before the period in the second sentence, a comma and the
6 term "or (5) such animal is held by an intermediate handler
7 or a carrier" and by deleting the term "or" before the term
8 "(4)" in the third sentence.

9 SEC. 13. Section 19 of such Act is amended by adding
10 at the end thereof the following new paragraph (d) :

11 "(d) Any intermediate handler or carrier that violates
12 any provision of section 13 of this Act or any standard
13 promulgated thereunder may be assessed a civil penalty by
14 the Secretary of not more than \$1,000 for each such viola-
15 tion. Each violation shall be a separate offense. No penalty
16 shall be assessed unless such person is given notice and
17 opportunity for a hearing with respect to the alleged viola-
18 tion, and the order of the Secretary assessing a penalty
19 shall be final and conclusive unless the affected person files
20 an appeal from the Secretary's order with the appropriate
21 United States court of appeals. Such court shall have ex-
22 clusive jurisdiction to enjoin, set aside, suspend (in whole
23 or in part), or to determine the validity of the Secretary's
24 order, and the provisions of sections 2341, 2343 through
25 2350 of title 28, United States Code, shall be applicable

1 to such appeals and orders. Any such civil penalty may be
2 compromised by the Secretary. Upon any failure to pay the
3 penalty assessed by a final order under this section, the
4 Secretary shall request the Attorney General to institute a
5 civil action in a district court of the United States or other
6 United States court for any district in which such person
7 is found or resides or transmits business, to collect the pen-
8 alty, and such court shall have jurisdiction to hear and
9 decide any such action.”.

10 SEC. 14. Section 24 of such Act is amended by insert-
11 ing a comma and the term “intermediate handlers, and car-
12 riers” after the term “dealers” in the third sentence; and by
13 adding a comma and the following provisions before the
14 period at the end of the first sentence: “except that the regu-
15 lations relating to intermediate handlers and carriers shall
16 be prescribed no later than nine months from the date of
17 enactment of the ‘Animal Welfare Act Amendments of
18 1975’.”.

19 SEC. 15. Section 25 of such Act is amended by inserting
20 after subsection (3) the following subsection:

21 “(4) recommendations and conclusions concern-
22 ing the aircraft environment as it relates to the carriage
23 of live animals in air transportation.”

24 SEC. 16. (a) Such Act is amended by adding at the
25 end thereof the following new section:

1 “SEC. 26. (a) It shall be unlawful for any person to
2 knowingly sponsor, or exhibit an animal in any animal fight-
3 ing venture to which any animal was moved in interstate or
4 foreign commerce.

5 “(b) It shall be unlawful for any person to sell, buy,
6 transport, or deliver to another person or receive from an-
7 other person for purposes of transportation, in interstate or
8 foreign commerce any dog or other animal for purposes of
9 having the dog or other animal participate in an animal
10 fighting venture.

11 “(c) It shall be unlawful for any person to knowingly
12 use the mail service of the United States Postal Service or
13 any interstate instrumentality for purposes of promoting or
14 in any other manner furthering an animal fighting venture.
15 Section 3001 (a) of title 39, United States Code, is amended
16 by adding immediately after the words ‘title 18’ a comma
17 and the words ‘or section 26 of the Federal Laboratory
18 Animal Welfare Act’.

19 “(d) Any person who violates subsection (a), (b),
20 or (c) shall be fined not more than \$5,000 or imprisoned
21 for not more than one year, or both, for each such violation.

22 “(e) The Secretary or any other person authorized by
23 him shall make such investigations as the Secretary deems
24 necessary to determine whether any person has violated or
25 is violating any provision of this section, and the Secretary

1 may obtain the assistance of the Federal Bureau of Investiga-
2 tion, the Department of the Treasury, or other law enforce-
3 ment agencies of the United States, and State and local
4 governmental agencies, in the conduct of such investigations,
5 under cooperative agreements with such agencies. A warrant
6 to search for and seize any animal which there is probable
7 cause to believe was involved in any violation of this section
8 may be issued by any judge of the United States or of a State
9 court of record or by a United States commissioner within
10 the district wherein the animal sought is located. Any United
11 States marshal or any person authorized under this section
12 to conduct investigations may apply for and execute any such
13 warrant, and any animal seized under such a warrant shall
14 be held by the United States marshal or other authorized
15 person pending disposition thereof by the court in accordance
16 with this paragraph (e). Necessary care including veterinary
17 treatment shall be provided while the animals are so held in
18 custody. Any animal involved in any violation of this section
19 shall be liable to be proceeded against and forfeited to the
20 United States at any time on complaint filed in any United
21 States district court or other court of the United States for
22 any jurisdiction in which the animal is found and upon a
23 judgment of forfeiture shall be disposed of by sale for lawful
24 purposes or by other humane means, as the court may direct.
25 Costs incurred by the United States for care of animals seized

1 and forfeited under this section shall be recoverable from the
2 owner of the animals if he appears in such forfeiture proceed-
3 ing or in a separate civil action brought in the jurisdiction in
4 which the owner is found, resides, or transacts business.

5 “(f) For purposes of this section—

6 “(1) the term ‘animal fighting venture’ means any
7 event which involves a fight between at least two animals
8 and is conducted for purposes of sport, wagering, or
9 entertainment;

10 “(2) the term ‘interstate or foreign commerce’
11 means—

12 “(A) any movement between any place in a
13 State to any place in another State or between places
14 in the same State through another State; or

15 “(B) any movement from a foreign country
16 into any State,

17 “(3) the term ‘interstate instrumentality’ means
18 telegraph, telephone, radio, or television operating in
19 interstate or foreign commerce;

20 “(4) the term ‘State’ means any State of the United
21 States, the District of Columbia, the Commonwealth of
22 Puerto Rico, and any territory or possession of the
23 United States;

24 “(5) the term ‘animal’ means any live dog or other
25 mammal, except man; and

1 “(6) the conduct by any person of any activity
2 prohibited by this section shall not render such person
3 subject to the other sections of this Act as a dealer,
4 exhibitor, or otherwise.

5 “(g) The provisions of this Act shall not supersede or
6 otherwise invalidate any such State, local, or municipal leg-
7 islation or ordinance relating to animal fighting ventures ex-
8 cept in case of a direct and irreconcilable conflict between
9 any requirements thereunder and this Act or any rule, regu-
10 lation, or standard hereunder.”.

11 SEC. 17. If any provision of this Act or of the amend-
12 ments made hereby or the application thereof to any person
13 or circumstances is held invalid, the validity of the remainder
14 of the Act and the remaining amendments and of the applica-
15 tion of such provision to other persons and circumstances
16 shall not be affected thereby.

94TH CONGRESS
1ST SESSION

S. 2430

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29 (legislative day, SEPTEMBER 11), 1975

Mr. MAGNUSON introduced the following bill; which was read twice and referred to the Committee on Commerce

A BILL

To amend the Act of August 24, 1966, as amended, to assure humane treatment of certain animals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Animal Welfare Act
4 Amendments of 1975".

5 SEC. 2. The Federal Laboratory Animal Welfare Act
6 of August 24, 1966 (80 Stat. 350, as amended by the
7 Animal Welfare Act of 1970, 84 Stat. 1560; 7 U.S.C.
8 2131-2155) is hereby further amended by adding the fol-
9 lowing at the end of the first section thereof: "It is also
10 essential for humane reasons to prohibit certain animal fight-
11 ing ventures. "The Congress hereby finds that animals and

1 activities which are regulated under this Act are either in
2 interstate or foreign commerce or substantially affect such
3 commerce or the free flow thereof, and that regulation of
4 animals and activities as provided in this Act is necessary to
5 prevent and eliminate burdens upon such commerce, to
6 effectively regulate such commerce, and to carry out the
7 objectives of this Act.”.

8 SEC. 3. Section 2 of such Act is amended by deleting
9 paragraph (d) defining “affecting commerce”; and by
10 amending paragraph (c) defining “commerce” by chang-
11 ing the last clause to read “or within any State, territory, or
12 possession, or the District of Columbia, or the Common-
13 wealth of Puerto Rico.”.

14 SEC. 4. Such Act is further amended by deleting the
15 term “affecting commerce,” from paragraphs (c) and (f)
16 of section 2 and sections 4, 11, and 12, wherever the quoted
17 term appears therein, and by substituting therefor the term
18 “in commerce,”; and by deleting, from paragraph (h) of
19 section 2, the phrase “or the intended distribution of which
20 affects commerce, or will affect commerce,” and substituting
21 therefor the phrase “or are intended to be moved in
22 commerce,”.

23 SEC. 5. Section 2 of such Act is further amended by
24 adding thereto two new paragraphs to read:

1 “(i) The term ‘intermediate handler’ means any per-
2 son (other than a dealer, research facility, exhibitor, any
3 person excluded from the definition of a dealer, research
4 facility, or exhibitor; an operator of an auction sale, or a
5 carrier, who is engaged in any business in which he receives
6 custody of animals in connection with their transportation
7 in commerce.

8 “(j) The term ‘carrier’ means the operator of any air-
9 line, railroad, shipping line, or other enterprise, which is
10 engaged in the business of transporting any animals for hire.”.

11 SEC. 6. Section 6 of such Act is amended by inserting
12 after the term “research facility”, a comma and the term
13 “every intermediate handler, every carrier,”.

14 SEC. 7. Section 9 of such Act is amended by inserting
15 after the term “Section 12 of this Act,”, the term “or an
16 intermediate handler, or a carrier,” and by deleting the term
17 “or an operator of an auction sale as well as of such person”
18 at the end of section 9 and substituting therefor the following
19 term: “operator of an auction sale, intermediate handler, or
20 carrier, as well as of such person.”.

21 SEC. 8. Section 10 of such Act is amended by deleting
22 the phrase “upon forms supplied by the Secretary” from the
23 first sentence and by adding after the second sentence a new
24 sentence to read as follows:

1 “SEC. 10. Intermediate handlers and carriers shall make
2 and retain for such reasonable period of time as the Secretary
3 may prescribe, such records with respect to the transporta-
4 tion, receiving, handling, and delivering of animals as the
5 Secretary may prescribe.”.

6 SEC. 9. Section 13 of such Act is amended by designat-
7 ing the provisions thereof as paragraph (a) and by adding,
8 after the second sentence therein, a new sentence to read:
9 “The Secretary shall also promulgate standards to govern
10 the transportation in commerce, and the handling, care, and
11 treatment in connection therewith, by intermediate handlers,
12 air carriers, or other carriers, of animals consigned by any
13 dealer, research, facility, exhibitor, operator of an auction
14 sale, or other person, or any department, agency, or instru-
15 mentality of the United States, for transportation in com-
16 merce. The standards shall include such requirements with
17 respect to containers, feed, water, rest, ventilation, tempera-
18 ture, handling, adequate veterinary care, and other factors as
19 the Secretary determines are relevant in assuring humane
20 treatment of animals in the course of their transportation in
21 commerce.”.

22 SEC. 10. Section 13 of such Act is further amended by
23 adding at the end thereof new paragraphs (b), (c), and
24 (d) to read:

25 “(b) No animal, shall be delivered by any dealer,

1 research facility, exhibitor, operator of an auction sale, or
2 department, agency, or instrumentality of the United States,
3 to any intermediate handler or carrier for transportation in
4 commerce, or received by any such handler or carrier for such
5 transportation from any such person, department, agency, or
6 instrumentality, unless the animal is accompanied by a certifi-
7 cate issued by a veterinarian licensed to practice veterinary
8 medicine, certifying that he inspected the animal on a speci-
9 fied date, which shall not be more than ten days before such
10 delivery, and, when so inspected, the animal was sound and
11 healthy. Such certificates received by the intermediate han-
12 dlers and the carriers shall be retained by them, as provided
13 by regulations of the Secretary, in accordance with section 10
14 of this Act.

15 “(c) No dogs or cats, or additional kinds or classes of
16 animals designated by regulation of the Secretary, shall be
17 delivered by any person to any intermediate handler or car-
18 rier for transportation in commerce except to registered re-
19 search facilities if they are less than eight weeks of age, or
20 such other age as the Secretary may by regulation prescribe.
21 The Secretary shall designate additional kinds and classes of
22 animals and may prescribe ages different than eight weeks
23 for particular kinds or classes of dogs, cats, or designated
24 animals, for the purposes of this section, when he determines
25 that such action is necessary or adequate to assure their

1 humane treatment in connection with their transportation in
2 commerce.

3 “(d) No intermediate handler or carrier involved in
4 the transportation of any animal in commerce shall partici-
5 pate in any arrangement or engage in any practice under
6 which the cost of such animal or the cost of the transporta-
7 tion of such animal is to be paid and collected upon delivery
8 of the animal to the consignee, unless the consigner guaran-
9 tees in writing the payment of transportation charges, includ-
10 ing, where necessary, both the return transportation charges
11 and an amount sufficient to reimburse the carrier for all out-
12 of-pocket expenses incurred for the care, feeding, and storage
13 of any live creatures.”.

14 SEC. 11. Section 15 of such Act is amended by inserting
15 after the term “exhibition” in the first sentence, a comma
16 and the term “or administration of statutes regulating the
17 transportation in commerce or handling in connection there-
18 with of any animals”, and by adding the following at the end
19 of the sentence: “Before promulgating any standard govern-
20 ing the air transportation and handling in connection there-
21 with, of animals, the Secretary shall consult with the Secre-
22 tary of Transportation who shall have the authority to
23 disapprove any such standard if he notifies the Secretary,
24 within thirty days after such consultation, that changes in its
25 provisions are necessary in the interest of flight safety.”.

1 SEC. 12. Paragraph (a) of section 16 of such Act is
2 amended by inserting the term "intermediate handler, car-
3 rier," in the first sentence after the term "exhibitor," each
4 time the latter term appears in the sentence; by inserting
5 before the period in the second sentence, a comma and the
6 term "or (5) such animal is held by an intermediate handler
7 or a carrier" and by deleting the term "or" before the term
8 "(4)" in the third sentence.

9 SEC. 13. Section 19 of such Act is amended by adding
10 at the end thereof the following new paragraph (d) :

11 "(d) Any intermediate handler or carrier that violates
12 any provision of section 13 of this Act or any standard
13 promulgated thereunder may be assessed a civil penalty by
14 the Secretary of not more than \$1,000 for each such viola-
15 tion. Each violation shall be a separate offense. No penalty
16 shall be assessed unless such person is given notice and
17 opportunity for a hearing with respect to the alleged viola-
18 tion, and the order of the Secretary assessing a penalty
19 shall be final and conclusive unless the affected person files
20 an appeal from the Secretary's order with the appropriate
21 United States court of appeals. Such court shall have ex-
22 clusive jurisdiction to enjoin, set aside, suspend (in whole
23 or in part), or to determine the validity of the Secretary's
24 order, and the provisions of sections 2341, 2343 through
25 2350 of title 28, United States Code, shall be applicable

1 to such appeals and orders. Any such civil penalty may be
2 compromised by the Secretary. Upon any failure to pay the
3 penalty assessed by a final order under this section, the
4 Secretary shall request the Attorney General to institute a
5 civil action in a district court of the United States or other
6 United States court for any district in which such person
7 is found or resides or transmits business, to collect the pen-
8 alty, and such court shall have jurisdiction to hear and
9 decide any such action.”.

10 SEC. 14. Section 24 of such Act is amended by insert-
11 ing a comma and the term “intermediate handlers, and car-
12 riers” after the term “dealers” in the third sentence; and by
13 adding a comma and the following provisions before the pe-
14 riod at the end of the first sentence: “except that the regu-
15 lations relating to intermediate handlers and carriers shall
16 be prescribed no later than nine months from the date of
17 enactment of the ‘Animal Welfare Act Amendments of
18 1975’.”.

19 SEC. 15. Section 25 of such Act is amended by inserting
20 after subsection (3) the following new subsection:

21 “(4) recommendations and conclusions concern-
22 ing the aircraft environment as it relates to the carriage
23 of live animals in air transportation.”

24 SEC. 16. (a) Such Act is amended by adding at the
25 end thereof the following new section:

1 “SEC. 26. (a) It shall be unlawful for any person to
2 knowingly sponsor, or exhibit an animal in any animal fight-
3 ing venture to which any animal was moved in interstate or
4 foreign commerce.

5 “(b) It shall be unlawful for any person to sell, buy,
6 transport, or deliver to another person or receive from an-
7 other person for purposes of transportation, in interstate or
8 foreign commerce any dog or other animal for purposes of
9 having the dog or other animal participate in an animal
10 fighting venture.

11 “(c) It shall be unlawful for any person to knowingly
12 use the mail service of the United States Postal Service or
13 any interstate instrumentality for purposes of promoting or
14 in any other manner furthering an animal fighting venture.
15 Section 3001 (a) of title 39, United States Code, is amended
16 by adding immediately after the words “title 18” a comma
17 and the words “or section 26 of the Federal Laboratory
18 Animal Welfare Act”.

19 “(d) Any person who violates subsection (a), (b),
20 or (c) shall be fined not more than \$5,000 or imprisoned
21 for not more than one year, or both, for each such violation.

22 “(e) The Secretary or any other person authorized by
23 him shall make such investigations as the Secretary deems
24 necessary to determine whether any person has violated or
25 is violating any provision of this section, and the Secretary

1 may obtain the assistance of the Federal Bureau of Investiga-
2 tion, the Department of the Treasury, or other law enforce-
3 ment agencies of the United States, and State and local
4 governmental agencies, in the conduct of such investigations,
5 under cooperative agreements with such agencies. A warrant
6 to search for and seize any animal which there is probable
7 cause to believe was involved in any violation of this section
8 may be issued by any judge of the United States or of a State
9 court of record or by a United States commissioner within
10 the district wherein the animal sought is located. Any United
11 States marshal or any person authorized under this section
12 to conduct investigations may apply for and execute any such
13 warrant, and any animal seized under such a warrant shall
14 be held by the United States marshal or other authorized
15 person pending disposition thereof by the court in accordance
16 with this paragraph (e). Necessary care including veterinary
17 treatment shall be provided while the animals are so held in
18 custody. Any animal involved in any violation of this section
19 shall be liable to be proceeded against and forfeited to the
20 United States at any time on complaint filed in any United
21 States district court or other court of the United States for
22 any jurisdiction in which the animal is found and upon a
23 judgment of forfeiture shall be disposed of by sale for lawful
24 purposes or by other humane means, as the court may direct.
25 Costs incurred by the United States for care of animals seized

1 and forfeited under this section shall be recoverable from the
2 owner of the animals if he appears in such forfeiture proceed-
3 ing or in a separate civil action brought in the jurisdiction in
4 which the owner is found, resides, or transacts business.

5 “(f) For purposes of this section—

6 “(1) the term ‘animal fighting venture’ means any
7 event which involves a fight between at least two animals
8 and is conducted for purposes of sport, wagering, or
9 entertainment;

10 “(2) the term ‘interstate or foreign commerce’
11 means—

12 “(A) any movement between any place in a
13 State to any place in another State or between places
14 in the same State through another State; or

15 “(B) any movement from a foreign country
16 into any State,

17 “(3) the term ‘interstate instrumentality means tele-
18 graph, telephone, radio, or television operating in inter-
19 state or foreign commerce;

20 “(4) the term ‘State’ means any State of the United
21 States, the District of Columbia, the Commonwealth of
22 Puerto Rico, and any territory or possession of the
23 United States;

24 “(5) the term ‘animal’ means any live dog or other
25 mammal, except man; and

1 “(6) the conduct by any person of any activity
2 prohibited by this section shall not render such person
3 subject to the other sections of this act as a dealer,
4 exhibitor, or otherwise.

5 “(g) The provisions of this Act shall not supersede or
6 otherwise invalidate any such State, local, or municipal leg-
7 islation or ordinance relating to animal fighting ventures ex-
8 cept in case of a direct and irreconcilable conflict between
9 any requirements thereunder and this Act or any rule, regu-
10 lation, or standard hereunder.”.

11 SEC. 18. If any provision of this Act or of the amend-
12 ments made hereby or the application thereof to any person
13 or circumstances is held invalid, the validity of the remainder
14 of the Act and the remaining amendments and of the applica-
15 tion of such provision to other persons and circumstances
16 shall not be affected thereby.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., November 20, 1975.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for a report on S. 1941, a bill "To increase the protection afforded animals in transit and to assure the humane treatment of animals, and for other purposes."

This Department does not favor enactment of the bill.

The bill would amend the Act of August 24, 1966, as amended, to provide further measures with regard to the humane treatment of animals, as defined. The bill would expand the scope of the Act to include intermediate handlers, common carriers, and retail pet stores. It extends the definition of an animal to include any live or dead bird used in connection with a retail pet store or a zoo. The bill would clarify coverage of the Act with respect to intrastate commerce. The existing requirements under the Act with regard to the facility standards for licensed dealers and exhibitors would be extended so as to include terminal facilities used by them.

Authority would be provided to promulgate regulations and standards governing the transportation in commerce and related handling by intermediate handlers and common carriers. Such regulations and standards could include prohibitions on transporting in commerce dogs, cats, and other designated animals that are less than eight weeks old (or less than such age as may be prescribed) and could prohibit such transportation unless the animals involved are accompanied by a certificate of health issued by a licensed veterinarian.

This Department would be required to consult and cooperate with the Secretary of Transportation in the establishment and enforcement of humane standards for animals in the course of their transportation or while in terminal facilities in connection therewith. The bill would provide for administrative civil penalties against a dealer, exhibitor, operator of an auction sale, intermediate handler or common carrier that knowingly commits an act prohibited by the Act or a standard prescribed thereunder.

Concerning the animal transportation provisions of the bill, there are available alternative measures which can achieve many of the objectives of the bill. These alternatives should be fully explored and tested before any additional legislative action is taken.

Representatives of the animal carriers, freight forwarders, animal dealers, humane societies, animal science professionals, State and Federal agencies, and other interested parties could collectively develop and agree on animal transportation standards and procedures that would be acceptable to all and which could be followed on a voluntary basis. An appropriate forum for this would be the National Council on Animal Transportation, which has representation from nearly all of the interested parties in animal transportation.

The Civil Aeronautics Board has initiated administrative proceedings relating to the rules and practices for the acceptance and carriage of live animals in domestic air freight transportation. Following these proceedings, the Department could provide guidelines which the interested and involved public and the animal carriers could use to provide a uniform base for transporting animals.

Another focal point for effective activity would be in the Interagency Committee on Live Animal Transportation formed at the recommendation of the House Committee on Government Operations. The original purpose of the Interagency Committee was to cover only air transportation of animals. Its charter could be broadened to include other forms of transportation, and its membership could be expanded to include other transportation regulatory agencies such as the Interstate Commerce Commission.

The Interagency Committee held an organizational meeting on October 30, 1974. Rather than duplicate the efforts and information being assimilated by the Civil Aeronautics Board's administration hearing, it was decided that the Committee would wait until the information from the hearing could be assembled and summarized before determining a proper course of action. A meeting of the Committee will be held subsequent to the CAB hearing, and improvement in the humane care and treatment of animals during transportation will be actively pursued.

Concerning the provisions of the bill to include retail pet stores under the Act, we estimate that there are as many as 10,000 such stores in the United States.

This extension of the Act would require substantial additional Federal funds to provide the manpower and other resources necessary for enforcement purposes. Under present budgetary and personnel constraints, we are in no position to recommend such an extension of the Act.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL,
Under Secretary.

FEDERAL MARITIME COMMISSION,
OFFICE OF THE CHAIRMAN,
Washington, D.C., November 20, 1975.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Federal Maritime Commission on S. 1941, a bill "to increase the protection afforded animals in transit and to assure the humane treatment of animals, and for other purposes."

S. 1941 would amend the Federal Laboratory Animal Welfare Act (FLAWA) by making its requirements for the transportation, sale and handling of certain animals applicable to common carriers in the commerce of the United States. Section 4 of S. 1941, which amends Section 2 of FLAWA dealing with definitions, would by its changes subject those common carriers by water in the domestic offshore commerce of the United States under our jurisdiction to its requirements. Section 4 of S. 1941 defines "intermediate handler" in such manner that ocean freight forwarders and non-vessel operating common carriers (NVOCC's) under our jurisdiction would likewise be subject to the terms of FLAWA.

Section 6(j) of S. 1941 would authorize the Federal Maritime Commission, as we interpret this section, to designate and make applicable the terms of FLAWA to any other person the Commission may so select.

Section 9 of S. 1941 would require common carriers to "make and retail for such reasonable period of time and on such forms as the Secretary (of Agriculture) may prescribe such records with respect to the purchase, sale, transportation, identification, receiving, handling, delivering, and previous ownership of animals. . . ."

Section 10 allows the Secretary of Agriculture to promulgate standards to govern the transportation in commerce, handling, care and treatment of any animals for whom transportation is purchased or ordered by: (a) a dealer, (b) a research facility, (c) an owner of a pet, (d) an exhibition, (e) an operator of an auction sale, (f) a department, agency, or instrumentality of the Federal Government or any State or local government, or (g) any other person. These standards deal with the general conditions of treatment of animals being transported and "other factors determined by the Secretary to be relevant" to assure "humane treatment of animals in the course of their transportation."

Section 11 requires the Secretary of Agriculture to consult with the Secretary of Transportation for the establishment and enforcement of such standards prescribed in Section 10 in terminal facilities prior to and post transporting. The ICC, CAB and FMC are then required, within their existing authorities, to take such action as is necessary "to implement, enforce, or reinforce any determination by the Secretary" made under the Act.

Section 12 requires United States attorneys to prosecute all criminal violations of the FLAWA, while Section 13 subjects common carrier violations of the Act to a civil penalty of not more than \$2,000 for each violation of a provision of the Act. This penalty shall be considered a daily separate offense, if a violation is a continuing one. The Secretary of Agriculture should assess the amount of penalty by written notice to the violator.

After an examination of the provisions contained in S. 1941, the Federal Maritime Commission cannot support passage of this measure for the following reasons:

a. In the present climate of regulatory reform being called for by the President and the Congress, it is inappropriate to increase the regulatory responsibilities of the FMC in an area outside our expertise and not consonant with the shipping statutes.

b. This Commission is fully cognizant of the President's strict budgetary ceiling for new spending and this agency has made every effort to curtail new programs and expenditures.

c. S. 1941 would place an extremely burdensome reporting and record keeping requirement on those parties under our jurisdiction who would be affected by this act. It has been this Commission's goal to reduce the amount of paperwork involved in our statutory responsibilities.

d. The subject matter of S. 1941, though an important issue on which this Commission shares the sponsors' concern, is a problem best dealt with within the private sector. The Federal Government should make every effort to assist those organizations who support S. 1941 in a non-statutory manner.

The Office of Management and Budget has advised that there would be no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

KARL E. BAKKE,
Chairman.

DEPARTMENT OF JUSTICE,
Washington, D.C., December 8, 1975.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on S. 1941, a bill "To increase the protection afforded animals in transit and to assure the humane treatment of animals, and for other purposes."

The bill broadens the Animal Welfare Act by extending its provisions to intermediate handlers and common carriers, as those terms are defined in the bill; providing for the establishment and enforcement of humane standards for animals in the course of their transportation in commerce and in terminal facilities prior to and after such transportation by the Secretary of Agriculture in cooperation with the Secretary of Transportation; requiring the maintenance and retention of certain records with respect to certain provisions of the Act; and providing a civil penalty of not more than \$2,000 for each violation of a provision of the Animal Welfare Act or any standard prescribed pursuant thereto.

The Department of Justice has for some time been on record in support of civil remedies exclusively for violations of the nature of those defined in this bill. However, we object to the wording contained in lines 18-24 on page 8 of the bill requiring United States Attorneys to prosecute all criminal violations of the Act reported by the Secretary and to initiate civil actions to recover all civil penalties assessed and reported by the Secretary or which come to their notice or knowledge by other means. Such language is superfluous in view of the provisions of 28 U.S.C. 547 setting forth the duties of United States Attorneys.

With the exception of the above noted objections, the Justice Department defers to the Departments of Agriculture and Transportation as to the merits of the bill inasmuch as the subject matter falls primarily within their jurisdictions.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

MICHAEL M. UHLMANN,
Assistant Attorney General, Legislative Affairs.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., November 19, 1975.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: This is in response to your request for a report on S. 2070, a bill "To amend the Act of August 24, 1966, as amended, to assure humane treatment of certain animals, and for other purposes."

This Department does not favor enactment of the bill.

The bill would amend the Laboratory Animal Welfare Act, as amended, to provide further measures to assure humane treatment of animals, as defined in the Act. The bill expands the scope of the Act to include "intermediate handlers" and "carriers," clarifies coverage with respect to intrastate commerce, and authorizes the Secretary of Agriculture to promulgate standards governing the transportation in commerce and related handling by such intermediate handlers and carriers of animals received from dealers or other persons or agencies regulated under the present Act. It also prohibits delivery by any person to an intermediate handler or carrier for transportation of certain animals before they reach a minimum age, and prohibits specified collect-on-delivery arrangements unless payment of transportation charges, including, where necessary, return transportation charges and other expenses incurred by the carrier are guaranteed in writing by the consignor. The bill requires that animals delivered by any dealer or other presently regulated person or agency to any intermediate handler or carrier for transportation in commerce be accompanied by a certificate issued by a licensed veterinarian certifying that the animals were inspected by him on a specified date not more than 10 days before the date of such delivery and were sound and healthy. The bill provides for a civil penalty, not to exceed \$1,000, for violation by any intermediate handler or carrier of any of the provisions of section 13 of the Act, or any standard promulgated thereunder. It also requires consultation with the Secretary of Transportation in promulgating the standards governing air transportation of animals.

The bill adds a new section to the Act making it a criminal offense for any person to knowingly sponsor or exhibit an animal in a fighting venture to which any animal was moved in interstate or foreign commerce. It also makes it unlawful for any person to sell, buy, transport or deliver, or receive for the purposes of transportation, in interstate or foreign commerce any dog or other animal for the purposes of having it participate in a fighting venture. In addition, the bill makes it unlawful to knowingly use the U.S. Postal Service or any interstate instrumentality to promote, or in any other manner further, such a venture.

There are available alternative measures which can achieve many of the objectives of the bill. These alternatives should be fully explored and tested before any additional legislative action is taken.

Representatives of the animal carriers, freight forwarders, animal dealers, humane societies, animal science professionals, State and Federal agencies, and other interested parties could collectively develop and agree on animal transportation standards and procedures that would be acceptable to all and which could be followed on a voluntary basis. An appropriate forum for this would be the National Council on Animal Transportation, which has representation from nearly all of the interested parties in animal transportation.

The Civil Aeronautics Board has initiated administrative proceedings relating to the rules and practices for the acceptance and carriage of live animals in domestic air freight transportation. Following these proceedings, the Department could provide guidelines which the interested and involved public and the animal carriers could use to provide a uniform base for transporting animals.

Another focal point for effective activity would be in the Interagency Committee on Live Animal Transportation formed at the recommendation of the House Committee on Government Operations. The original purpose of the Committee was to cover only air transportation of animals. Its charter could be broadened to include other forms of transportation, and its membership could be expanded to include other transportation regulatory agencies such as the Interstate Commerce Commission. The Interagency Committee held an organizational meeting on October 30, 1974. It was decided that rather than duplicate the efforts and information being assimilated by the Civil Aeronautics Board's administrative hearing, the Committee would wait until the information from the hearing could be assembled and summarized before determining a proper course of action.

A meeting of the Committee will be held this year, subsequent to the CAB hearing, and improvement in the humane care and treatment of animals during transportation will be actively pursued.

Concerning the animal fighting provisions of S. 2070, the Department strongly opposes the holding of such events. However, we do not have the kind of trained manpower and other resources necessary to prohibit animal fights or arrest the involved persons. In our view, this is a proper responsibility of State and local law enforcement agencies and, with few exceptions, laws exist at that level, which would permit effective dealing with this problem.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.
Sincerely,

J. PHIL CAMPBELL,
Under Secretary.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., November 19, 1975.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate.*

DEAR MR. CHAIRMAN: This is in response to your request for a report on S. 2430, a bill "To amend the Act of August 24, 1966, as amended, to assure humane treatment of certain animals, and for other purposes."

This Department does not favor enactment of the bill.

The bill would amend the Laboratory Animal Welfare Act, as amended, to provide further measures to assure humane treatment of animals, as defined in the Act. The bill expands the scope of the Act to include "intermediate handlers" and "carriers," clarifies coverage with respect to intrastate commerce, and authorizes the Secretary of Agriculture to promulgate standards governing the transportation in commerce and related handling by such intermediate handlers and carriers of animals received from dealers or other persons or agencies regulated under the present Act. It also prohibits delivery by any person to an intermediate handler or carrier for transportation of certain animals before they reach a minimum age, and prohibits specified collect-on-delivery arrangements unless payment of transportation charges, including, where necessary, return transportation charges and other expenses incurred by the carrier are guaranteed in writing by the consignor. The bill requires that animals delivered by any dealer or other presently regulated person or agency to any intermediate handler or carrier for transportation in commerce be accompanied by a certificate issued by a licensed veterinarian certifying that the animals were inspected by him on a specified date not more than 10 days before the date of such delivery and were sound and healthy. The bill provides for a civil penalty, not to exceed \$1,000, for violation by any intermediate handler or carrier of any of the provisions of section 13 of the Act, or any standard promulgated thereunder. It also requires consultation with the Secretary of Transportation in promulgating the standards governing air transportation of animals.

The bill adds a new section to the Act making it a criminal offense for any person to knowingly sponsor or exhibit an animal in a fighting venture to which any animal was moved in interstate or foreign commerce.

It also makes it unlawful for any person to sell, buy, transport or deliver, or receive for the purposes of transportation, in interstate or foreign commerce any dog or other animal for the purposes of having it participate in a fighting venture. In addition, the bill makes it unlawful to knowingly use the U.S. Postal Service or any interstate instrumentality to promote, or in any other manner further, such a venture.

There are available alternative measures which can achieve many of the objectives of the bill. These alternatives should be fully explored and tested before any additional legislative action is taken.

Representatives of the animal carriers, freight forwarders, animal dealers, humane societies, animal science professionals, State and Federal agencies, and other interested parties could collectively develop and agree on animal transportation standards and procedures that would be acceptable to all and which could be followed on a voluntary basis. An appropriate forum for this would be the National Council On Animal Transportation, which has representation from nearly all of the interested parties in animal transportation.

The Civil Aeronautics Board has initiated administrative proceedings relating to the rules and practices for the acceptance and carriage of live animals in domestic air freight transportation. Following these proceedings, the Department could provide guidelines which the interested and involved public and the animal carriers could use to provide a uniform base for transporting animals.

Another focal point for effective activity would be in the Interagency Committee on Live Animal Transportation formed at the recommendation of the

House Committee on Government Operations. The original purpose of the Committee was to cover only air transportation of animals. Its charter could be broadened to include other forms of transportation, and its membership could be expanded to include other transportation regulatory agencies such as the Interstate Commerce Commission. The Interagency Committee held an organizational meeting on October 30, 1974. It was decided that rather than duplicate the efforts and information being assimilated by the Civil Aeronautics Board's administrative hearing, the Committee would wait until the information from the hearing could be assembled and summarized before determining a proper course of action. A meeting of the Committee will be held this year, subsequent to the CAB hearing, and improvement in the humane care and treatment of animals during transportation will be actively pursued.

Concerning the animal fighting provisions of S. 2430, the Department strongly opposes the holding of such events. However, we do not have the kind of trained manpower and other resources necessary to prohibit animal fights or arrest the involved persons. In our view, this is a proper responsibility of State and local law enforcement agencies and, with few exceptions, laws exist at that level which would permit effective dealing with this problem.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL,
Under Secretary.

Senator WEICKER. Our first witness today will be Dr. Pierre Chaloux, Assistant Deputy Administrator, Veterinary Services, Department of Agriculture. Following Dr. Chaloux's testimony, we will hear agency witnesses from the Federal Aviation Administration and the Civil Aeronautics Board. Public witnesses invited to testify include representatives of humane societies, animal associations, and air transport groups, who will appear as panels in order that the subcommittee may accommodate the number of witnesses scheduled to testify today on the pending animal welfare legislation.

At this point in the record, I'd like to insert the statements of Chairman Magnuson and the distinguished Senator from Michigan, Senator Robert Griffin.

[The statements follow:]

STATEMENT OF HON. WARREN G. MAGNUSON, U.S. SENATOR FROM WASHINGTON

Mr. Chairman, I would like to take just a few minutes to express my support for the three bills that are being considered this morning by the Subcommittee on the Environment. These are S. 1941, which I was pleased to co-sponsor along with you; S. 2070, introduced by Senator Robert Dole; and S. 2430, legislation which I have recently introduced in the Senate as a companion bill to animal transportation legislation presently being marked-up by the House Agriculture Committee. All three of these measures would amend the Animal Welfare Act of 1970 in order to provide better and safer conditions for animals in transit.

The need for this type of legislation has been attested to during hearings held over the past several years in the House by the Government Operations Committee and the Agriculture Committee. Witness after witness at these hearings recounted horror stories of the hazards faced by animals in transit. For instance, there is often a lack of ventilation and temperature control in cargo compartments where animals are carried. The absence of such controls can, and has, resulted in extreme discomfort to, and even suffocation of, animals. Since animal shipments are not always given priority as far as handling is concerned, they can too easily be left on an airport runway in the hot sun or freezing rain, or in the cargo compartment of a grounded airplane. Furthermore, even if an animal has arrived safely at an airport, the perils of journey are not yet over. Since few terminals have the personnel or other facilities needed to feed and water animals, long delays in transporting these creatures to their final destinations can result in starvation and dehydration. Other problems include flimsy shipping crates and undetected disease and illness which can be spread to other healthy animals during shipment.

Basically, the problem is one of a hiatus in present law. Under the Animal Welfare Act of 1970, the Secretary of Agriculture has the authority to issue and enforce standards for the care of animals in laboratories and other facilities through regulation of animal dealers, exhibitors, and research facilities. That law does not, however, provide the Secretary with the authority to similarly regulate the transportation of these animals by common carriers and other intermediate handlers, such as airlines, railroads, trucks and other shipping lines. While some segments of the industry, notably the airlines which handle the bulk of animal shipments, have taken steps within the last few years to voluntarily adopt such standards of care, these are often inadequate, they are not always uniform, and they are not always enforced. Thus, it appears that there is a need for some degree of government regulation in this area. There is also, however, a great deal of confusion as to which agency, if any, presently has the authority and the expertise to promulgate and enforce such regulations. Primary candidates for the job would appear to be the Department of Agriculture, the Federal Aviation Administration, the Civil Aeronautics Board, and to a lesser extent the Interstate Commerce Commission. While the three regulatory agencies have at least some authority to regulate animal shipments, they do not have the expertise. The Department of Agriculture, on the other hand, has the expertise to do the job, but not the authority. Thus, from the standpoint of bureaucratic efficiency, to me it would seem like just plain sense to simply close the gap in existing law and provide the Secretary with the authority to regulate common carriers and intermediate handlers under the Animal Welfare Act as he is now regulating laboratories, research facilities, and animal dealers. The basic thrust of the three bills being considered today is to accomplish this objective.

While these bills do differ from one another in some respects, basically they provide the Secretary with the authority to promulgate standards for the care of animals by common carriers and intermediate handlers. Such standards would cover items such as containers, feed, water, rest, ventilation, temperature, air pressure, and veterinary care. To facilitate enforcement the Secretary would be authorized to require carriers to keep records on the purchase, sale, transportation, and identification of animals, as well as other aspects of their handling. The Secretary would also have the authority to prohibit the transport of very young animals, and to require that health certificates accompany animals being shipped to insure that they are physically able to withstand the rigors of transportation. Finally, the bills would require the Secretary to consult with other agencies, notably the Department of Transportation, prior to the issuance of regulations to insure that such regulations do not threaten transportation safety. In my view, legislation of the type being considered here this morning will go a long way toward improving the care and handling of animals in transit by singling out one federal agency, the Department of Agriculture, as the lead agency primarily responsible for promulgating and enforcing standards of care by handlers and carriers. I commend the Subcommittee, and particularly you Senator Weicker, for your interest in this legislation and will urge my colleagues on the full committee to give the bill which is the final product of this hearing their full support.

STATEMENT OF HON. ROBERT P. GRIFFIN, U.S. SENATOR FROM MICHIGAN

Mr. Chairman, I am pleased that the Subcommittee is today receiving testimony on proposed amendments to extend the protection of the Animal Welfare Act of 1966 to animals transported in interstate commerce. As a cosponsor of one of the measures under consideration, I am hopeful that these hearings, coupled with action now underway in the House of Representatives, will lead to the correction of some basic gaps in existing law.

The need for this legislation is obvious. Since the Second World War, this country has experienced a tremendous increase in the commercial shipment of animals. At the present time, almost all of the animals shipped are shipped by air.

The simple fact of the matter is that—while the transportation industry, and particularly the air carriers, have been experiencing tremendous technological advances—there has been no commensurate effort to ensure the safety of live cargo, either in flight or on the ground. Indeed, to hear some of the experiences of pet owners and research facilities, the transportation of their animals seems to be an afterthought at best.

Much of the blame for this situation can be laid to the fact that no uniform, clearly-defined standard exists concerning the handling of animals. As the situation exists at present, carriers lack the expertise, and government—particularly the Department of Agriculture—lacks the authority to ensure the safety of animals in transit.

Hopefully, we will be able to enact—with help of the expert testimony from humane groups and industry representatives—legislation which will afford animals the same security in transportation that we have all come to expect for ourselves.

Senator WEICKER. Dr. Chaloux, please proceed.

STATEMENT OF DR. PIERRE A. CHALOUX, ASSISTANT DEPUTY ADMINISTRATOR, VETERINARY SERVICES, ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

Dr. CHALOUX. Mr. Chairman and members of the committee, I appreciate the opportunity to express the views of the Department of Agriculture on S. 1941, S. 2070, and S. 2430. These bills would amend the act of August 24, 1966, as amended by the Animal Welfare Act of 1970, so as to assure the humane treatment of certain animals which are transported and handled by common carriers and intermediate handlers who are not subject to regulation under the present law.

Additionally, S. 1941 would require retail pet stores to be licensed as dealers; and S. 2070 and S. 2430 include provisions prohibiting dog or other animal fights.

Since 1966, the Department has been responsible for administration of the animal welfare laws, which have the objective of assuring humane care and treatment of certain animals intended for use in research facilities, for exhibition, or for use as pets. Our activities include licensing or registering some 8,000 dealers, exhibitors, operators of auction sales, and research facilities. These persons must meet standards of animal care set by the Department and enforced through regular inspections, action on alleged violations, and review of reports of research facilities, including information on the appropriate use of pain-relieving drugs during experimentation on animals.

We know that great strides have been made in the improvement and continued assurance of humane care and treatment for certain animals. As is true with most laws, a few persons covered by the laws are not in total compliance with the Department's standards of humane animal treatment. Such discrepancies are found by our periodic unannounced inspections of premises of licensees and registrants, monitoring of animal shipments at airports, complaints given us by an interested public, and occasional news media articles and telecasts. Investigations are made to determine the facts, and we take whatever steps are appropriate to correct the situation.

Mr. Chairman, the Department does not favor passage of S. 1941, S. 2070, and S. 2430. Alternative measures are available which can achieve many of the objectives of the bills with regard to animal transportation. Until these alternatives have been fully explored and tested, we do not favor legislation which substantially increases the regulatory powers of the Federal Government.

One of these alternatives would be to rely on voluntary cooperation among all of the groups interested in the animal transportation prob-

lem. Representatives of animal carriers, freight forwarders, animal dealers, humane societies, animal science professionals, State and Federal agencies, and other interested parties could collectively develop and agree on animal transportation standards and procedures that would be acceptable to all and which could be followed on a voluntary basis. The National Council on Animal Transportation, which has representation from nearly all of the interested parties in animal transportation, might be a good forum for voluntary cooperation in the upgrading of animal transportation standards.

Also, an administrative proceeding, docket No. 26310, is currently being conducted by the CAB on the rules and practices for the acceptance and carriage of live animals in domestic airfreight transportation. The CAB hearing is for the purpose of examining the provisions and practices of air carriers with respect to issues such as the acceptance, packaging, documentation, care and handling, loading, flight environment, and priority of carriage of live animals in domestic airfreight. The Department has appeared and provided such expertise as we have available. Parties to the proceeding represent the groups and types of organizations previously mentioned.

We believe that a great deal of information and data will be generated by the CAB proceeding. Following these proceedings, the Department could provide guidelines which the interested and involved public, and the animal carriers, could use to provide a uniform basis for transporting animals.

Another focal point for effective activity would be in the Interagency Committee on Live Animal Transportation formed at the recommendation of the House Committee on Government Operations. This committee is comprised of representatives of the FAA, the CAB, and the USDA.

The original purpose of the Interagency Committee was to cover only air transportation of animals. Its charter could be broadened to include other forms of transportation, and its membership could be expanded to include other transportation regulatory agencies such as the ICC. The Interagency Committee held an organizational meeting on October 30, 1974. It was decided that rather than duplicate the efforts of the Civil Aeronautics Board's administrative hearing, the committee would wait until the information from the hearing could be assembled and summarized before determining a proper course of action. A meeting of the committee will be held this year, subsequent to the CAB hearing, and improvement in the humane care and treatment of animals during transportation will be actively pursued.

Since January 1974, the Department has been monitoring the transportation of animals at several major air terminals. Through the cooperation of airline and transport agency personnel, we have checked the shipments of USDA licensed dealers for such things as satisfactory shipping containers, sufficient space for the animals, the ventilation provided by the container, the apparent health of the animals, and whether the required USDA records accompanied the shipment. We have written many letters of warning to USDA licensees, notifying them of apparent discrepancies.

I might add that we are looking into the possibility of requiring an individual health certificate for dogs and cats shipped by USDA licensees and registrants, including a requirement that such a health

certificate be signed by a doctor of veterinary medicine accredited for such purposes by the Department. Under Department regulations, corrective action can be taken against accredited veterinarians who do not fulfill their responsibilities as presented in the regulations.

Concerning the retail pet stores provisions of S. 1941, we estimate that there are as many as 10,000 such stores in the United States. This extension of the act would require substantial additional Federal funds to provide the manpower and other resources necessary for enforcement purposes. Under present budgetary and personnel constraints, we are in no position to recommend such an extension of the act.

Concerning the animal fighting provisions of S. 2070 and S. 2430, the Department abhors such events. However, we do not have the kind of trained manpower and other resources necessary to prohibit animal fights or arrest the involved persons. Further, we believe this to be a proper responsibility of State and local law enforcement agencies.

Mr. Chairman, this concludes my remarks.

Senator WEICKER. Thank you, Dr. Chaloux.

Now getting right down to brass tacks, have you ever been on these unannounced inspection visits that you mentioned in your testimony?

Dr. CHALOUX. I have not personally been on those visits.

Senator WEICKER. Have you ever, before the REA was disbanded, visited that facility right here in Washington?

Dr. CHALOUX. I have not personally done that.

Senator WEICKER. Well, I did 3 years ago and I just made inquiry as to whether or not the facility continues to exist. I understand it does not because of the financial difficulties of REA and so the freight is handled at each one of the airline terminals, but certainly that visit has been one of the main reasons for my pursuing this type of legislation and I find it really rather difficult to understand how someone that is in charge of the inspection process to see that whatever standards are in effect are maintained has not been engaged in one of these visits.

I gather, basically what you're telling me is that you feel that this matter could probably be handled in a voluntary way.

Dr. CHALOUX. Yes, sir.

Senator WEICKER. Dr. Chaloux, not having seen what is actually occurring, how can you make a recommendation like that?

Dr. CHALOUX. We have a number of inspection personnel who have made visits and have reported to us their findings.

Senator WEICKER. This legislation in one form or the other has been in the legislative hopper since 1970 and yet I note in your testimony that you feel some time should be given to go ahead and study the problem further and come forth with recommendations.

I just fail to understand what's so difficult about applying a certain set of standards that would have to be met by the air carriers. Why all the opposition in the bureaucracy?

Dr. CHALOUX. We believe that the regulatory powers of the Federal Government should not be extended into this area because there are alternative means of accomplishing the same purpose.

Senator WEICKER. I know, but it hasn't been accomplished.

Dr. CHALOUX. To date, it has not.

Senator WEICKER. It has not. If you make just one visit to that facility or facilities like it across the country—and you don't have to be a professional like yourself or a Senator like myself—you will come to a very fast conclusion, as I'm sure we will hear testimony on later, that these animals are being fairly badly treated.

What does it take before we go ahead and move? I understand they are not human beings and they can't complain to their congressman and senators, but I find it very difficult, Doctor, I really do, unless you have firsthand knowledge—that's why I'm going to move on here—to try to dialogue with somebody when they don't know the conditions about which they are unwilling to move on.

Have you seen, for example, the containers, the packing crates et cetera? Have you seen what is done here in the way of packing animals in a container that is too small or in one that is improperly put together so that the container actually wounds the animal? Have you seen that?

Dr. CHALOUX. I have seen pictures of the containers and I have had reports from our inspection people on the results of the use of these containers.

Senator WEICKER. Is your judgment relative to engaging in a voluntary program based on budgetary considerations? In other words, that it would require additional funds to go ahead and conduct a meaningful enforcement?

Dr. CHALOUX. Yes, sir. It would take additional funds and personnel.

Senator WEICKER. The other thing that escapes me is how do we expect to get voluntary cooperation to do a job that has been certainly in the forefront of people's attention for at least 5 or 6 years? Why all the sudden is the voluntary program going to do the job when it hasn't done the job for the last 5 or 6 years?

Dr. CHALOUX. We have some things working for us now that we did not have earlier. The CAB hearings will certainly bring out some information that we can use. At the end of these hearings, we will be in a position to hold a meeting of the Interagency Committee and make certain recommendations that we believe the industry could follow on a voluntary basis.

Senator WEICKER. While the Department of Agriculture seems to have great faith in what will proceed from the recently completed CAB hearings, the CAB does not appear to be so optimistic that these proceedings will provide a solution to the problem of animal transportation.

In reviewing the testimony that's going to be given by the CAB later this afternoon, I ran across the following statement: "However, the actions which the Board will ultimately be in a position to take at the conclusion of this proceeding will fall short of a satisfactory solution of the problems of the safe and humane transportation of animals."

The hopes of the two agencies seems to be at odds. Do you care to comment on that?

Dr. CHALOUX. No, sir.

Senator WEICKER. I wonder if you would—you are the Assistant Deputy Administrator for Veterinary Services of the Animal and Plant Health Inspection Service of USDA; is that correct?

Dr. CHALOUX. That's correct.

Senator WEICKER. And it's your feeling in that capacity that insofar as concerns the conditions of animals in transportation and so forth, that there's something that can be far better accomplished by a voluntary program—and do you think there's an urgency to anything being done.

Dr. CHALOUX. Yes; there is an urgency to have something done. We hope to be able to have the Interagency Committee meeting before the end of the year.

Senator WEICKER. Are you aware that this type of legislation has been before the Congress for the last 5 or 6 years?

Dr. CHALOUX. Yes, sir, I am aware of that.

Senator WEICKER. Well, I have no further questions at this time, Dr. Chaloux, but I would appreciate your staying in the hearing room, so if there's further testimony that comes up, it would afford you an opportunity to respond.

Dr. CHALOUX. Thank you, Mr. Chairman.

Senator WEICKER. Mr. Richard Skully, Director of Flight Standards Service, FAA. Mr. Skully, go right ahead.

STATEMENT OF RICHARD P. SKULLY, DIRECTOR, FLIGHT STANDARDS SERVICE, FEDERAL AVIATION ADMINISTRATION; ACCOMPANIED BY CURTIS A. MCKAY, CHIEF, AIR CARRIER DIVISION

Mr. SKULLY. Mr. Chairman and members of the subcommittee, I am Richard P. Skully, FAA Director of the Flight Standards Service. With me is Mr. Curtis A. McKay, Chief of the Air Carrier Division in the Flight Standards Service. The DOT appreciates this opportunity to appear before you today with respect to S. 1941, S. 2070, and S. 2430, bills designed to assure the humane treatment of animals, and for other purposes.

On the merits of those bills, which concern the amendment of legislation presently administered by the USDA, we defer to that department.

We do wish to advise the committee of the recent action by the FAA with respect to the rule relating to storage of containers for transporting of animals aboard aircraft. FAA originally proposed the rule to become effective in October 1974. That rule would have required that cargo containers containing live animals be securely attached to the aircraft cargo compartment in a manner that prevents shifting; be protected to prevent crushing by other cargo in the compartment; and be located in the cargo compartment in a manner that assures that ventilation areas of the containers are not obstructed.

In response to petitions and a considerable volume of correspondence asserting difficulties in achieving timely compliance with the rule, and the adverse effect it would have on shippers, the FAA twice postponed its effective date to October 18, 1975. Last month, after additional review and consideration of petitions and correspondence requesting further deferral of the effective date or rescission of the rule, the rule was rescinded. The rescission is published, as amendment 121-124 to part 121 of the Federal Aviation Regulations, in the Federal Register dated October 21, 1975. The preamble to that amendment, a copy of which I would like to offer for the record, reviews the reasons for the rescission. The preamble would invite interested persons to submit

comments concerning the rule and rescission which we will carefully consider.

Other general problems which have been mentioned from time to time in connection with the shipment of live animals extend into areas beyond those pertaining to the stowage of containers. As we have recently testified before a subcommittee of the House of Representatives, the FAA lacks the expertise to develop standards for the temperature levels and air supply needed for different kinds of animals which may be carried aboard aircraft. We also are not experts concerning the containers in which they are transported. We are concerned with the economic impact of these rules on the pet industry, the pet owner, and the airlines. We are not in a position to make zoological or veterinary judgments. We are in the business of safety of flight and should continue to concentrate our resources in that direction. The FAA's concern and role in this area can be satisfied if it retains the final authority to assure that any action taken enhances or does not adversely affect safety of flight. In any event, we believe that regardless of any present division of authority among Federal agencies, it would not be appropriate for the FAA to undertake any comprehensive program for implementing or enforcing standards for the humane treatment of animals in air transportation.

We will, of course, work with the Interagency Committee that was formed to identify existing problems in the shipment of live animals and develop suggestions for corrective action. We will contribute what we can to the efforts of that committee.

This concludes my statement, Mr. Chairman. We will be glad to respond to any questions you may have.

[The attachment referred to follows:]

[From the Federal Register, Tuesday, Oct. 21, 1975; Docket No. 13569; Amdt. No. 121-124]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

STOWAGE OF CONTAINERS FOR TRANSPORT OF ANIMALS ABOARD AIRCRAFT

The purpose of this amendment to Part 121 of the Federal Aviation Regulations is to rescind § 121.288, "Carriage of live animals in containers in cargo compartments."

On August 9, 1974, the FAA issued Amendment 121-111, effective October 18, 1974, to Part 121 of the Federal Aviation Regulations (published in the Federal Register on August 19, 1974; 39 FR 29917) to require that cargo containers housing live animals for carriage by air in the cargo compartments of aircraft be secured in the cargo compartment in such a fashion as to prevent shifting and be protected from the hazards of shifting of other cargo, and to assure that ventilation areas of the container are not obstructed. That amendment was based on a notice of proposed rule making (Notice 74-10) published in the Federal Register on March 11, 1974 (39 FR 9456).

In response to petitions received from the Air Transport Association of America and Southern Airways, Inc., and members of the medical profession engaged in research using live animals, the FAA issued Amendment No. 121-112 (39 FR 36576; October 11, 1974), and extended the date for compliance with § 121.288 to February 18, 1975, to allow certificate holders additional time for obtaining and installing necessary equipment.

Shortly before the new compliance date, the FAA received hundreds of letters and mailgrams from pet and animal dealers, medical schools, research laboratories, and others, stating that they feared Part 121 certificate holders would embargo the shipment of live animals if the rule was not rescinded or the compliance date extended. They asserted that the threatened embargo would cause them serious financial injury, if not put them out of business. In addition, there

were numerous expressions of concern that the rule would limit available capacity for shipping live animals by air, thus creating a severe hardship on the pet industries. Based on these petitions, the FAA issued Amendment No. 121-116 (40 FR 7436; February 20, 1975), extending the effective date to October 18, 1975.

On February 3, 1975, Pet Industries Joint Advisory Council and others petitioned the FAA to either rescind § 121.288 or initiate new rulemaking proceedings on the transportation of animals by air (FAA Regulatory Docket No. 14304). On May 1, 1975, the Air Transport Association of America petitioned the FAA to make certain revisions in § 121.288 (FAA Regulatory Docket No. 14622).

A large volume of correspondence received by the FAA has contained numerous expressions of concern that, following the October 18, 1975, effective date of § 121.288, available space for the shipment of live animals will be severely curtailed. Some Part 121 certificate holders have made it known to the pet industry, medical schools, laboratories, and others that they expect to have less space available for the shipment of live animals following modification of their aircraft cargo compartments. Others have indicated they will be required to initiate proceedings to embargo the shipment of animals on their aircraft because they are unable to provide the appropriate tie-down equipment in some aircraft types. Many who wrote the FAA expressed their concern for the humane treatment of animals, but stressed that any curtailment in the shipment of live animals would either force them into a drastic cutback in personnel or force them out of business completely.

Certificate holders have indicated that to achieve compliance with the rule they would have to designate specific areas in each cargo compartment for the carriage of live animals and that each container would have to be individually secured to the cargo compartment. This would prevent the certificate holders from transporting the volume of live animals presently being carried. It would also reduce the total available cargo space. In addition, because of the small cargo areas of certain airplanes, some certificate holders would not be able to transport any live animals in those airplanes.

Certificate holders and the pet industry, in voicing their disapproval of § 121.288, have taken a position that the present rule will not improve what they consider to be an already excellent record of safety in the transportation of live animals and because of the adverse effect on the air carrier's capacity to carry live animals will result in a disservice to the traveling public, shippers of live animals, and medical research professions. They contend that the language of the rule is vague and ambiguous and is subject to various interpretations. They assert that compliance with the existing rule will result in higher costs to private pet owners, commercial shippers, medical schools and laboratories, and others, and that this is due in part to the reduction in available space for shipping live animals which will result in more trips to the airport to pick up parts of a shipment of animals that formerly could be shipped as one unit. They also indicate that it is probable that each certificate holder will have to inaugurate a live animal reservation system to assure adequate space available on originating and connecting flights. These higher shipping costs would be transferred to the owner or shipper.

On September 9, 1975, the FAA on behalf of the Department of Transportation presented prepared testimony before the Subcommittee on Livestock and Grains of the House Committee on Agriculture. The FAA stated that it was reviewing § 121.288, guided by the Administration's intention to seek to accomplish regulatory reform, particularly with respect to extra burdens imposed by regulations. It was also stated that the FAA carefully considered the information submitted to the agency before the effective date of the rule was extended, and that the effect of the aircraft modifications needed has generated more complex issues than those the FAA anticipated, particularly with respect to stowage and cargo compartment environment.

Moreover, the FAA stated:

The FAA lacks the expertise to develop standards for the temperature levels and air supply needed for different kinds of animals which may be carried abroad an aircraft. We also are not experts concerning the containers in which they are transported. We are concerned with the economic impact of these rules on the pet industry, the pet owner and the airlines. We are not in a position to make zoological or veterinary judgments. We are in the business of safety of flight and should continue to concentrate our resources in that direction. * * * In any event, we believe that regardless of any present division of authority it would not be appropriate for the FAA to undertake any comprehensive program for imple-

menting or enforcing standards for the humane treatment of animals in air transportation.

The FAA is concerned that industries whose livelihood depends on the fast, reliable air shipment of live animals would be adversely affected. Apparently, the rule also would hamper medical research efforts and increase the animal owners' and shippers' costs substantially. In addition, it should be noted that certificate holders would face increased costs due to the installation and maintenance of special tie-down equipment and the need for an animal reservation system. Loss of revenue could also result because of reduced capacity (both in animal and general cargo shipments). Finally, there would be a higher risk of inhumane treatment of animals in transit due to a reduction in available space that would cause delays in shipment at the originating station and at enroute stops.

Since compliance with § 121.288, as adopted, will create practical problems resulting in a serious curtailment in the shipment of animals and the imposition of an undue economic burden on Part 121 certificate holders and shippers of animals, the FAA has determined that allowing § 121.288 to become effective would not be appropriate or in the public interest. The FAA must consider further whether amendments to the Federal Aviation Regulations, if any, should be adopted with respect to the carriage of live animals. Rather than extend the effective date of § 121.288 again while this matter is under consideration, it appears that the most appropriate course of action is to rescind § 121.288. Previous extensions have only served to confuse the issues and create additional concern. Immediate rescission of the rule will also eliminate any further uncertainty as to whether the projected needs of the pet industry, medical research and others can be met by § 121.288.

Under these circumstances, I find that notice and public procedure on this rescission would be impracticable and contrary to the public interest and that good cause exists for making this amendment effective in less than 30 days. However, the FAA is soliciting further public comment. Interested persons are invited to submit comments in duplicate by November 18, 1975, addressed to Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, 800 Independence Avenue, SW., Washington, D.C. 20591.

§ 121.288 [Revoked]

In consideration of the foregoing, effective October 17, 1975, § 121.288 of the Federal Aviation Regulations adopted by Amendment 121-111 published in the Federal Register on August 19, 1974 (39 FR 29917) is hereby rescinded.

(Sec. 313(a), 601(a), and 604 of the Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421(a), and 1424. Sec. 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c).)

Issued in Washington, D.C., on October 17, 1975.

JAMES E. DOW,
Acting Administrator.

Senator WEICKER. Well, I think you have correctly identified the role of the FAA, both as to its general concern with air transport safety and more specifically only their attention to animals as it might affect the safety of the aircraft. I can't dispute that at all.

You mentioned this is something the FAA thinks Agriculture should handle?

Mr. SKULLY. Yes, sir.

Senator WEICKER. Well, Agriculture isn't doing it so far. I'm a little at a loss where to turn, but hopefully we will fit together the pieces of the puzzle. I don't dispute your testimony at all. I would appreciate, here again, rather than asking any questions right now, if you could please just stay in the room and if anything comes up we could give you an opportunity to respond. Thank you very much.

Miss Katherine Kent, Assistant Director, Bureau of Economics, Civil Aeronautics Board.

Miss Kent, please go ahead.

STATEMENT OF KATHERINE A. KENT, ASSISTANT DIRECTOR,
BUREAU OF ECONOMICS, CIVIL AERONAUTICS BOARD; ACCOMPANIED BY ELLEN B. SILBERSTEIN, ATTORNEY

Miss KENT. Mr. Chairman and members of the subcommittee, I am pleased to present the views of the CAB with respect to S. 1941, S. 2070, and S. 2430, all of which would give the Secretary of Agriculture authority to promulgate standards governing the humane transportation of animals by common carriers.

I have with me today Miss Ellen B. Silberstein, an attorney with the Bureau of Economics.

The Board strongly endorses these bills and believes that they contain provisions, which if enacted, would result in more humane treatment of animals transported by air.

The difficulty with the present situation is that no single Government agency has the authority, manpower, and expertise necessary for the establishment and enforcement of adequate standards for the humane transportation of animals by air. Instead, three Government agencies—the USDA, the FAA, and the Board—have ill-defined and incomplete jurisdiction over air transportation of animals.

The Board itself does not have plenary power to issue regulations for the transportation of animals by air. We cannot prescribe regulations unless we first find, on the basis of an evidentiary record, that the existing rules and practices of the carriers result in inadequate service or are otherwise unlawful. Moreover, the Board's staff lacks the expertise necessary to develop a complete set of rules for the humane transportation of animals by air. Even more importantly, we lack the nationwide field capability necessary for an effective enforcement program, which is so crucial in this area.

Furthermore, under current law, the Board's regulatory powers do not extend to shippers of live animals, although many injuries and fatalities are directly related to inadequate packaging by shippers and the tendering of animals which are in poor health before air transportation actually commences.

Despite these problems, the Board is currently engaged in a formal investigation concerning the rules and practices relating to the acceptance and carriage of live animals in domestic airfreight transportation, designated as docket 26310. Among other matters, this investigation includes an inquiry into carrier rules and practices regarding acceptance, packaging, and documentation of animal shipments, as well as ground and in-flight handling, and the priority of carriage. Hearings before an administrative law judge were concluded in October, and the parties filed initial briefs with the administrative law judge on Monday, November 17. Reply briefs are due December 1.

We embarked on this investigation fully aware of our limitations, because we were convinced that serious problems existed, and because it appeared that no other agency was dealing effectively with these problems. We intended that the Board's hearing would serve as a forum where those with expertise—the shippers, humane societies, other Government agencies, as well as the carriers—could propose solutions. However, the actions which the Board will ultimately be in a position to take at the conclusion of this proceeding will fall

short of a satisfactory solution to the problems of the safe and humane transportation of animals. Such a solution, in our opinion, requires legislation conferring plenary jurisdiction over the entire matter to a single agency. In our judgment, the USDA with its staff of veterinarians and its field operations, is the agency best able to establish and enforce rules in this area.

The Board does have two specific suggestions.

First, the bills under consideration would empower the Secretary of Agriculture to promulgate transportation standards only for those classes of animals enumerated in section 2132(g) of the Laboratory Animal Welfare Act, which does not include many kinds of animals currently being transported by air. We would urge that the scope of the legislation be expanded to provide for the establishment of transportation standards for all live animals.

In addition, we suggest that these bills be amended to require that the Secretary of Agriculture consult with the Board prior to promulgating regulations. We believe that the expertise of the Board's staff in matters relating to aviation may be helpful to the Department in carrying out its duties under this proposed legislation.

We also note that section 10 of S. 1941 specifically provides that the Secretary of Agriculture shall promulgate standards with respect to the terminal facilities of the carriers. We strongly endorse this provision, especially since many problems in the transportation of animals appear to be related to inadequate terminal facilities.

Mr. Chairman, after my written testimony was prepared we noticed a possible inadvertence in S. 1941. The bill would include air carriers in the definition of dealers who must be licensed by the Secretary of Agriculture. This provision does not appear in S. 2070 or S. 2430. We do not believe that requiring air carriers to be licensed as dealers by the Secretary of Agriculture would promote the stated objectives of this legislation.

Mr. Chairman, the Board sincerely appreciates this opportunity to present its views on S. 1941, S. 2070, and S. 2430.

Senator WEICKER. Thank you very much, Miss Kent.

The point that you referred to was a drafting error and something that we intend to correct in the legislation.

You may have heard Dr. Chaloux from the USDA suggest that in lieu of Federal legislation other alternatives to assure humane treatment of animals in transit should be explored. Among these were reliance on the voluntary cooperation of those groups involved in animal transportation, cooperation among the Federal agencies involved, and reliance on the recommendations received in these recent hearings.

In your view, could the employment of one or all of these alternatives substitute for Federal legislation on this matter?

Miss KENT. Well, generally, the USDA would appear to rely chiefly on voluntary cooperation. I'm not sure that reliance on voluntary cooperation is very effective in correcting abuses in this area. The suggestion does, however, reflect a great belief in the goodness of human nature. Of course, if everybody did the right thing there wouldn't be any need for legislation or any kind of regulation by any agency. The fact is, however, that everybody does not do the right thing.

I have with me the exhibits that the USDA presented in the CAB investigation. One of the exhibits is a report of Agriculture's monitoring of animal shipments at airports. There were 1,298 inspections made over a period of a year; 193 shipments were found to be in violation of the Laboratory Animal Welfare Act.

Now, that may not sound like a large number, but the kind of violations seen is significant, and it points up the need for regulation of persons who ship animals. The major violations were—and I'm reading here—inadequate cage construction, lack of identification or records, inadequate sanitation of cage, inadequate cage size, lack of water receptacles, lack of food receptacles, and holding area too cold, too hot, drafty, or lack of ventilation.

Dr. Schwindaman, of the USDA, presented testimony in the case, and he said that violations of the Laboratory Animal Welfare Act as well as other deficiencies involving inhumane treatment of live animals have dropped dramatically since Agriculture's monitoring program began, until only a few are still being observed.

Now, that statement indicates to me the effectiveness of simply the presence and the appearance of authority.

Incidentally, these exhibits also include a study made by the USDA, the Animal and Plant Health Inspection Service, dated May 1974, on the subject of environmental considerations for shipments of livestock by airfreight. The study covers areas that affect the health of livestock such as temperature, humidity, air movement, barometric pressure, ventilation rate, air quality, thermal shock, and the effects of other stress factors. This is the kind of research that the experts in the USDA are able to do, and it reflects the kind of expertise the CAB does not have.

I would like to say, Mr. Chairman, that the USDA has been very cooperative in taking part in the CAB investigation. But I must add that the purpose of the Board's investigation is not merely to generate data for the purpose of issuing guidelines for voluntary cooperation.

The proceeding is a formal investigation of the lawfulness of the carriers' rules that are in their tariffs under the Federal Aviation Act. If the Board ultimately finds any such rules to be unlawful, it will prescribe the lawful rules to be in the carriers' tariffs.

Now, I don't say that all meetings of experts and other interested parties are not useful. In fact, during the course of the Board's proceeding and before the formal hearing was held, 11 working group sessions were held. These were attended by air carriers, humane society representatives, shippers, USDA representatives, and counsel for the Board's Bureau of Economics. These sessions were very productive in identifying what the problems are and proposing solutions, and some agreement was evidenced by the parties.

However, no stipulations were agreed to by the parties to the case, and we proceeded into the formal hearing process.

The CAB undertook this investigation because it appeared that no other agency was going to take any action. In the absence of any positive law or regulation by any Government agency, the carriers' tariff rules are the only existing law. As you know, a tariff is part of a contract between the carrier and the shipper, and in effect, the carrier must enforce the law against the shipper in accordance with its own tariffs.

Although the Board does not have specific authority nor the expertise to issue Board regulations governing the transportation of animals, it does have the authority to investigate the carriers' tariff rules, and if it finds them unlawful, to order them to be changed. That's what the Board's investigation is about.

I might add that the Board's jurisdiction to make findings of lawfulness based on considerations of safety of the animals was challenged by the Department of Transportation. DOT's position in the case was that the CAB has no jurisdiction over animal safety and that the regulation of safety in flight is in the exclusive jurisdiction of the FAA. However, since the FAA has not issued any regulations regarding safe transportation of animals, the carriers' tariffs still remain the only existing law.

Senator WEICKER. And accordingly, in your opinion, that is not adequate?

Miss KENT. Yes, sir.

Senator WEICKER. To achieve the end which is desired here in these hearings to provide a system, a set of regulations that will guarantee it? In other words, the tariff system is not adequate?

Miss KENT. That is correct, and for the reasons that I stated previously. The Board has no authority over shippers, for example, and no expertise and personnel for enforcement.

Senator WEICKER. I want to commend the CAB for going ahead and holding its hearings and supplying the investigation into this matter because certainly the facts that will come forth will weigh heavily on any legislation which is devised by this committee.

I'm sorry I don't have your statement in front of me. When do you expect to have a final report from the CAB on those hearings?

Miss KENT. As I said, the briefs to the administrative law judge were just filed on Monday. Reply briefs are supposed to be filed on December 1. After that, the administrative law judge will issue his initial decision, and the Board after that has the right to review that decision upon the parties' filing petitions for review. It can adopt the administrative law judge's decision or it can order briefs and oral arguments to the Board, and then the Board makes its final decision.

Senator WEICKER. I have no further questions at this time, Miss Kent. If you would be good enough also to stand by here, as we have several of the panels appear, in case there are any questions that arise that I can refer to you, I would appreciate it very much.

Miss KENT. Thank you, Senator.

Senator WEICKER. Thank you.

Now, the first panel consists of Fay Brisk, who I spent some time with at the REA facility a while back; Christine Stevens—Mrs. Stevens, it's nice to have you here, too. First of all, Fay Brisk is director of airport activities, Washington Humane Society; and Christine Stevens is secretary for the Society for Animal Protective Legislation; Duncan Wright, president, American Dog Owners' Association; Joan Blue, president, American Horse Protective Association. Could all four of you step up to bat here and form the panel? I'd appreciate it.

Ms. BENKIN. I'm Priscilla Benkin, Mr. Wright's assistant.

Senator WEICKER. Welcome. I think the best thing to do is to allow each one of you to make a statement, if you will; and if we have some questions, we will propound them to you. I might add,

if you have any questions which would be directed to either the USDA, the CAB, or FAA, if you will address the question through me, I will be glad to see that we get some sort of a dialog going here. I think it's awfully important. It's obvious to me just from what we have heard so far that we have got a matter of major concern which certainly grows greater in importance every day that's just falling between the cracks in the bureaucracy and nothing is being done, and I don't think there's any one of us just as a matter of commonsense that doesn't understand what this means with the increase in animal ownership and the whole concept of buying and selling animals of all types and sorts. So we will try to get as many answers as we can from you and, also, if you have any questions for the responsible Federal agencies or at least those that touch upon the subject.

With that, why don't I turn it over to you. Fay, why don't you go ahead and start.

STATEMENT OF FAY BRISK, DIRECTOR OF AIRPORT ACTIVITIES, WASHINGTON HUMANE SOCIETY

Mrs. BRISK. Mr. Chairman and members of the subcommittee, my name is Fay Brisk, and I'm director of airport activities for the Washington Humane Society. I'm going to summarize my statement very briefly and present the entire statement for the record.

Senator WEICKER. Go ahead, and we will include the entire statement in the record.

Mrs. BRISK. I appreciate this opportunity to testify on behalf of humane treatment of animals in transport—especially before the chairman who visited our "animalport" at Washington National Airport to witness conditions at first hand. We certainly want to thank the chairman for that.

Senator WEICKER. I'll tell you, I wish it were still in existence there because Dr. Chaloux and I would have paid you a visit there tonight. I don't know at the present time—and I don't want to interrupt you—I gather the various animals arrive at the respective air terminals of each one of the airlines rather than in a central location. Is that right?

Mrs. BRISK. Yes, sir, they do; and we do have some volunteers who are going around to the various airfreight terminals in the evening to make sure that there are no animals left overnight and the animals have sufficient care.

Senator WEICKER. What would happen if somebody went down there now? What would they find? A similar situation to what we saw except dispersed throughout the airport?

Mrs. BRISK. They would be dispersed, yes.

Senator WEICKER. Well, what are you doing tonight, Dr. Chaloux? You might have to walk a little more than by going to one centralized facility, but I'll tell you it's the fastest way to make a point. Go ahead.

Mrs. BRISK. Senator, I do want to say that there are not that many animals at these individual air terminals at night because they are now sending most of their animals to kennels or to Alexandria animal shelters where they stay overnight, so we have managed to get that much improvement down there.

We shall comment briefly on the bills under consideration. They all have merit, but S. 2070 has also been deferred to the Committee on Agriculture and Forestry, and we are opposed to that as being too time consuming. We like both S. 2430 and S. 1941—particularly the emphasis on terminal facilities in S. 1941—but we urge that an amendment be added to each to include the humane treatment of dogs used for hunting purposes.

Both bills cover only those dogs that are already regulated by the Laboratory Animal Welfare Act of 1966 and the 1970 amendments to that act. This automatically excludes hunting dogs, because the USDA took administrative action to exclude them, even though USDA concedes that this was clearly not the intent of Congress. Coonhounds, foxhounds, beagles, blue ticks, and other hunting dogs represent a large percentage of the animal traffic. They are shipped every day of the year—not just during hunting season—and they are treated worse than any of the other animals we have seen in transit. We have described their plight at three congressional hearings. We do so again, with the plea that these dogs deserve equal protection under the law.

We also recommend that a consumer's "right to be informed" provision be included in section 11 of S. 1941 and section 11 of S. 2430.

The fact that animals suffer in flight has been well documented by one of the FAA's own veterinarianians, Dr. G. D. Hanneman, of the Civil Aeromedical Institute, Oklahoma City, Okla.

Yet many airlines are telling pet owners that animals fly in "passenger comfort"—a comforting thought not exactly shared by their own cargo manuals.

The pet owner who entrusts his dog or cat to an airline in the belief that it will have at least a safe—if not a pleasant—journey, deserves the truth. He should be told that there are no special safeguards in the luggage or cargo compartments of aircraft. He should be told that flying can be hazardous to his pet's health.

The airlines can display this warning in their pamphlets and at all airline freight and passenger terminals. And if they refuse to do this voluntarily, then the Secretary of Transportation should require them to do it in much the same manner that the Surgeon General requires the cigarette companies to print their warnings on advertisements on cigarette packs. This will serve the purpose until humane standards are adopted.

Now, I just want to briefly comment on a survey made by the USDA. While we appreciate the efforts made by USDA inspectors (hampered as they are by lack of funds), we don't think the USDA inspectors spent enough time at the airports to make the survey meaningful. To give the subcommittee an idea of what conditions are like at one major airport, I shall briefly describe what has taken place at Washington National Airport.

During the peak of our activities—from 1972-75—our "animal-port" volunteers worked an average of 100 man-hours a week, compared with an average of 10 man-hours by the USDA inspector. We serviced shipments from more than 100 USDA-licensed shippers alone. At least one-third of these shippers were, at some time or another, or repeatedly, in violation of the Laboratory Animal Welfare Act, as amended—violations we repeatedly reported to USDA.

Now that the REA is out of the picture, we will concentrate on the airlines which have all the business, but we don't think we should continue indefinitely to subsidize the airlines in their multimillion-dollar transport business, especially since they charge a premium rate for animals. Anyone paying a premium rate has a right to expect and certainly should get a little extra service.

Thank you, Mr. Chairman.

Senator WEICKER. Thank you very much, Fay, and I want to say as a matter of personal applause that you and the people that work with you do indeed put in great numbers of hours at no pay and nothing but the satisfaction of taking care of an animal, and I think your last point is well taken. The airlines seem to collect the money, but you people seem to go ahead and do the work.

Mrs. BRISK. Thank you, sir.

[The statement follows:]

STATEMENT OF FAY BRISK, DIRECTOR OF AIRPORT ACTIVITIES, WASHINGTON
HUMANE SOCIETY

Mr. Chairman and Members of the Subcommittee: My name is Fay Brisk, and I'm the Director of Airport Activities for the Washington Humane Society. I appreciate this opportunity to testify on behalf of humane treatment of animals in transport—especially before the Chairman who visited our "animalport" at Washington National Airport to witness conditions at first hand. We certainly want to thank the Chairman for that.

We shall comment briefly on the bills under consideration: They all have merit, but S.2070 has also been deferred to the Committee on Agriculture and Forestry, and we are opposed to that as being too time consuming. We like both S.2430 and S.1941—particularly the emphasis on terminal facilities in S.1931—but we urge that an amendment be added to each to include the humane treatment of dogs used for hunting purposes.

Both bills cover only those dogs that are already regulated by the Laboratory Animal Welfare Act of 1966 and the 1970 Amendments to that Act. This automatically excludes hunting dogs—because the U.S. Department of Agriculture took administrative action to exclude them—even though USDA concedes that this was clearly not the intent of Congress.¹ Coonhounds, foxhounds, beagles, blue ticks and other hunting dogs represent a large percentage of the animal traffic. They are shipped every day of the year—not just during hunting season—and they are treated worse than any of the other animals we have seen in transit. These dogs have actually been shipped with diseases ranging from diagnosed cases of chorea (last stages of distemper) to infectious hepatitis and mange. Many have infected eyes and ears and are infested with ticks. Their crates are frequently makeshift, poorly-ventilated and lacking in bedding and water containers. We have seen them in airline warehouses, crying and whimpering with the need to relieve themselves after having been cooped up for 24 hours or longer. We described their plight at three previous Congressional hearings. We do so again with the plea that these dogs deserve equal protection under the law.

We also recommend that a "right to be informed" provision be included in Section 11 of S. 1941 and Section 11 of S. 2330.

The fact that animals suffer in flight has been well documented by one of the Federal Aviation Administration's own veterinarians, Dr. G. D. Hanneman, of the Civil Aeromedical Institute, Oklahoma City, Okla. Dr. Hanneman writes:

"Because an animal does not die or show outward signs of illness when stressed by environmental conditions does not mean it is in the best of health. Just because an animal is able to tolerate such conditions as temperature, humidity, varying CO₂ levels, noise, confinement, reduced air flow (air changes) and total darkness rather than light does not mean the animal is being treated humanely or safely."²

¹ USDA memo January 20, 1974 to APHIS from Director, Regulatory Division.

² In a letter dated August 5, 1975.

Yet, many airlines are telling pet owners that animals fly in "passenger comfort"—a comforting thought not exactly shared by their own cargo manuals!³

The pet owner who entrusts his dog or cat to an airplane in the belief that it will have at least a safe—if not pleasant—journey, deserves the truth.

He should be told that there are no special safeguards in the luggage or cargo compartments of aircraft.

He should be told that flying can be hazardous to his pet's health.

The airlines can display this warning in their pamphlets and at all airline freight and passenger terminals. And if they refuse to do this voluntarily, then the Secretary of Transportation should require them to do it in much the same manner that the Surgeon General requires the cigarette companies to print their warnings on advertisements and cigarette packs. This will serve the purpose until humane standards are adopted.

We base this and other recommendations on letters and telephone calls we have been receiving from pet owners over the past three years and on our experience with animals in transit at Washington National Airport. It is because of what we have witnessed there that we take exception to the findings of a recent survey taken by the U.S. Department of Agriculture at 15 major airports. The survey covers a total of 8,575 man-hours from July 1, 1974 through June 30, 1975, during which time USDA inspectors said they observed 193 shipments that were in violation of the Laboratory Animal Welfare Act, as amended, and reported that "all live animal shipments were observed."⁴

While we appreciate the efforts made by USDA inspectors (hampered as they are by lack of funds), we don't think the USDA inspectors spent enough time at the airports to make the survey meaningful. To give the Subcommittee an idea of what conditions are like at one major airport, I shall briefly describe what has taken place at Washington National Airport.

During the peak of our activities—from 1972-1975—our "animalport" volunteers worked an average of 100 man-hours a week, compared with an average of 10 man-hours by the USDA inspector. We serviced shipments from more than 100 USDA-licensed shippers alone. At least one-third of these shippers were, at some time or another, in violation of the Laboratory Animal Welfare Act,

as amended—violations we repeatedly reported to USDA.

It was not unusual for us to remain at the airport until one or two a.m. More than 50 men and women contributed their services to feed and water all the animals, walk the big dogs, change the bedding in the crates, administer first aid and see to it that sick animals were taken to a veterinarian. The volunteers included retired Navy captains, registered nurses, a Canadian veterinarian, an airline pilot and employees of the Defense Department, Federal Aviation Administration, the CIA and other government agencies, as well as housewives.

Many of the animals we saw were sick, dead or in generally weak condition, as a result of poor crating (puppies, cats, wildlife, etc., stuffed into lettuce crates, badly-ventilated plastic crates or cardboard boxes), misrouting, slow pickups and deliveries or just plain negligence on the part of airline and air express personnel.

We saw at least 500 animals a week, not counting the birds and laboratory mice (of which there were tens of thousands). Yet, because we were a part-time operation, we did not see them all. The USDA inspector, because of his own tight schedule, saw even less. He was at the airport one day or night a week. He inspected only animals from USDA-licensed shippers, which left a great many uninspected (particularly hunting dogs). We seldom saw him at 10:30 p.m., the time the last—and usually the largest—commercial puppy shipment arrived from the midwest. In short, he could not possibly have observed "all live animal shipments," as the survey indicates. But there is no doubt that his presence helped. We have seen some improvement in commercial puppy shipments, and we hope USDA inspections will continue.

Our experience, however, has shown that only a new law—properly enforced—will bring about the reforms we have all been seeking since the plight of animals in transit was brought to light.

³ From an airline cargo manual: "CAUTION: Plastic kennels with slippery, rounded bases tend to cartwheel/flip backwards on steep angled jetveyors at aft bulk compartments of wide-body aircraft. *Be Alert To Prevent This*—Especially since this is in view of passengers in the aircraft and visitors at the terminal windows."

⁴ USDA testimony to the CAB, docket 26310.

Need for humane legislation was apparent at three international airports we have inspected. Nowhere, however, has the need been more apparent than at Washington National Airport, where a lawful means already exists to provide humane care for animals, but is virtually impossible to implement.

This "lawful means" is contained in the terms of a lease between the Federal Government (The Federal Aviation Administration) and its tenants (the airlines). The lease specifies that the tenants must comply, at their "own cost and expense," with all Federal, state or local laws. This includes the Virginia anti-cruelty law, which covers humane transport. Yet, the lease has had little or no effect in preventing incidents such as the following:

A six-year-old, 110-lb. Northern cougar, traveling on a New York State endangered species permit to Florida, was kept in her airless, coffin-like crate in a hot hangar for five hours on a day when temperatures soared into the 90's. The water pipe leading into the crate was too narrow and rusty to be usable. The inside of the crate was lined with wires, which the cougar tore and twisted trying to get out, lacerating her paws in the struggle.

Late in the afternoon, the ramp manager decided not to send the cougar to Florida. Instead, he hauled her to another airline warehouse where she was stranded for the night. A Washington Humane Society volunteer called the National Zoo, which sent a representative to pick up the cougar at 9:30 p.m. The cougar remained in the Zoo hospital for several days. She did not survive. She died of bronchial pneumonia last May 29, the day after she was re-crated by the Zoo and shipped to Florida. (We have the original crate and pictures of it).

A toy poodle shipped from North Dakota to Nashville, Tenn., was found locked in a dark, stuffy closet in an airport warehouse. "Animalport" volunteers heard it crying. When they rescued the puppy, they saw that its crate was crushed, it was limp with exhaustion, and it was badly in need of water. Freight handlers admitted that the puppy had been hidden so that the volunteers wouldn't see the crushed crate.

On Sunday, November 2, a beagle from El Paso, Texas, was found on an airport ramp, howling with pain. He had caught his teeth in the wire mesh window of his crate, trying to get out. His jaw was bleeding. The ramp manager came to his aid with a wire cutter, then called the Alexandria shelter, which sent a driver to pick him up. At the shelter, it was obvious why the dog was still howling and why he was still in pain. He had been sitting in that crate in an airline warehouse since 5:30 p.m. the day before—and all he wanted was to relieve himself! But no one had bothered to take him out.

These and countless other cases of negligence have been reported to FAA. But there is little doubt that the animals will continue to suffer until there is a new Federal law to force the airlines to treat them humanely.

We hope that we will have that new law very soon, Mr. Chairman. Great Britain has had one since 1973. It introduces a number of general measures to safeguard animals during air, sea, road and rail transport. Both S. 2430 and S. 1941 do the same, of course, and it is time we had all those safeguards. While we have focused our testimony on air travel, we have not been oblivious to the animals we have seen loaded into airport trucks that have no air vents, are not air conditioned in the summer nor heated in the winter. These trucks often travel long distances into the rural areas.

Now that REA Air Express is out of the picture, we shall be able to observe more truck transport, while still continuing to care for the animals shipped directly via the airlines, which will now have all the business. But we hope that won't be necessary after humane legislation is passed and enforced. We don't think we should continue indefinitely to subsidize the airlines in their multi-million dollar transport business, especially since they charge a premium rate for animals.

Anyone paying a premium rate should expect—and get—a little extra service! Thank you, Mr. Chairman.

Senator WECKER. Why don't we just continue on the statements here and then we'll get back to the questions.

STATEMENT OF CHRISTINE STEVENS, SECRETARY, SOCIETY FOR ANIMAL PROTECTIVE LEGISLATION

Mrs. STEVENS. We certainly appreciate your going and inspecting conditions and we hope you will go and inspect conditions in laboratories because those, of course, come under the Animal Welfare Act and in my testimony, which I would submit for the record—and it's much too long to cover entirely—we do suggest some closing of loopholes in the present law in addition to the very excellent proposal that you have to cover the animals in transit by air.

I have analyzed the points that I think are best in these different bills and I think that's most necessary to go into. Is it, or would you like me to—

Senator WEICKER. Yes; why don't you indicate, rather than an analysis of the bills, what are some of the points that you would like to see in the laboratory sense incorporated into the bill? That I'd very much like to hear.

Mrs. STEVENS. Fine. Well, first of all, we feel that the requirement for exercise has been neglected most seriously. Many laboratories—in fact, probably the majority now let laboratory dogs out of cages or else keep them in pens or runways where there is no need for them to be released because there's enough room. However, there is a certain number of laboratories which refuse to do that and which perpetually cage dogs.

The USDA has attempted to promulgate regulations on this subject more than once. At the present time there are proposed regulations pending which have been pending for more than a year. Pressure from those laboratories which do not wish to change or indeed even plan to build new quarters in which they will not release dogs from cages has, unfortunately, succeeded in preventing the final regulations from ever being promulgated by the USDA, and for that reason the Society for Animal Protective Legislation proposes that the word "exercise" simply be added to the requirements specifically. Although the Secretary of Agriculture has that authority at present, it is not as specific as it could be and it would enable those regulations to become final.

I have an analysis of 711 form letters opposing exercise for laboratory dogs which you might be interested in.

Senator WEICKER. If you will submit those for the record along with your statement that would be fine.

[The following information was subsequently received for the record:]

SUMMARY OF 711 FORM LETTERS OPPOSING EXERCISE FOR LABORATORY DOGS

- 85 form letters beginning "I would like to take this opportunity to express my opposition . . ." mostly signed without giving any address. One letter was signed by Dr. Herbert Johnson of Kalamazoo, Michigan.
- 12 form letters beginning "I am writing to express my opposition to . . ." signed by employees of Smith, Kline and French Laboratories.
- 40 form letters beginning "As an individual involved in scientific research . . ." signed by people giving addresses in New Jersey, Pennsylvania and Delaware. One person signed as an employee of Smith, Kline and French.
- 14 form letters beginning "I have just received and read a copy of the proposed rules . . ." All were on New York University Medical Center letterhead.
- 60 form letters beginning "While I recognize the constructive and positive effects the Animal Welfare Act of 1970 has had in improving animal welfare, I am

- strongly opposed to the . . ." signed by professors at the University of Rochester, New York.
- 25 *form letters* beginning "The proposed regulations to the Animal Welfare Act as published in . . ." all on New York Hospital-Cornell Medical Center letterhead.
- 25 *form letters* beginning "I am opposed to the proposed Veterinary Care, Space . . ." all on University of Rochester letterhead.
- 58 *form letters* beginning "The law (PL 91-579) is more than adequate in insuring proper care . . ." signed by people giving Texas addresses. 17 of these were on University of Texas letterhead.
- 128 *form letters* beginning "The present law (PL 91-579) is adequate in that it insures . . ." signed by people giving Texas addresses. 15 of these were on University of Texas letterhead.
- 95 *form letters* beginning "I am writing to express my concern regarding the proposed . . ." signed by people giving incomplete or Texas addresses. 54 of these were on University of Texas letterhead.
- 24 *form letters* saying "I oppose any changes to PL 91-579 due to the extensive cost to the taxpayers." (Quoted in its entirety.) Signed by people giving Texas addresses. 3 were on University of Texas letterhead.
- 4 *form letters* beginning "As a member of the biomedical research community of The University of Texas at Austin . . ."
- 28 *form letters* beginning "I object to the proposed Veterinary, Care, Space and Exercise, . . ." signed by laboratory technicians giving no address and no name of research facility.
- 26 *form letters* beginning "The Department of Agriculture, through its animal welfare regulations, has done much to upgrade the conditions under which animals are housed and used . . ." signed by people giving Washington (state) addresses.
- 9 *form letters* beginning "I would like to reply to the proposed regulations . . ." all on University of Georgia letterhead.
- 4 *form letters* beginning "I strongly oppose . . ." all on University of Alabama letterhead.
- 24 *form letters* beginning "The biological and biomedical teaching and research community of this University opposes the amendments to . . ." all on Ohio State University letterhead.
- 30 *form letters* beginning "In my judgment the proposed amendments to the regulations . . ." mostly on Mayo Clinic and Foundation letterhead. 2 were on American College of Laboratory Animal Medicine letterhead. Several paragraphs in this letter are identical to paragraphs in the preceding letter from Ohio State University.
- 3 *form letters* beginning "I am writing to protest the proposed changes of the Animal Welfare Act . . ." all on Thomas Jefferson University letterhead.
- 5 *form letters* beginning "I oppose the proposed Veterinary Care . . ." on G. D. Searle and Company letterhead.
- 5 *form letters* beginning "I am vigorously opposed to the . . ." on Georgetown University School of Medicine and Dentistry letterhead.
- 7 *form letters* beginning "I am opposed to the proposed . . ." on Cooper Laboratories letterhead.

Mrs. STEVENS. Now, in addition, there is a great deal of question about the effectiveness of the laws so far in preventing theft of animals. This theft would not necessarily be entirely for laboratories; nevertheless, it could be for that or for the guard dog trade, pet trade, for hunting dogs, and it is important that, again, the Department take strong action to prevent this continued theft and I would like to submit for the use of the committee material provided by Mary Warner of Berryville. She's made a map showing the numbers of animals that have disappeared within a period of the last couple of years in her area and every one of those "X"s is a dog that has gone. There are some very questionable activities going on in this area. It is under investigation by the State at present, but the difficulty is that whenever rushes of dog theft occur, if there's too much pressure, all the dealers do is

move to another location, and that's why it's so important that Federal legislation address it.

There is another problem which we don't know if you can address in the legislation or if you can recommend to the various Government agencies. That is, that although all Government agencies must adhere to the humane standards promulgated by the Secretary of Agriculture for the treatment of animals in laboratories, there is no means of enforcing this and repeatedly it has been found that terrible conditions exist in Government laboratories and that in fact they are violating the Animal Welfare Act. These conditions are found only by voluntary humane organizations going in and seeing the laboratories and there's no way that that type of inspection can be even remotely complete.

Just recently, you may have read of the beagles at Edgewood Arsenal. After the inspections were made the Army requested the USDA to come in and inspect and see whether in fact they were in violation or not, and they were tremendously. They had a whole series of violations—lack of sanitation, improper construction of the cages et cetera. The cage floors for some of the beagles were just like the kind of grills that you cook steak on and the dogs had nothing to lie on. This is the type of thing that's so obvious that you can hardly believe that a big Government department would allow such things to go on, but unfortunately they do.

I would really put it before you as a committee to find the best way to deal with this. In other words, if the agencies themselves had to report, as private institutions do, telling what the conditions were and that they were living up to the standards and had a system of inspection and also reporting annually on the numbers of animals used in which pain-relieving drugs were not administered when painful procedures were inflicted on animals, this would be very much to be desired and it certainly was the intent of the legislation as originally passed, and I think it was unanimous in the Senate.

Senator WEICKER. What you're saying basically is that the U.S. Government itself is one of the greatest offenders in this area?

Mrs. STEVENS. We don't have enough data to say that it's one of the greatest offenders, but we have so many instances which you can read in the testimony that there's reason to think that—you may be correct, that may indeed be, because inspection is not being made at present in those laboratories and we know that enormous improvements took place in universities and research institutions after the law came into effect and there was inspection.

Senator WEICKER. This statement and any accompanying documents will be included in their entirety for the record, too.

Mrs. STEVENS. Fine, because I realize the pressure of time. I would like to add, and this is getting out of the laboratory area, in addition to the hunting dogs on which we heartily agree with Fay, other working dogs should also be included. For example, guard dogs are very much in need of similar protection and we would hope would be included.

Also, and I believe this has been approved in the House subcommittee, there is an excellent section in S. 811 which was recently passed by the Senate to strengthen the Horse Protection Act, which makes a provision for much more rapid action against offenders and I won't

read it because of the time, but it's in my testimony, and it would help in all across-the-board enforcement of the legislation.

I think that I should stop simply because of time requirements.

Senator WEICKER. I appreciate very much your making the effort and we're going to get back to a further discussion, but let me just get through with the initial statements here.

[The statement follows:]

STATEMENT OF CHRISTINE STEVENS, SECRETARY, SOCIETY FOR ANIMAL PROTECTIVE
LEGISLATION

Excellent provisions for the welfare of animals are found in the three bills pending before the Committee, S. 1941, S. 2070 and S. 2430. We hope the best provisions can be combined and that other needed amendments to close existing loopholes in the Animal Welfare Act will be adopted.

In comparing the bills, I would note certain points in which they differ and indicate which provisions we consider to be superior.

To begin with S. 1941, this bill lists "air pressure" among minimum requirements (lines 20 and 21, p. 6). This is desirable and should be included in the bill reported by the Committee. The penalties are higher in S. 1941 than in the other bills, namely, \$2,000 for each violation with each day of violation constituting a separate offense. Guidance to the Secretary is well expressed in determining the amount of the penalty including "any history of prior offenses" which should be helpful in ending repeated offenses (lines 15, 16, 17 and 23, p. 9). Also in the area of enforcement, a valuable provision of S. 1941 states that "It shall be the duty of U.S. attorneys to prosecute all criminal violations of this Act reported by the Secretary and to initiate civil actions to recover all civil penalties assessed and reported by the Secretary, or which come to their notice or knowledge by other means" (p. 8, lines 18-24).

S. 1941 specifies that humane standards apply to terminal facilities (p. 6, lines 3 and 4, and p. 7, line 17). This is another desirable provision.

Finally, S. 1941 includes birds and pet shops in its coverage. We believe it is important to include birds to eliminate bad transport conditions for them. The Secretary has the power to include birds in the existing Animal Welfare Act but has not yet done so. We understand that at least part of the reason is lack of funds for enforcement. However, we do not believe that any great additional burden would occur by including birds since inspectors would see them when they saw other animals without having to make additional trips for inspection purposes. USDA is already actively involved through its quarantine procedures with birds coming into the country. We believe specifying the coverage of birds is desirable.

With respect to pet shops, however, much as we would like to see them individually inspected and all brought up to at least minimum standards, we would hesitate to recommend inclusion of this very great increase in man-hours given available funding. Animals being shipped to pet shops from wholesalers will be included under S. 2070 and S. 2430.

To turn to these bills' provisions which differ from S. 1941 in ways we believe to be superior, I would cite the following: 1) Health certificates are required, not left up to the discretion of the Secretary (p. 5, lines 9 and 10). 2) The provisions (p. 5, lines 15-20) "No dogs or cats, or additional kinds or classes of animals designated by regulation of the Secretary shall be delivered by any person to any intermediate handler or carrier for transportation in commerce except to registered research facilities if they are less than eight weeks of age, or such other age as the Secretary may by regulation prescribe," fully covers all contingencies while keeping this important provision in the "shall" rather than "may" category. 3) The provision to guard against abuses in C.O.D. shipments (p. 6, lines 3-13) is essential. 4) The provisions (pp. 9-12) outlawing "animal fighting ventures" are necessary. We urge that all these requirements contained in S. 2070 and S. 2430 be included in the bill approved by the Committee.

To close existing loopholes in the Animal Welfare Act, the following suggestions are submitted:

(1) In the excellent bill S. 811 recently reported by this Committee and passed by the Senate to strengthen the Horse Protection Act a helpful provision is included which could be adapted to the Animal Welfare Act to improve the Department of Agriculture's enforcement capabilities. Section 16(c) of the Act should be amended to include the following: "An action against dealers, exhibitors, research facilities, and operators of auction sales may be brought before any United States magistrate in the district court of the United States in any judicial district in which such person is found, and such magistrate shall have jurisdiction to hear and decide such action."

(2) Requirement that laboratory dogs be given opportunity for daily exercise, by amending the Act to insert the word "exercise" in Section 14 as follows: "Such standards shall include minimum requirements with respect to handling, housing, feeding, watering, *exercise*, sanitation, ventilation . . ."

(3) Because hunting and other working dogs moving in commerce are often shipped under substandard conditions, they should be included. The words "hunting and other working" should be inserted in the definition of "dealer" and of "animal" and throughout the Act wherever required to ensure coverage.

In addition to these suggested amendments, we would appreciate any help the Committee could give to encourage stronger administrative action by the Secretary of Agriculture so that a higher priority is placed on complaints and violations of the Animal Welfare Act and increased personnel and funding be requested.

We would also emphasize the fact that dogs continue to be stolen for commercial purposes and that increased enforcement is urgently needed in this part of the existing law. The regulations could be changed to require photographic identification of each dog and cat sold to random source dealers for resale, the license plate of the car, or in the absence of a car, the Social Security card of the persons offering the animals for sale should also be part of the record. Such specific identification would offer substantial discouragement to thieves and would facilitate prosecution of violators.

In closing, I would draw to the attention of the Committee the fact that, although the Animal Welfare Act requires government agencies using animals to adhere to the same minimum standards as the private research facilities registered under the Act, no mechanism exists to enforce these standards, and no inspection is provided. Over the years occasional inspection by voluntary organizations has shown that government agencies are not well informed about the requirements of the Act. Case after case of violations in government laboratories show that the law is not working in this large area.

To cite a recent example, when humane groups visited the beagles and other laboratory animals at Edgewood Arsenal, they complained to the Army of the violations they observed. As a result, the Army requested an official inspection by U.S.D.A.'s Animal and Plant Health Inspection Service. Under the Freedom of Information Act, I requested and obtained copies of the completed inspection forms. They showed multiple violations of the Act by the Army including deficiencies in all of the following categories: sanitation, ventilation, interior surfaces, storage of food and bedding, housekeeping, pest control, heating and temperature. Notes by the inspectors show that the most elementary requirements were not being met in instance after instance by the Army—for example, "Interior surfaces cannot be sanitized. Walls provide harborage for insects, rodents, and other pests." Some of the beagles were housed on widely spaced metal grids only $\frac{3}{16}$ of an inch wide with no flat surface even to sleep on! These are the types of grates used over subways in New York City. A dog on leash avoids even *stepping* on these once he has felt their discomfort to his paws.

Hosing was carried out without even removing the animals! Such deplorable failure to provide the simplest comforts for animals the Army *claims* it has to use cannot be left to the exceedingly rare visits made by humane organizations. Nor is this an isolated example of violations of the law by government agencies. Last year the Army issued a "Fact Sheet" stating that it was housing eight adult beagles in nineteen square feet of space, and it claimed that this incredible overcrowding complied with all standards thus demonstrating that it was not even familiar with them. After receiving some irate letters, it hastily got up a new "Fact Sheet" expanding the size of the quarters. However, there is no way for the Congress or the public to be sure whether the quarters were expanded on paper only or in real fact since there is no source of information except the Army's own information service.

To give a few examples of violations by government laboratories in past years, I quote from a report on conditions at the U.S. Public Health Service hospital in Staten Island in 1971 by Dorothy Dyce, Laboratory Animal Consultant of the Animal Welfare Institute: "no post-operative care for experimental animals. Complete lack of sanitation and floor drainage. The odor in the dog and rabbit rooms is intolerable. Dried fecal matter observed in empty food dish in dog cage on both days January 18 and 19). Waterbowls in rabbit cages are filthy and some contain fecal material. Dried fecal material encrusted on rabbit cages.

"Large pools of water on floor of smaller dog room and on floor of rabbit room. Improper drainage makes it impossible for water to go into drains unless it is swept into them.

"Temperature in animal house cannot be controlled due to a faulty heating system. Hospital administration is aware of this deficiency. Some caged dogs are in a position next to a boiling radiator; others are near an open window and subjected to the cold . . .

"Record keeping is negligible . . .

"Practice surgery is done on dogs by residents of St. Vincent's Hospital on Monday morning under unsterile conditions in a filthy room in the animal house. I was told by the caretaker that although most of the dogs die, some live for a week or two. Residents of Doctor's Hospital have a similar arrangement, doing their work on Wednesdays . . . [They] don't have a key to the animal house so they can come back to look after the dogs after hours."

Lack of the "adequate veterinary care" required by the Act is exemplified by reports on three of the dogs housed in metal cages with mesh floors: "Dog in Cage #4—A brown short-haired mongrel dog. Surgery was done on her by Dr. Kinney on January 9th. Dog paralyzed in rear quarters since surgery. Mr. Brown, the head caretaker, told me that he had called Dr. Kinney and told him about the paralyzed dog five days before my visit and nothing had been done. At my suggestion, he called Dr. Kinney on Tuesday afternoon in my presence. Mr. Brown told him that an inspector was there and wanted to know about the dog. Dr. Kinney said that he had telephoned the veterinarian who, after examining the dog, recommended euthanasia. I telephoned Dr. O'Connor, the veterinary consultant, Tuesday night and she said she had never been consulted about this dog.

"Dog in Cage #5—A black short-haired mongrel dog. Surgery was done on her by Dr. Kinney on January 12th. When I saw her on Monday, Jan. 18th, she was lying in her cage and could not get up in answer to my calling her. On my return visit on Tuesday, Jan. 19th, she was worse. All attempts to get her on her feet failed. Mr. Thompson, the assistant caretaker, told Mr. Brown and me that she had been like that for two days. At my suggestion, Mr. Brown again called Dr. Kinney and advised him about the condition of this dog. Dr. Kinney said he could not come to the animal house because he was busy and could not come on Wednesday because he would be doing experiments all that day. He finally told Mr. Brown to call the veterinarian. We tried reaching Dr. O'Connor but she was not available. Mr. Brown promised to call her that night. I telephoned Dr. O'Connor on Tuesday, p.m. She had not heard from Mr. Brown or Dr. Kinney but promised me that she would check on the dog in the morning.

"Larger Room for Housing Dogs—On My Monday visit, I saw a large black and tan German Shepherd which had been used for a surgical experiment that morning. Under anesthesia, the dog was left in the care of Mr. Thompson, the assistant caretaker. Although Mr. Thompson had anesthetized the dog he did not know what he had used. Showing me the bottle in the prep room, I also observed the heavy muzzle which he had used on the dog. The prep room was dirty and the adjoining room where the surgery was done was filthy."

On a return visit, October 12, 1971, Mrs. Dyce found postoperative care and sanitation greatly improved following investigation by the director of Federal Health Programs Service who stated, March 3, 1971, ". . . you may be assured that such corrective action as is necessary to bring our laboratory up to standards will be effected immediately."

The National Institutes of Health, too, has failed to meet the standards according to law with primates kept in cages so small that they were unable to make normal postural adjustments as specified in the regulations.

The Secretary of Health, Education, and Welfare was informed by letter January 9, 1970: "Animal Welfare Institute Laboratory Animal Consultant, Dorothy Dyce, visited NIH quarantine quarters January 6, 1970, and reports that a large proportion of the primates are currently housed in violation of

P.L. 89-544 whose regulations state in part: '(1) Primary enclosures shall be constructed and maintained so as to provide sufficient space to allow each non-human primate to make normal postural adjustments with adequate freedom of movement. (2) Each nonhuman primate housed in a primary enclosure shall be provided with a minimum floor space equal to an area of at least three times the area occupied by such primate when standing on four feet.'

"We are further greatly concerned that a proposed expenditure of \$190,000 for new cages will not solve the problem since the prototype cage is only 26' high x 21' x 24'."

Turning to another government agency, the Veterans Administration, I would quote from an article in *The Detroit Free Press*, May 28, 1967. "Kidnaped Collie is Saved from Lab Experiments . . . Jim Shorter and his family lost Thunder in February when the dog which never left his own backyard, which insisted on coming inside when it rained, which whined like a baby even when he wasn't one anymore, disappeared. The Shorters checked the Pontiac dog pound again and again, but Thunder didn't show up. Eventually, they gave up looking, convinced he had been stolen."

"Thunder was found last week after he had already gone through one operation in the experimental laboratory of the Veterans Hospital in Ann Arbor. The lady who discovered him was Mrs. Dorothy Dyce, Detroit representative of the national Animal Welfare Institute, who happened to stop at one pen in the hospital as she checked on the condition of the guinea pig animals."

"Thunder was still wearing his dog tags. A phone call, a happy, 'Oh, yes!' and Thunder was on his way home. He had been sold to the hospital for \$6 on May 12. Where he had been before that, no one was prepared to say. The hospital called the dog dealer who sold him 'very reputable.'"

"By the time Mrs. Dyce happened by, Thunder had already undergone an operation to prepare him for an eventual and experimental lung transplant. The Shorters remember well the night Thunder disappeared. 'The kids cried like mad when that dog turned up missing,' Mrs. Shorter says. 'My husband always said: 'Honey, I don't feel like Thunder is dead. I think someone has taken him, and when he gets loose, he'll come home.'"

"The day Mrs. Dyce found the dog the Shorters put some beef hash on to warm and hurried to the hospital to make sure it was Thunder. 'I walked down the hall,' Mrs. Shorter said, 'and a dog started barking. I couldn't help but cry. They brought Thunder in and he just ran and jumped up on Jim. He just whined like a baby. It was just a miracle.'"

I would submit for the record two newspaper clippings about Thunder.

Nor is the Ann Arbor VA hospital unique in violating the Act.

Here are some quotes from a report April 21, 1971, on the VA Hospital in Dearborn: "A huge part collie-German shepherd, the poor thing could hardly be recognized as a dog. His face was so swollen, each leg had been shaved and the skin was red and sore looking, a dirty bandage was around his neck and a tube, inserted into his throat, was coming out of the back of his neck . . ." This was the dog the complainant had heard: "Entering the building he heard a dog crying—the dog he saw was strapped to a table . . . He said that there were tubes connected to the dog and that the two men in white coats were taking blood from the dog . . . He said the dog was strapped on his back and crying the whole time he was in the building . . . they draw blood from the dog every day for about 10 days. He said the dog is on the table from about 9:30 a.m. until about 3:30 p.m."

By August 13, 1971, Mrs. Dyce's efforts had brought about a change, and her report shows that a doctor "showed me the statement on the bulletin board which says 'all dogs must be anesthetized while on the table for the blood withdrawal and plasma-making process.' Also the dogs are only on the table for three hours instead of the original 7 to 8 hours. So an anesthetized dog is on the table for three hours whereas the poor animals had been on the table for 7 or 8 hours without anesthesia."

These examples clearly demonstrate that outside inspection can rectify bad conditions, but it is out of the question for private groups to take care of such inspection in a systematic way.

If regular governmental inspections were carried out, the standards could be maintained as required by law. We urge this distinguished Committee to take appropriate action to ensure that the will of Congress is done. Regular reports should be submitted to the Speaker of the House and the President of the Senate on animals used by government agencies, just as the Department of Agriculture

reports concerning universities, research institutes, and commercial enterprises using animals for research and testing. To do less is to accept chronic violation of the law.

The reports should be based on two factors: 1) regular inspection, and 2) certification by the responsible individuals on appropriate use of anesthetic, analgesic and tranquilizing drugs to prevent pain and distress.

Thank you for the opportunity to inform the Committee of the needs of the animals for the protection the Senate intended when it passed this landmark legislation. The law has done a tremendous amount of good, eliminating many abuses that animals formerly were forced to suffer. If loopholes are closed, the benefits of this Act will extend to those still suffering for want of its enforcement. We appeal to you, Mr. Chairman, to end this needless suffering.

Senator WEICKER. Priscilla, do you have something you would like to set forth?

STATEMENT OF PRISCILLA G. BENKIN, ASSISTANT TO THE PRESIDENT, AMERICAN DOG OWNERS ASSOCIATION, INC.

Mrs. BENKIN. Mr. Chairman, thank you for giving the American Dog Owners Association the opportunity to testify before this distinguished committee. My name is Priscilla G. Benkin, 3506 Woodbine Street, Chevy Chase, Md., and I am authorized by the Board of Directors of the Association to make this statement.

As assistant to the president of the American Dog Owners Association, Inc., I have represented ADOA before the CAB in Docket 26310 and testified on behalf of the association before various congressional committees.

The association represents approximately 1,000 dog clubs and some 6,000 individual members. For the past several years we have been involved in the investigation and analysis of the problems involved in the transportation of animals. In connection with my work for ADOA and because of my own concerns as a shipper of valuable show dogs—and I might add that I shipped my last dog out exactly 48 hours ago—I have visited air freight facilities at numerous airports and have also investigated various conveyances for transporting dogs. For 7 or 8 months last year, I spent 1 or 2 night a week as a volunteer at the animalport maintained at the REA terminal at National Airport under the aegis of the Washington Humane Society. I have also coordinated the ADOA transportation program on the national level, and many ADOA members throughout the United States have contacted me about their shipping problems—to such an extent that it required that we add another telephone in our house.

We are here today to testify on behalf of legislation to extend the coverage of the Animal Welfare Act to all common carriers. Our concerns are twofold. In the first place, because of the progress that has been made at CAB and with individual airlines, some large-scale shippers are seeking alternate modes of transportation. The Puppy Palace chain of pet stores is now using second-hand Greyhound buses to deliver puppies from the midwestern commercial breeders to its eastern stores. I personally was told by the manager of a local Puppy Palace store that the second, or alternate, driver on these buses is detailed to care for the puppies when he was not driving. The Federal safety regulations say that the driver should be resting at that time. Obviously he cannot rest and care for puppies at the same time.

We also fear that the multiplicity of regulation in the various agencies will result in no regulation at all. The ICC regulates the routes but not the conditions inside the vehicles. One enterprising puppy broker is transporting hundreds of puppies in a tractor-trailer truck from southern Kansas to Detroit, then east to New York, then south down the Atlantic coast. According to reports reaching ADOA, some 40 puppies died on the initial trip. This broker is driving his own vehicle, carrying his own puppies, and we have not found regulations governing conditions inside his truck. This same situation exists on a smaller scale with hunting dogs, who are often carried on long journeys under very poor conditions in their owner's own truck, and I would add here that most of ADOA members are very experienced in transporting dogs on the road because most of us drive to dog shows.

In what seems to be the most confused and confusing situation of all, the CAB ordered the air carriers to provide pickup and delivery for animals, yet the CAB has no control over the vehicles involved. In a city such as Washington, the temperature inside these local delivery trucks may reach as high as 180 degrees on a hot, humid day, according to a freight handler for a major carrier here, and the freight, including animal crates, is stacked as high as it can be without any means of restraint.

Small wonder then, that we ask for a uniform system of regulation by one agency for all means by which animals are carried. The USDA currently regulates certain shipments until they are delivered to the carrier and after they are received by the consignee. How logical then to extend this coverage to the period when the animal is in transit, not only by air, but by any means.

Thank you very much.

Senator WEICKER. Mrs. Joan Blue, president of the American Horse Protection Association.

STATEMENT OF JOAN BLUE, PRESIDENT, AMERICAN HORSE PROTECTION ASSOCIATION

Mrs. BLUE. Thank you, Mr. Chairman.

Mr. Chairman and members of this distinguished subcommittee, my name is Joan R. Blue. I am the president of the American Horse Protection Association, which is the only national nonprofit humane organization dedicated to the welfare of horses, both wild and domestic. The AHPA has no paid staff; all working members are volunteers.

Members of our association were instrumental in promoting the passage of two bills of great significance to the welfare of horses. The first, the Horse Protection Act of 1970, is designed to prohibit the brutal soring of the Tennessee walking horse, and outlaw cruelty to all domestic show horses. Members of the AHPA also spearheaded the drive for passage of a second important piece of legislation—the Wild Free Roaming Horses and Burros Act of 1971—which directs the Departments of the Interior and Agriculture to preserve and protect a part of our American heritage.

We greatly appreciate the committee's invitation to give our views concerning S. 1941, to increase the protection of animals in transit and to assure their humane treatment.

Mr. Chairman, you and other members of the subcommittee may wonder why the AHPA is here when one realizes that so few horses are transported by air, a system of transportation used only by the wealthy racing industry and these horses are given the best of care. But our situation is so desperate with horses in transportation that we come to this committee for some kind of help and guidance.

Senator WEICKER. Well, let me state first off that your entire statement will be put in the record, but I would also just indicate two things. I would doubt that we will be able to cover horses in this legislation or that which has passed the House since the legislation principally attends itself to laboratory animals and pets. But the matters that you're going to discuss here will be looked at by the Commerce Committee, so I don't want you to feel in any way that you have wasted your time. I am here to listen. We are here to take your statement and get it as part of the record. I know the Commerce Committee itself is going to be looking into the very specific problem which you're raising in your testimony.

Mrs. BLUE. Well, that gives us great hope, Senator.

The AHPA congratulates Senator Weicker and the members of this subcommittee for their work on legislation in the area of humane care and treatment of animals in commerce. It is a shocking fact that there are no Federal humane laws in this country to regulate the transportation of horses by truck, and over 90 percent of our Nation's horses, most on their way to slaughter, must travel by truck, usually under the most barbaric conditions. These animals are in desperate and immediate need of humane legislation which would provide the Secretary of Agriculture with the authority to prescribe standards for the humane handling, care, treatment, and transportation of horses in interstate commerce.

The cruel traffic in horsemeat for pet food and human consumption, and the brutality to horses, many already diseased and dying, on their way to slaughter, has outraged great numbers of the public. State laws throughout the country are usually miserably inadequate to regulate trucking of animals going to market, or to provide for their humane handling while held in transit or in sale barns. Horses transported in quantity are subject to severe suffering imposed by overcrowding, poor ventilation, lack of food and water, trampling, and exposure to the extremes of heat and cold.

"Quick-buck" trucking firms drive from one horse auction to another gathering their loads, and holding the animals without rest, food, or water until their rigs are crammed and overloaded. Several tragic illustrations of this type of profiteering have been reported by AHPA members in upper New York State, near the Canadian border.

A well-known "killer-buyer" from Quebec, Canada, was arrested by the local SPCA and State police in Champlain, N.Y., for inhumane treatment of 400 to 500 horses being readied for shipment to Canada, where they were to be slaughtered for human consumption and their carcasses shipped to Europe. These animals were found to be confined without food or water; many were both diseased and injured. The "killer-buyer" was later released on \$100 bail.

Eleven other horses were killed when a truck carrying a total of 23 overturned on the Adirondack Northway near Wilton, N.Y., after

the driver lost control of his tractor-trailer. State police said that the 23 horses were jammed into the back of the truck where they had stood for several days since leaving North Carolina.

New York State police, while conducting a routine road check on the same interstate highway, found two trucks overloaded with 77 horses, some injured and diseased, packed so tightly together that "some of them would fall, and, unable to retain their footing, were cruelly trampled to death."

Barnett Fowler, of the Albany, N.Y., Times-Union, described a typical incident:

The story was simple; the carnage sickening. . . . The floor of a tractor-trailer loaded with horses destined (for slaughter in Canada) gave way and legs of horses were scraping the highway pavement. Broken legs were numerous and one horse was trampled to death in the panic.

State police were forced to shoot others too badly injured to survive the journey. New York State police estimate that as many as 10,000 such horses are transported across the New York-Canadian border every month.

Senator WEICKER. I wonder, because I do want to get to the questioning around the table, could I ask you to synopsise your statement and we will certainly accept the entire statement for the record. I am very interested in what you're trying to say but I want everybody to have a fair chance.

Mrs. BLUE. I think this would be the best thing to do—we notice that in the Federal Register that USDA has already proposed an inspection and handling of livestock for export and this is mainly what we are hoping for in lieu of actual Federal legislation, but we hope that it is possible that USDA could write Federal regulations which would somewhat lessen the agonies these poor creatures are forced to endure and then we would just hope that there will be another opportunity to present more.

Senator WEICKER. There will be. As I say, we are interested in the matters that you are going to bring before us and go ahead and put it in the appropriate legislation. If you would submit the statement for the record I'd appreciate it.

[The statement follows:]

STATEMENT OF JOAN R. BLUE, PRESIDENT, AMERICAN HORSE PROTECTION ASSOCIATION

Mr. Chairman, and members of this distinguished Subcommittee, my name is Joan R. Blue. I am the president of the American Horse Protection Association, which is the only national nonprofit humane organization dedicated to the welfare of horses, both wild and domestic. The American Horse Protection Association has no paid staff; all working members are volunteers.

Members of our Association were instrumental in promoting the passage of two bills of great significance to the welfare of horses. The first, the Horse Protection Act of 1970, is designed to prohibit the brutal soring of the Tennessee Walking Horse, and outlaw cruelty to all domestic show horses. Members of the American Horse Protection Association also spearheaded the drive for passage of a second important piece of legislation—the Wild Free Roaming Horses and Burros Act of 1971—which directs the Departments of the Interior and Agriculture to preserve and protect a part of our American heritage.

We greatly appreciate the Committee's invitation to give our views concerning S. 941, to increase the protection of animals in transit and to assure their humane treatment.

The American Horse Protection Association congratulates Senator Weicker and the members of this Subcommittee for their work on legislation in the area

of humane care and treatment of animals in commerce. It is a shocking fact that there are no Federal humane laws in this country to regulate the transportation of horses by truck, and over 90% of our Nation's horses, most on their way to slaughter, must travel by truck, usually under the most barbaric conditions. These animals are in desperate and immediate need of humane legislation which would provide the Secretary of Agriculture with the authority to prescribe standards for the humane handling, care, treatment and transportation of horses in interstate commerce.

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"Quick-buck" trucking firms drive from one horse auction to another gathering their loads, and holding the animals without rest, food or water until their rigs are crammed and overloaded. Several tragic illustrations of this type of profiteering have been reported by AHPA members in upper New York State, near the Canadian border.

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Barnet Fowler, of the Albany, New York *Times-Union*, described a typical incident: "The story was simple; the carnage sickening * * *. The floor of a tractor-trailer loaded with horses destined (for slaughter in Canada) gave way and legs of horses were scraping the highway pavement. Broken legs were numerous and one horse was trampled to death in the panic." State Police were forced to shoot others too badly injured to survive the journey. New York State Police estimate that as many as 10,000 such horses are transported across the New York-Canadian border every month.

Last winter the St. Lawrence (N.Y.) *Plaindealer* reported the accident of a double decker livestock truck carrying 34 saddle horses and ponies from the midwest. They were bound for a slaughter house in Canada. The truck skidded off the road in 15-degree-below-zero weather. The horses, many "torn apart and crushed internally," suffered for eight hours before help finally arrived. Many of the survivors had no eyes. They had been kicked out. All but twelve either were frozen to death, mortally injured, or were shot. The newspaper reported that the survivors "have no spirit."

Although some states specifically prohibit the conveyance of any animal in a cruel and inhumane manner, these laws are difficult to enforce because of their vagueness, the ineptness of local officials, ridiculously low fines, and the weakness of humane organizations in rural areas where abuse is most prevalent. Thus, Federal laws and regulations are desperately needed to reduce the torture of these helpless creatures. Because the problem is national in scope and via interstate commerce over highways built by Federal funds, it must be dealt with by the Congress.

The American Horse Protection Association hopes that a strong precise bill will be enacted. We respectfully submit that such a bill should contain at a minimum the following provisions:

- (1) To outlaw overcrowding which can cause suffocation, injury and death;
- (2) To limit a standard 10-foot by 40-foot van to no more than 20 horses;

(3) To set out standards of padding and bedding appropriate for the season and the vehicle;

(4) To adopt standards making it necessary that mixed loads (horses and cattle) should be separated by partitions to prevent bruising, suffering, goring, crippling or death;

(5) To provide that horse vans be partitioned, allowing 2 feet across per horse to protect any fallen animal from trampling;

(6) To make it mandatory for livestock to be watered and rested at least every 8 hours. Vans can easily be opened from the outside to allow for ventilation and water.

It has been proven that horses and other livestock are unable to relax while they are in motion inside a vehicle because they must constantly keep themselves braced. Consequently, after a few hours, the animals become exhausted. Therefore, the above standards, especially those pertaining to resting and watering, are absolutely imperative.

We believe that the cost of enforcing this type of Federal legislation could be minimized by using those State Police who already man the weighing stations where interstate trucks must stop for inspection.

On a trip by car from North Platte, Nebraska, to Idaho Falls, Idaho, a journey of over seventeen hundred miles, and across three state borders, I had occasion to observe inspections of horse vans at various State weighing stations.

One group of wild horses was transported on that long, long road from Nebraska to Idaho; these were the 18 pathetic survivors of one of the bloodiest massacres ever recorded. They had narrowly escaped being ground up into pet food, and were being returned to their home state of Idaho. The van, and the manifest presented by the driver, were carefully inspected by the State Police at every port of entry. But no one counted or even looked at the animals inside the van; it was obvious that the welfare was of no interest except to the representatives of the humane organizations following this particular rig. But these horses were special indeed because they are the subject of a rather famous Federal court case. In contrast, the majority of the Nation's horses in interstate transportation, those considered less historic, are manhandled like ordinary freight, left to suffer dehydration, insufficient food, neglect, injury and slow and agonizing death, all of which seems fantastic in a Nation which prides itself on its superior civilization, compassion, religious ethic and fair play. This ugly situation must be stopped, and stopped quickly.

The American Horse Protection Association, the most dedicated and concerned horse humane organization in America, strongly urges that the provisions of S. 1941 be extended to insure humane treatment of all horses by common carrier in interstate commerce. We need your help. The horses need this legislation and deserve to be included in this legislation.

Thank you.

Senator WEICKER. Let me ask all of you, and I might add, Mrs. Blue, you're in on this one just as much as those who are concerned with dogs and smaller animals—you have heard the USDA testify that these matters can best be handled by voluntary programs.

Now I'd like to get a response from all four of you and I'll start right with you, Mrs. Blue, first.

Mrs. BLUE. We certainly know from our experience with the Tennessee Walking Horse legislation that voluntary compliance is absolutely an impossibility. It has to be done by Federal regulations and legislation.

Senator WEICKER. And Priscilla?

Mrs. BENKIN. I think that I agree. There's no way that voluntary compliance is going to work. The commercial shippers are too bound by financial considerations to raise their standards to what we would consider to be acceptable levels. As Fay pointed out, there's also the problem that a great many of the private shippers are simply not aware of the conditions so they cannot comply voluntarily because they don't really understand and they are not informed by airlines

when they haul, but I just don't see any way at all that voluntary compliance will work.

Mrs. BRISK. Mr. Chairman, I think we have given the airlines enough time to voluntarily make some improvements. We started hearings back in 1973 in the House Government Operations Subcommittee and since then we have had two other congressional hearings. We have had, and I'm a party to, the CAB hearings. We have this hearing today. The airlines have had ample opportunity to comply. There's nothing wrong with having a group of experts getting together once in awhile to rehash the problem—I mean, if they want to do that, that's fine, but experience has shown, particularly here at National Airport, that after they met that way for 10 years we still ran into the type of horrible conditions we found at National Airport. We need legislation.

Mrs. STEVENS. No question that legislation is necessary. One example of why this is so is that when the FAA did at least propose some minimal requirements the agency was lobbied so hard that it had to retract its moderate proposal. It was simply the tie-down rule to keep animal crates from slipping around and being crushed by heavier luggage. They are not being tied down now because a number of animal dealers testified that they wouldn't be able to sell as many animals, and they would have to raise the prices. There was all kinds of pressure exerted showing that you can't leave those things to administrative action. There must be legislation making it mandatory.

Senator WEICKER. I think I understand some of the problems that all of you have been confronted with. Speaking personally, we introduced legislation, as I say, in 1970 and I thought it was just a very small piece of legislation without a great deal of uproar at all. This was when I was a freshman in the Senate and all of a sudden I found I couldn't get a hearing in the Commerce Committee and it's been almost 6 years now to bring it to this point. Obviously there have been powerful forces working behind the scenes and I can imagine what your frustration is if indeed I, as a U.S. Senator, am frustrated in trying to achieve some sort of reform in this area.

Those of you who have taken so much time out of your lives to pursue a worthwhile cause, I can assure you of one thing, in case there are any of those powerful forces in the room, this is notice to them also, this legislation is going to get passed and it's going to get passed this year. There's no question about it and people had better start either to cut back their profit margins or figure out what they're going to charge to achieve proper care. I think it's time in that sense that the whole country came to the knowledge that it's wonderful to have a pet, but there's an expense involved to it. If that pet is going to be treated correctly, that means that you pay for it and you just don't go ahead and expect somebody else to pick up the tab, either through their money or through their efforts, as is evidenced in this panel before me.

Is there anything else that any of you have to say? I'm going to move to the next panel. I greatly appreciate your taking the time to come here.

Mrs. STEVENS. You did suggest that we might ask a question and I wondered if the USDA could tell us the amount of funding requested by the Animal and Plant Health Inspection Service for enforcement of the Animal Welfare Act for the coming fiscal year. I think a lot of these things need to be nailed down financially.

Senator WEICKER. The question has been asked, Dr. Chaloux, as to the amount of funding for enforcement requested by the Department for this fiscal year. Can you give that figure?

Dr. CHALOUX. For fiscal year 1976, the amount available is approximately \$2.4 million.

Senator WEICKER. For enforcement. Let me ask you this, Dr. Chaloux: If the type of duties evolved upon the USDA that are alluded to in the bill or by the dialog which you're hearing now, what would your estimate be of the additional costs of enforcement?

Dr. CHALOUX. We have estimated the additional cost with respect to the various bills, concerning the animal transportation and retail pet store provisions of S. 1941, the additional costs would be for the first year, \$2.3 million; and for the second year, \$2.1 million. For S. 2070 and S. 2430, we estimate that the additional costs for the first year would be \$565,000; and for the second and succeeding years, \$385,000. This is for the animal transport provisions only. We do not have any concept of what the dog fight control would cost us.

Senator WEICKER. I understand. Thank you very much.

Does that answer your question?

Mrs. STEVENS. Yes. Thank you very much.

Mrs. BRISK. I have one thing, Mr. Chairman. I have a partial State-by-State breakdown of the type of animal shipments that have been coming this way for the past 3 years. I'd like to submit that.

Senator WEICKER. We'd very much like to have it.

Mrs. BRISK. It includes a long list of animal shipments going into Connecticut.

Senator WEICKER. I appreciate it very much. Ladies, thank you very much for taking your time and appearing. Thank you.

[The following information was subsequently received for the record:]

The following is a very small sampling of the type of animal shipments found by Washington Humane Society volunteers at Washington National Airport, 1972-1975.

En route to:

CONNECTICUT

Beagle shipped from Maryland to Bridgeport, Conn., had sores all over emaciated body. Humane society volunteers took dog to Alexandria veterinarian and paid \$94 vet bill when both shipper and consignee abandoned it. Sores diagnosed as mange. 2/18/75. WB No. 914385.

From Wisconsin to Stamford, Conn: Male dingo dog nailed into narrow crate with two small air holes. No way to water. 5/29/74. WB 632244.

From Iowa to Bridgeport, Conn: 12 baby racoons in small, wooden airless crate slightly larger than a shoe box. 5/29/74.

Shipped from La Plata, Mo., to Wallingford, Conn. pet shop: Chihuahua puppy found dead. Autopsy report showed puppy strangled by its own worms. This pup had been at the terminal the day before, but volunteers were not told of puppy's illness. 6/20/74. WB 893323.

From New York to University of Connecticut, Storrs: research beagles in wire crates with no solid bottoms. Remained overnight at airport. 11/20/74. WB 412479.

Baby monkey shipped without health certificate from Miami, Fla., to pet shop in Norwalk, Conn. Cardboard crate. No way to water 9/23/74. WB 693901.

10 cats in poultry crate, tails and paws hanging out, shipped from Michigan to Fairfield University, Conn. (Pix available) 3/12/73. WB 564030.

10 crates of white rabbits shipped from Long Island, N.Y., to University of Connecticut, Farmington, in cardboard cartons marked "Fresh Chicken Fryers". June, 1974. WB 348492.

Two baby goats shipped from Missouri to New Haven pet shop in shallow plastic crate. Could not move. Needed to be fed via bottle. Consignee stated that goats would have died if volunteers had not moved them into large crates and fed them.

From Wassau, Wisconsin: Mail order puppy flown via Lake Central to Milwaukee, from Milwaukee via United 306 to Cleveland, O., from Cleveland via United 852 to Hartford, Conn., from Hartford to Washington National Airport, where it was shipped back to Hartford (its destination). 1/23/73. WB 754346.

DELAWARE

Puppy shipped from Missouri to Wilmington, Del., pet shop treated by Alexandria, Va., veterinarian for bleeding urinary tract. May, 1974. WB 757642.

FLORIDA

Cougar Case—Pix of crate available

A six-year-old, 110-lb. Northern Cougar (*Felis concolor*) from a New York game farm to Washington National Airport, where she was scheduled for a flight transfer to a game farm in Florida.

Traveling on a New York State endangered species permit, the cougar arrived at the airport at 11 a.m., May 22, the hottest May 22 on record in the D.C. area since 1941. Temperatures soared into the 90's.

Cougar was transferred to another airline for a 1.59 p.m. flight to Tampa, but something went wrong. At 5 p.m. the airline returned her to the original airline's freight terminal, where she was stranded for the night. By this time, the cougar had been in transit more than 12 hours, and her "waiting room" was a hot hangar, where she had sat all afternoon in an airless, coffin-like crate with two narrow slits, one at each end, presumably for ventilation.

A Washington Humane Society volunteer called the National Zoo, which sent someone to pick her up. She remained in the Zoo hospital for several days. She didn't survive.

She died of bronchial pneumonia on May 29, the day after she was re-crated by the Zoo and shipped to Tampa. Her autopsy report says that on that day at 11 a.m., Ginger showed "signs of suffocation, deep breathing—Walking, extremely hot. Died about 2.15 p.m. Found cyanotic just prior to death."

GEORGIA

Rooster en route from Huntsville, Ala., to Vidalia, Ga., found stuffed into lettuce crate at Washington National Airport. 5/23/73. WB 641426.

Great Dane puppy shipped from Minnesota to Macon, Ga., with infected ears. 1974. WB 491859.

KENTUCKY

A mail order puppy shipped from South Dakota to Mouthcard, Ky. in flimsy lettuce-type crate that was crushed and broken. Summer, 1972.

Hound shipped from Tenn. to Paris, Ky. in crate that was nailed shut and had no water container or bedding. 9/3/74. WB 697932.

LOUISIANA

Hound shipped from Kentucky to Houma in wire crate so small, dog couldn't move. No water container or bedding. 12/10/74. WB 700674.

Beagle dam and two nursing pups shipped from New York to New Orleans taken to animal shelter in Virginia. Dam was bleeding profusely. 9/12/74. WB 845953.

Letter from a Houma, La. pet owner thanked volunteers for taking care of "Sammy The Beagle" and "Scooby The Cat" at National Airport. Pet owner wrote: "May this letter serve to warn other pet owners that there is no situation meriting the sending of pets or any other animal commercially." Dated 2/23/75.

MAINE

Coonhound with two pups shipped from Maryland in crate that was nailed shut, no water container. En route to Waterville, Maine. 5/28/74. WB No. 579152.

MARYLAND

From Donnellso, O., to Frederick, Md. pet shop. Sick puppy died en route to Alexandria Animal Shelter. 10/17/74.

Yorkshire pup shipped from Brookline, Mo. to Iverson Mall, Md. pet shop. found dead. April, 1974. WB 733287.

From Kansas: Puppy bound for a Waldorf, Md. pet shop found dead. 9/16/74. WB 148463.

From Florida to NIH, Rockville, Md.: three dead capuchin monkeys in bloody crate containing others. Part of a shipment of 40 monkeys in crowded crates with no water containers. 7/17/74. WB 671677.

To a Rockville research facility from Studio City, Cal.: woolly monkey in poor crate, no way to feed or water, remained in warehouse overnight. 8/20/74. WB 233280.

Two research cats shipped from New York in lettuce-type crates abandoned at National Airport by Laurel, Md. consignee. Turned over to an Alexandria veterinarian who diagnosed their illness as "acute leukemia." 3/4/75. WB 940427.

42 cartons of rats (nearly 1,000) shipped from New York to NIH. Half were dead and rotting from the heat. Live rats ate dead ones. Entire shipment taken to Alexandria Animal Shelter where those still alive were euthanized. (Pix available) 6/27/73.

Sick puppy shipped from Ia., to Annapolis, Md. pet shop died at Alexandria Animal Shelter. 1/9/74. WB 136118.

Dead husky en route from Oklahoma to Hillcrest Heights, Md. 5/1/73. WB 635355.

Pointer arrived from Missouri at Washington National Airport with bloody tail that was hanging out of slatted wooden crate. Freight supervisor refused to permit volunteers to keep dog at "animalport" overnight so they could take it to a veterinarian in the morning. Reached by phone a week later, consignee at Salisbury, Md. told humane society volunteers that the dog had "bled to death." 12/11/74. WB No. 425625.

Hound from Missouri arrived on conveyor belt with entire head and neck sticking out of hole in makeshift crate. This dog was a replacement for the hound that bled to death. 1/21/75. WB 425662.

Ten-year-old Walker hound shipped to Hagerstown, Md. in narrow chicken wire crate, nailed shut with no water container. Hound had obvious skin disease, was riddled with large sores. Taken to Alexandria veterinarian for treatment. 8/7/73. WB 882453.

Hound puppy shipped from Texas to Lake Friendship, Md. in crate stuffed with entrails of another animal. 10/17/74. WB 813119.

From Port Washington, N.Y. to a Rockville, Md. research laboratory, monkeys in wooden crates with metal strips that came apart en route. No watering provisions. 10/2/74. WB 443996.

From Blackstone, Mass., to Salisbury, Md. Zoological Gardens: three wallabies nailed into wooden crate with only a few air holes. No way to water. 5/29/74. WB 413433.

MICHIGAN

Emaciated beagle shipped from Tennessee to Battle Creek, Mich. was so infested with hookworms, it could only sit, head down, without moving in its shabby, dirty crate. Chicago veterinarian who examined dog on stopover at O'Hara Airport in Chicago, en route from National Airport to Michigan, said dog could no longer respond to voice or touch. January, 1973. WB 548750.

NEW YORK

From Ohio to Islip, N.Y.: Two Australian shell ducks stuffed into small lettuce-type crate. One duck nearly strangled by twine unraveled from burlap sack in crate. 9/23/74. WB 332751.

Two kittens shipped from Kansas to a New York pet shop taken to Alexandria veterinarian who treated injured eye of one kitten and noted that kittens were "too young to travel." Also stated that plastic crates did not keep kittens warm enough in January weather. 1/6/75. WB 608590.

NORTH CAROLINA

Two chihuahua puppies died en route from Albia, Ia., to Beaufort, N.C. pet shop. 5/4/73. WB 905334 (pix available).

Coonhound sent from Missouri to N. Carolina in an airless, coffin-like crate that was 15 inches wide, stuffed with straw and nailed shut. No water container. 1/3/73. WB 885277 (pix available).

From Arkansas to a Fayetteville, N.C. pet shop: 27 dead and four live guinea pigs. 7/22/74. WB 760596.

Snake shipped from Santa, Cal. to a Wilmington, N.C., zoo got out of cardboard box in which it was sent. 5/22/73. WB 654548.

Four crates of puppies three days en route from Kansas found at airport bound for Wilson, N.C. pet shop. 9/9/74. WB 731292.

PENNSYLVANIA

Bitch in heat sent to Pennsylvania in crate with no bedding. Blood spilling from crate. 1/26/73. WB 875557.

From Jacksonville, Fla.: puppies in cardboard crate covered with plastic. No ventilation. Transferred to new crate at Airport and shipped on to Reading, Pa. 2/19/74. WB 927337.

Hound shipped from Ohio to Hydman, Penna. in plywood crate with wire lid nailed shut. No bedding. So short and narrow, hound stood in hunched position. 4/29/75. WB 555704.

Irish setter shipped from Illinois to Carlisle, Penna. chewed hole in crate, got head stuck outside. Managed to chew up carton of laboratory rats sitting in front of it. Jan. 1973. (pix available).

RHODE ISLAND

Airline freight handler brought five crates of puppies to "animalport" because they could not get on a flight to Warwiick, R.I. until the following morning and airline had no facilities to care for them. Volunteers fed and watered puppies, changed their bedding and returned them to airline . . . at no charge. 8/21/74.

Wooden crate too small for hound puppy shipped from North Carolina to Cranston, R.I. Only ventilation: two narrow strips of chicken wire near top of crate. No bedding or water containers. October 1974, WB 421390.

Two beagles stuffed into a small crate for shipment from Virginia to Cranston, R.I. 11/20/74. WB 317530.

SOUTH CAROLINA

Four-month-old emaciated coonhound shipped from Illinois to S. Carolina with infectious hepatitis. Eyes filled with pus. Found in warehouse in flimsy crate too small to permit dog to stand up or turn around. No cross-ventilation. No container for water. No absorbent material. Dog crouched in crate filled with urine and feces. Taken by volunteers to Alexandria veterinarian for emergency treatment and removal of ticks veterinarian said were "as big as balloons." Dog abandoned by both shipper and consignee who wouldn't pay vet bill. Turned over to humane society volunteers. Dog's illness later diagnosed as "infectious hepatitis". Dog died. 5/30/73. WB 860375.

Blue tick hound shipped from Illinois to Greenville, S.C. in wooden crate that was nailed shut and measured six inches shorter than the dog. 9/4/74. WB 235764.

From Mt. Vernon, Ia. to, Hartsville, S.C.: six St. Bernard puppies in crates containing no bedding or water containers. 8/26/74.

Puppies en route from Missouri to Orangeburg, S.C., in crates that fell apart at airport. 8/21/74. WB 34967.

TENNESSEE

Toy poodle puppy shipped from North Dakota to Nashville, Tenn. found locked in dark, airless closet in warehouse at airport. Puppy was in a plastic crate with crushed top. Needed water. Freight handlers said puppy was locked in closet so that "animalport" volunteers wouldn't see crushed crate. 4/30/75. WB 490087.

Dog shipped from Indiana to Knoxville in orange crate with no water container, and no solid bottom. 9/16/74. WB 305901.

Hound shipped from Missouri to Cleveland, Tenn., in makeshift crate, two front paws hanging out. 8/19/74. WB 908728.

Husky puppy shipped from Kansas to Knoxville, Tenn. pet shop. Listless, heavy mucous in eyes and nose. Had cough. 1974. WB 501941.

VIRGINIA

Male beagle bleeding from rectum en route to Winchester, Va. Taken to veterinarian. 5/13/75. 06JAXAB20735050.

Eighteen-month-old coonhound shipped from Tennessee to Virginia in last stages of distemper. Euthanized at Manassas Animal Hospital. 1/6/72. WB 446648.

Walker hound shipped from Texas to Mt. Jackson, Va., in a rusty, wire crate lined with tar paper that had melted in 98 degree heat. Dog was insured for \$1,000. 8/29/73. WB 941479.

Hound shipped from Illinois to Cape Charles, Va. in lettuce-type crate too narrow to permit dog to urinate or defecate. Dog broke out of crate for that purpose. 2/21/74. WB 235140.

Boxer pup and Peke shipped from Missouri 1/7/74 to pet shop in Springfield, Va. At REA terminal 1/9/74. WB 727675.

White terrier puppy shipped from Waverley, Kansas to Richmond, Va., dead on arrival at REA terminal. 9/4/74. WB 757676.

Dead elkhound puppy from La Plata, Mo., found in lettuce crate en route to Virginia Beach pet shop. (Autopsied). 6/17/75. WB 123758.

Senator WEICKER. We have next Joe Morgan, counsel, American Humane Association; Rutherford T. Phillips, executive director, American Humane Association; and Franz Dantzler, director, field services and investigations, Humane Society of the United States.

All of your prepared statements will be accepted and made a part of the record in full. I'd appreciate it, just as a matter of time, if you could synopsize because I'm really interested in your opinions off the top of your head as to various situations and making sure that everybody has an opportunity to present their case. So with that, please go ahead and start.

STATEMENT OF JOE V. MORGAN, JR., COUNSEL, AMERICAN HUMANE ASSOCIATION

Mr. MORGAN. My name is Joe V. Morgan, Jr., and I'm a member of the bar of the District of Columbia and Maryland. I'm Washington counsel for the American Humane Association and since I have here with me Mr. Phillips, who is their executive director, I won't go into detail as to what the American Humane Association is. He will talk about that. He's come here from Denver. He happens also to have been, for the last 15 years, the chairman of the National Council for Animal Transportation which was initiated about 15 years ago by the American Humane Association.

I will try to keep my remarks very brief and let Mr. Phillips go into those things.

Because we are a charitable organization our legislative activity has to be very limited by law and we try to restrict it to situations where it would appear there's a reasonable expectation of obtaining useful legislation and we feel that these hearings are such an opportunity and therefore we are very happy to have the opportunity to be here.

On October 29, last, the American Humane Association had its 99th annual convention in San Diego, Calif., and the association passed a resolution urging the passage of S. 2070 and S. 2430 or similar legislation which, of course, would include the intent of S. 1941. We prefer S. 2070 and S. 2430 merely because it does have the animal fighting provisions in it. We are sure that the committee in considering these

three pieces of legislation will take the best provisions of them all and put them together and come out with a very good act.

We do have, and I will be very brief on this, a couple of specific comments on these three bills.

On S. 1941, since the original jurisdictional basis of the prior act as amended which is "affecting commerce" is to be changed to "in commerce," will it be clear that an "intermediate handler," includes a delivery service. We want to feel confident that it will be clear that an intermediate handler who only transports animals within a State but then turns them over for continuation of the trip in interstate commerce will be covered by the act.

I think the other two acts do broaden the definition of commerce if it affects commerce and it includes transportation within the State. I'm not sure whether it's the intent of S. 1941 to do so, but I think it should be certain that these intermediate handlers are covered because they are very important and they are not subject to the jurisdiction of regulatory agencies such as the CAB because they are not carriers under their definition and I suspect that's probably true with respect to other regulatory agencies such as the ICC.

I'm sure the chairman or someone on the staff has already found the typographical error in line 9 on page 5, "retail" should be "retain," and I assume that's been corrected.

One suggestion we'd like to make on page 7 of that bill, 1941, line 4, is that before the word "veterinarian," the word "accredited" be inserted. I notice there was a reference to that in the testimony from the gentleman from the Agriculture Department and I have attached to my statement a portion of a witness which we presented at the CAB hearings to explain why that might be helpful and I hope that will be accepted as part of my statement.

Now this association as represented by me and the other witness, fully participated in the proceedings before the CAB which were referred to earlier in docket No. 26310, urging reasonable tariff changes for domestic air carriers. However, it will be some considerable time before the results of these hearings which are still before the administrative law judge are known, and I think it's clear from what's been said today that it's not absolutely certain that the results will do what we want. We have participated fully in that hearing and we are participating here.

Frankly, we're not taking sides. We are anxious for whichever comes first to come first and I think we have to shoot all the arrows and all the bows and try to see if we can't get these regulations. We hope that they will proceed both in this form and before this august body and before the CAB.

We thought it might be helpful, however—we have already provided copies to the staff and I have more here—to offer in the evidence today our exhibits in that proceeding, in docket 26310, and also the brief which we just filed this week on Monday which indicates, among other things, that we feel it is possible to set forth in detail, reasonable regulations. Of course, this body is not passing on specific regulations. It's considering who should make the regulations, but I think it's important to know that it is possible to make these kinds of regulations and that they will not be unreasonable.

I'd like to ask the chairman, may I include those in the record?

Senator WEICKER. Yes, very definitely.

Mr. MORGAN. And I have already provided copies. I have more copies. I notice by inadvertence I left our Exhibit No. 201, which was a letter to our witness from the DOT, out of what I have already provided and I wonder if I could submit that to you.

Senator WEICKER. Indeed you may.

[The letter follows:]

DEPARTMENT OF TRANSPORTATION,
FEDERAL AVIATION ADMINISTRATION,
AERONAUTICAL CENTER,
Oklahoma City, Okla., August 5, 1975.

ROBERT L. HUMMER, V.M.D.,
10606 Sunflower Lane,
San Antonio, Tex.

DEAR DR. HUMMER: Pursuant to Dr. Busby's request, I am summarizing the work that has been performed at the Civil Aeromedical Institute during the last year concerning the stress environment of animal transportation.

On August and September of 1974, I made trips to Washington, D.C., Chicago, New Orleans, Houston, Dallas, and Phoenix. On these trips I took, as excess baggage, a dog crate instrumented with a Honeywell 24-hour temperature-humidity recorder. The intent was to record the temperature and humidity of the Class D baggage compartment where animals are kept during shipment.

Being in August and September and because of scheduling, we were unable to get the hottest days for our flight runs. In addition, the manufacturer failed to tell us that the recorder had about a 30-minute delay response, so we were unable to record the actual temperature at the moment it occurred. Because of this, we felt the data were not complete and did not reveal the true picture of each flight.

During the past year, we were also able to study the effects, on two groups of 10 male dogs, of a high temperature and its corresponding high and low relative humidities (RH) which could conceivably exist during air transportation. The first group averaged 49.3 pounds, and the second averaged 55.8 pounds in weight. All dogs were individually exposed to heat/humidity stress. The first group were exposed for 30 minutes to a temperature of 130° F and RH of 15%. The second group were exposed for the same time period and temperature, but the RH was 35%. All dogs were monitored for heart rate and rectal temperature. Twenty-two different blood analyses were determined for each dog.

The results showed that significant differences ($P < .01$) did occur in rectal temperature, blood CO₂, blood pH, heart rate, hemoglobin, hematocrit, and red blood cell count, during the 30-minute exposure for both groups of dogs. However, only rectal temperature, blood CO₂, and blood pH showed a significant increase ($P < .01$) when comparing the 15%- to the 35%-RH group. Body weight, blood O₂, and blood cholesterol showed a significant change at $P < .05$ level for both groups during the 30-minute exposure.

On days 0, 1, 2, 4, and 8 following exposure, two dogs from each group were necropsied and tissues were studied for histological changes. The changes in the brain were the most profound and significant pathological alterations of the organs studied. The nerve cells of the cerebellum and cerebral cortex presented marked degenerative changes. Many specimens showed evidence of edema and microhemorrhages. Most changes found in the central nervous system were considered to be severe and irreversible.

Microscopic examination of the heart tissue revealed that fragmentation of the myocardium was prevalent; this was believed to be due to hyperthermia. In general there was loss of muscle fiber striations and early degeneration of the nuclei. Microhemorrhages were often seen in the tissue. The changes observed in the heart muscle are questionable as to their irreversibility.

The kidneys of some dogs presented changes of acute cortical necrosis. These were marked, acute, profound, and believed related to the experimental procedure.

The lungs, in general, showed varying degrees of congestion and septal thickening for the group of dogs exposed to the 15% RH, while the lungs of the group exposed to the 35% RH presented more interalveolar hemorrhage, engorged blood vessels, and edema. The lungs of those dogs necropsied at days 0, 1, and 2 revealed the most pathological involvement. By days 4 and 8 the lung tissue was showing evidence of repair.

Because an animal does not die or show outward signs of illness when stressed by environmental conditions does not mean it is in the best of health. Just because an animal is able to tolerate such conditions as temperature, humidity, varying CO₂ levels, noise, confinement, reduced air flow (air changes), and total darkness rather than light does not mean the animal is being treated humanely or safely. We have attempted to show this in our short and somewhat limited study. At present, no further studies are planned in this area.

Sincerely,

G. D. HANNEMAN, D.V.M.,
Chief, Veterinary Medicine Section, AAC-111,
Civil Aeromedical Institute.

Mr. MORGAN. Based on that, I would introduce Mr. Rutherford T. Phillips, our executive director.

[The statement follows:]

STATEMENT OF JO V. MORGAN, JR., WASHINGTON COUNSEL FOR THE
AMERICAN HUMANE ASSOCIATION

My name is Jo V. Morgan, Jr. I am a member of the District of Columbia and Maryland Bars and my main office is at 815 Fifteenth Street, N.W., Washington, D.C. I am Washington counsel for The American Humane Association concerned with their legislative interests, among other things. Because of their charitable status, their legislative activity is very limited, and they try to restrict it to situations where it would appear that there is reasonable expectation of obtaining legislation which would help protect animals or children. They feel that these hearings on S. 1941, S. 2070 and S. 2430 present such an opportunity.

At their 99th Annual Convention in San Diego, California on October 29th last, the Association passed a resolution urging the passage of S. 2070 and S. 2430, or similar legislation, which would include S. 1941. The Association prefers S. 2070 and S. 2430 because of the additional provisions prohibiting animal fighting.

A. The Association has the following specific comments on the three bills:

S. 1941

(1) Inasmuch as the original jurisdictional basis of the Act of August 24, 1966, as amended, P.L. 89-544 and P.L. 91-579 which is "affecting commerce" is to be changed to "in commerce", will it be clear that an "intermediate handler", see line 19 on page 3 through line 2 on page 4, includes a delivery service like REA was, or United Parcel is, which picks up an animal or a number of animals within a State and delivers it to an interstate carrier's terminal for continuation in interstate commerce. If this is not clear, we suggest it be made clear.

(2) There is a typographical error in line 9 on page 5, "retail" should be "retain".

(3) We suggest the word "accredited" be inserted before the word "veterinarian" at the end of line 4 on page 7. The reason for this is set forth in the excerpt from testimony of Dr. Robert L. Hummer, DVM, the Association's Veterinary Medicine Consultant before Civil Aeronautics Board Administrative Judge Alexander N. Argerakis, in CAB Docket No. 26310, a copy of which is attached hereto as Exhibit A.

B. The Association has, represented by this counsel, participated fully in the proceedings in the Civil Aeronautics Board, Docket No. 26310, urging reasonable tariff changes for the Domestic Air Carriers which would protect live animals during air transportation and ground handling in connection therewith. It will be some considerable time before results of these hearings, which are still before the Administrative Judge are known. While it is recognized that this Subcommittee is not here concerned with specific rule making, but rather who should make and enforce the rules and how, it was thought that copies of The American Humane Association's Exhibits and its brief to the Administrative Judge, including comprehensive proposed rules for air carriage and ground handling of animals, might be of assistance to the Subcommittee. I request these be made a part of the record of this hearing.

Respectfully submitted,

Jo V. MORGAN, Jr.

EXHIBIT A

Q. On page 3 under the proposed health certificate, is an accredited veterinarian one who is licensed to practice in his jurisdiction, or what does that term mean?

A. The current interpretation of the designation "accredited" means that he has been accredited to do T.B. testing, Bangs testing, things of this type, pertaining to large animals after he has received his state board examination from any given political division.

Now, at a previous meeting in this room it was indicated by representatives of USDA that they were working on a similar certification for the other animals, excluding the large animals, and it was with that advance information in mind that I insisted that we put the word "accredited" in there, because as there are creatures and creatures and wives and wives there are veterinarians and veterinarians, and I feel that we should insist that we have an accredited veterinarian doing this testing and certifying. There are too many examples too where licensed veterinarians are signing a whole pad of shipping certificates and giving them out to their clients.

Q. The accreditation though is an accreditation by the Department of Agriculture for large animal practitioners?

A. That is correct.

Senator WEICKER. Let me say this in passing. I think one thing becomes rather clear as we sit here and discuss this matter as to who's going to do the job. I think we would probably all agree that the FAA is the least likely candidate. Their primary consideration is safety for everybody. Now you boil it down to CAB and the USDA. Granted the Department of Agriculture has really two primary responsibilities—animals and people—people are an important part. The CAB is really strictly people. That's their primary consideration. Secondary is animals, but it's clearly secondary. And the USDA has an expertise in the area of animals that is shared by no one else, at least to that level of expertise.

It would also almost be the same if we asked the USDA to get into the business of airplane construction. They don't know anything about that.

So I think—and Dr. Chaloux will have a chance to respond to this—but if there weren't budgetary considerations, if it was just done on the basis of knowledge, I think it seems to me and at least the panelists up to this point, that this would be the agency to handle the type of regulation we are talking about here.

Would you agree with that?

Mr. MORGAN. Yes, I certainly would, and we do urge very strongly that this type of legislation be passed.

Senator WEICKER. Fine.

Mr. Phillips.

STATEMENT OF RUTHERFORD T. PHILLIPS, EXECUTIVE DIRECTOR, AMERICAN HUMANE ASSOCIATION

Mr. PHILLIPS. Thank you, Senator.

I will brief my remarks which I have filed. Jo Morgan has already touched on some of the things and we have presented testimony before before along this line and I just call attention to the fact that the American Humane Association, which is 99 years old, was set up as a federation of animal protection agencies and the child protection agencies, as I said, 99 years ago, and actually the beginning reason

was to try to achieve something in livestock transportation which led to the 2836 law that was passed in 1906, although the original act was passed in 1878.

The basic part of this, I think, has been pretty well touched upon. Mr. Morgan reported that at our convention in October the delegates unanimously urged the Congress that it enact into law a bill that intended to reduce suffering of animals during transportation on public and other carriers and prohibiting dog and other fights. Even though this is covered under State law, we have seen the problems of enforcement of this.

I think that, among other things, that we are concerned with—and again I'm briefing down—is the transportation of livestock and particularly horses by truck which has not been covered by the existing laws, and very interestingly, we have been approached and are working with the more or less independent or small truckers who would like to see enforcement of the ICC regulations which would cover the transportation of livestock and prohibit some less than legitimate people from overloading trucks and that sort of thing.

Last week at the Animal Welfare Committee meeting of the United States Animal Health Association, they also endorsed legislation that's supported by the National Council on Animal Transportation for extension of the act to allow the USDA to regulate shipments of animals in interstate commerce by air as well as to either pass a 28-hour law covering truck shipments or extending the present ICC regulations.

The intent of these bills we are certainly fully in agreement with. As Mr. Morgan pointed out, we have supported this type of legislation earlier. We have also worked at it from the standpoint of CAB and FAA regulations and our concern is how do we get it done? Mr. Morgan pointed out that in 1960 we called a meeting, which has later developed into the National Council on Animal Transportation, to see if we couldn't get all the people involved to come up with reasonable, practical approaches to handling the problems. And the airlines, the laboratory animal people, American Association of Laboratory Animal Science, the railroads, the truckers—everybody has been involved.

I think perhaps the possible concern that we had is the one that was pointed out earlier. Here 15 years later we are just beginning to get recommendations as bills or changes in regulations which that group approved of and recommended way back in 1960. So it is a difficult thing to work on a voluntary basis. There are certain things that I think can be done within existing agencies if the regulations are changed.

Now we have, through our headquarters, today passed on all of these complaints that come to our attention to the air carriers, REA and the others. We work and receive complaints from the laboratory animal people and a lot of others. We work closely with USDA. We are aware of and concerned that part of their problem is lack of funding. Part of the problem, as you mentioned earlier, sir, is there's a bit of difference between bureaus who have jurisdiction over one particular area or another, but at least I think in the last year there has been a very strong feeling of concern and I think that there are really no people involved—either the shippers or the receivers of animals or whether they transport people—that are not basically interested and concerned.

Of course, in every business there are a few that will try to evade—

Senator WEICKER. That's the question that I ask you gentlemen to give me some guidance on. Who is it, the shippers or the carriers, that you feel are operating behind the scenes? Believe me when I say this—and the ladies who were ahead of you testifying are not incorrect—somebody is trying to maintain the status quo here and I'm willing to accept the fact that OMB doesn't want to give the USDA part of the budget. OK, that's fair. I can handle that aspect. I think it's also clear that there are some of those that don't want any change in the present set of regulations. Who do you think it is?

Mr. MORGAN. I think it's possibly somebody from almost every group. I think there's always people who feel that as long as things are going all right, don't upset the applecart and there's been a lot of worry recently about the economic situation, the fact that anything that might smack of more expenses is going to be fought by somebody. Perhaps their worries are unjustified, but I think you will find that everywhere. I don't think we have any specific evidence or information of anybody specifically trying to do that, but there's certainly—in the CAB hearings which we went to, throughout much of the testimony which came from carriers, for instance, there was an undercurrent of this wouldn't be practical; this would cost too much; and I think if I were running an airline that would be a reasonable question to raise. They weren't alone. On some of the provisions some of the shippers said this will cost us too much to get new crates, to get different crates; these crates are OK; we aren't going to do anything that means the animals are going to be hurt because then we lose money on the animals.

But the evidence is that there are situations where people do cut corners and I don't know that you could put the blame to any one person, but certainly the chairman is correct; there are a lot of people who would like to keep the status quo.

Senator WEICKER. If we do enact this legislation obviously some of the expense is going to fall on the shipper. And obviously some will fall on the carrier. But I don't see where it's all that much, if you divide it among the two.

Mr. MORGAN. And ultimately, Mr. Chairman, much of that expense will fall on the shipper anyway because I presume the carrier will pass the cost on to the shipper.

Mr. PHILLIPS. I would agree that I do think in working with these people over the years that they are all very fine and dedicated and sincere, but then as it comes up, as it does in treating the problem of animal overpopulation or animals running at large, the taxpayer doesn't want to pay additional money for the Government regulation. The Government department has problems getting its funding and the transporter, the air travel or whatever agency, they are going to have problems if they are going to have to charge a higher rate.

Senator WEICKER. Let me make it very clear. I'm all for the shipper, whether it's the breeder or whoever, making a fair profit, but he also has to assume the expense and the carrier has to make a fair profit, too. I don't expect a nondog owner taxpayer to foot the bill. I don't think any of us do. Everybody has got to share a little bit of it.

Before we go on, let me ask Mr. Dantzler if he can make his statement now so we can continue our dialog.

[The statement follows:]

STATEMENT BY R. T. PHILLIPS, EXECUTIVE DIRECTOR OF THE AMERICAN HUMANE ASSOCIATION

Mr. Chairman and members of the committee, my name is Rutherford T. Phillips, and I am Executive Director of The American Humane Association.

The American Humane Association is a ninety-nine year old federation of more than 1200 agencies dedicated to the prevention of cruelty to animals and approximately 3000 governmental agencies concerned with the protection of children from cruelty. Some of its member agencies are over 100 years old, others have recently been formed. Some are small, depending on the efforts of dedicated volunteers, others are larger with tens or scores of professional workers. All seek to prevent cruelty to those who cannot always protect themselves, many perform important public or semi-public functions on a local, or even statewide basis. Almost every agency spends a large portion of its time and money on humane education, particularly among school children. Many of the major cities of the United States engaged such societies to perform their animal control responsibilities, with excellent results in our larger metropolitan areas. Also, societies for the prevention of cruelty to children and affiliated public agencies carry on a large part of the burden of protecting children from abuse or neglect.

We strongly support and urge passage of legislation such as S. 1941, S. 2070 and S. 2430.

S. 1941, S. 2070 and S. 2430 to amend the Federal Laboratory Animal Welfare Act and the amendments incorporated in the Animal Welfare Act of 1970 have a commendable purpose which many of us have been urging for a number of years. We have found no disagreement among organizations or groups involved with the handling and use of animals but rather a support of the general purposes set forth in the draft bills.

The delegates assembled at the 99th Annual Meeting of The American Humane Association, October 29, 1975 unanimously urged the Congress to enact into law a bill "intended to reduce suffering of animals during transportation on public and other carriers, and prohibit dog and other fights".

Many of us find from experience that legislation couched in general terms, which permits the establishment of regulations and with change in such regulations as needed provides a much more workable act to carry out the intent of protecting animals and improving and providing safeguards during transportation. Amendments to Sections 10, 12, 13, 14 and 15 give the Secretary of Agriculture the ability and instruction to modify regulations as necessary and to coordinate such regulations with existing laws and regulations of other departments of the government. As S. 1941, S. 2070 and S. 2430 are studied by this committee and others in the Congress, I am sure there will be areas of concern to other governmental departments regarding existing health and inspection procedures.

The Animal Welfare Committee of the United States Animal Health Association at their meeting two weeks ago endorsed legislation as supported by the National Council on Animal Transportation, "extension of the Act to allow the United States Department of Agriculture to regulate shipment of animals in interstate commerce". It also recommended that legislation be passed to extend the 28 hour law regulating livestock shipments by rail and boat be included to cover the livestock truckers within the I.C.C. regulations, excluding the farmer owned vehicles intrastate, but also recommended regulations on the care of livestock at auction. The above is similar to AHA's concern with regulation of live cargo handling at airports.

In support of the prior statements, I would like to point out that The American Humane Association was formed in 1877 by the then existing societies for the prevention of cruelty to animals to coordinate their efforts in assisting the government in providing protection for livestock in transit. The original law regulating the transport of livestock by railroad and barge was passed shortly afterwards and later amended and improved as the Act of June 29, 1906 (45 U.S.C. 71-74). U.S.A.H.A. also supports improvement in regulations to ensure the humane handling of horses in transit by ships to foreign ports.

The above support of the intent of S. 1941, S. 2070 and S. 2430 is reported to indicate the concern of national groups with the efforts of the Congress to

meet a problem which all of us are aware of and agree that the problem should be met head on. We have support from people and organizations involved with the industry involved in the use of animals for man's benefit.

AHA has been making proposals to the C.A.B. regarding air transport of animals pointing out the need for aircraft environmental studies and training programs for cargo and ramp personnel. It also has supported an improvement in I.C.C. regulations in support of independent livestock truckers, to provide better humane control of livestock shipments. These actions are supplemental rather than counter to the interest of the legislation before us today.

The problem of mishandling of animals shipped by any means of transportation, sometimes resulting in death or near death, led The American Humane Association in 1960 to call a conference of all of the people involved nationally in the transportation of animals to see what steps could be taken to remedy the situation. As a result of these meetings and subsequent meetings, the National Council on Animal Transportation was formed with representatives from the airlines, the REA Express Agency, the truckers, the railroads, the people such as the animal laboratory groups represented by the American Association of Laboratory Animal Science, the Association of Zoological Parks and Aquariums, and the humane agencies and the people who purchase or ship animals both in this country and abroad.

As a result of our meetings and discussions, we found that individuals, be they pet owners or animal dealers, often shipped animals in substandard containers without sufficient instructions to cover handling of the animals should there be a delay in transport due to weather, mechanical difficulties or mishandling. We also found that many people ordering or purchasing animals would order them in a hurry by air forgetting that they would not be there to pick the animals up when they arrived. It was also found that the shipping compartments on various aircraft vary from airline to airline.

The National Council on Animal Transportation set forth standards for containers, for handling procedures, for labelling and instructions covering every type of animal from mice for laboratories, cayman being shipped in the pet trade, by individuals, to exotic species such as lions, tigers, baboons and gorillas.

Through AHA headquarters as a source of information for the National Council on Animal Transportation, all cases of mishandling that are reported are disseminated to all of the agencies who have a concern and an interest. Action is being taken and there has been an improvement in the handling of animals. If we come down to specifics, the percentage of animals which die or have to be destroyed is very, very low compared to the number of live animals handled which, of course, includes laboratory mice and rats, rabbits, zoo animals, pet animals, etc. Many, many horses and cattle for show purposes or for breeding stock are shipped by air as well as by truck and railroad.

AHA and the National Council on Animal Transportation is concerned with devising regulations and procedures which will eliminate all types of stress due to mishandling, so that all animals leave and arrive in optimum condition.

Because of the Council's work, airlines have changed plane construction specifications and the FAA and CAB have established regulations to provide special handling for live cargo.

Other recommendations have been that of a special committee which has urged the need for research into the environment within the cargo compartments of aircraft which is affected not only by the type of ventilation and temperature control but also by the effect of other types of cargo upon live animals. It is difficult to establish standards without facts.

Mr. Chairman, Committee members, I have taken a few moments of your time with this background information to indicate that the problem of animal transportation and the possible mishandling which can lead not only to a humane concern but to an economic loss, has engaged the interest of many people including those who raise the animals, through to those who use the animals for animal products for the benefit of man. As citizens of this country, all of us are basically educated to humane ideals and always seeking to find ways to do a better job.

As I mentioned, enough people representing government departments, breeders, shippers and consignees of animals were interested to get together in 1960 and have met eight times in national meetings and half a dozen times in subcommittee meetings since that time because we were seeking cooperative ways of solving the problem of mishandling.

I feel that we need legislation and regulations to enforce the voluntary recommendations such as the IATA manual and other excellent guidelines prepared by the airlines, railroads, The American Humane Association, etc. Under the Animal Welfare Act, the Department of Agriculture has done an admirable job but has been limited by their inability to enforce regulations at some points where inadequate personnel, education, or mechanical or natural problems have interfered with the normal flow of traffic of livestock, including everything through pets and laboratory animals.

It is my interpretation of the concern of all of these groups that we would welcome the passage of S. 1941, S. 2070, and S. 2430 and its implementation. As pointed out above, there may be some specific areas where we will have to clarify the need for veterinary pre-shipment inspection, in the case of livestock going to slaughter, or the age limits on certain animals needed in research, but I believe we have enough interest and concern on the part of all who will be affected by such laws and regulations that these problems can be solved with cooperation.

The American Humane Association urges favorable action, not only by this Committee, but by the Congress on S. 1941, S. 2070, S. 2430 and action to implement the establishment of regulations and enforcement of such standards and regulations.

Thank you for permitting me to present my thoughts.

STATEMENT OF FRANTZ DANTZLER, DIRECTOR, FIELD SERVICES AND INVESTIGATIONS, HUMANE SOCIETY OF THE UNITED STATES

Mr. DANTZLER. Thank you, Mr. Chairman. My statement is relatively brief, about 3 or 4 minutes, if I may read it.

The Humane Society of the United States is a nonprofit national organization which for the past 20 years has dedicated itself to the prevention of cruelty to animals and advancement of the humane ethic. Our organizational structure includes regional offices strategically located throughout the United States and our constituency represents the largest individual membership of any national animal welfare organization. We appreciate very much this opportunity to respond to this committee's request that we comment on the problems and abuses associated with the shipment of animals in commerce.

Since two of the three bills being here addressed do contain prohibitions against dog fighting, a subject matter which is pointedly omitted from S. 1941, the HSUS would like to state that it thoroughly agrees with the obvious implication of this omission, to wit, that this crucial new legislation prohibiting dog fighting should not be approached indirectly, as one more amendment to the Animal Welfare Act, with enforcement in the hands of the USDA, but should—preferably in the form of separate legislation such as that introduced by Senator Harrison Williams, S. 193—be labeled a serious and separate crime, with the prohibition squarely included within the provisions of title 18 of the U.S. Code. In such event, the enforcement of the statute outlawing this vicious crime will not be intertwined with the inspections and regulatory duties of the USDA, but will instead have all of the normal force and power of the Department of Justice behind it.

Now to move on to the provisions of S. 1941, S. 2070, and S. 2430. We surely do not feel that it would be necessary or even fruitful to go into detail here as to the need for legislation on these subjects. The case is well documented and has been the subject of many earlier congressional proceedings. In this connection I would simply like to refer the committee to the testimony of the president of HSUS, John A. Hoyt, to be found in the hearings conducted in September of 1973

before the House Committee on Government Operations, at pages 46 through 62, and the more recent testimony presented earlier this year by HSUS director of research and data services, Guy Russell Hodge, on September 10, 1975, before the House Committee on Agriculture, in its deliberations to H.R. 5808—the language of which is in substance identical to that of S. 2070 and S. 2430.

However, we do have here today several suggestions that we feel will materially strengthen this proposed legislation that is now the subject of these hearings. First, as to S. 1941, the HSUS would today ask that the permissive language pertaining to health certification be made mandatory, as it is in S. 2070 and S. 2430, and that the stronger language of S. 2070 and S. 2430 be adopted with respect to the shipment of animals less than 8 weeks of age. The presumption that shipments of dogs or cats less than 8 weeks of age should be prohibited unless otherwise prescribed by the Secretary, as set forth in S. 2070 and S. 2430, would appear to give more protection than the language now found in S. 1941.

The HSUS feels strongly that S. 1941 should not only contain the provision relating to c.o.d. shipments as included in S. 2070 and S. 2430, but that this language of section 13(d) in those bills should be strengthened to specifically provide carriers with the authority to authorize any emergency veterinary treatment which may be necessary for the well-being of an animal.

Perhaps the key advantage to be found in S. 1941 over other pending legislation with similar goals and aims, is that this bill specifically strikes out the preexisting exemption for retail pet shops and stores, which has in the past had the effect of leaving millions of animals uncovered by the act and thereby unprotected. Parenthetically, Mr. Chairman, I presented a special report on that subject for the record. In addition, we strongly support the inclusion of birds as shown in S. 1941.

Penultimately, the HSUS would like to see S. 1941 include the provision found in S. 2070 and S. 2430 requiring recommendations and conclusions to be made annually by the executive branch of Congress, “* * * concerning the aircraft environment as it relates to the carriage of live animals in air transportation.” However, we would strongly urge that this investigative reporting procedure not be restricted to questions arising from the plight of animals in air transportation and that it be broadened to include the same issues and questions, many of which remain quite unanswered to this day, concerning the actual conditions visited upon animals in all forms of surface transportation, such as truck, rail, and ship.

Finally, it might be here worth noting that while this proposed legislation, and the Federal Laboratory Animal Welfare Act of 1966 and the Animal Welfare Act of 1970 basically provide the authority whereby the Secretary of Agriculture promulgates and enforces minimum humane standards in a set number of categories involving the handling and care of animals, the CAB has over the past several years been conducting proceedings whereby actual standards are being promulgated which set minimum requirements for the handling and care of animals in many of these same categories—i.e. containers, feed, water, rest, ventilation, handling, health certification, veterinary care, et cetera. This CAB case, under docket No. 26310, is entitled, “Rules

and Practices Relating to the Acceptance and Carriage of Live Animals in Domestic Air Freight Transportation." All major air carriers and shippers are involved in the proceedings and ultimately, there will be final tariffs adopted which will set very specific standards, will be binding on all domestic air carriers, and constitute a condition of carriage of any live animal shipment. Our point in noting this is to remind this committee that the CAB proceeding is restricted to animals being transported by air and will afford no relief whatsoever to the millions of animals moving in commerce by other means. Therefore, we strongly urge the passage of this pending legislation, with certain modifications as suggested above, because it is so absolutely essential and there is no substitute for it anywhere on the horizon.

Senator WEICKER. We have discussed the obligations that should be placed on the shipper relative to the crate, et cetera. We have discussed the obligation which should be placed upon the carriers to try to develop standards. We have discussed the possibility of the USDA involving itself in setting those standards and enforcing them, and I think we all recognize in the back of our minds that we can't expect the public at large to pay for this.

Do any of you have any suggestions as to how you get some sort of a handle on this whole business that's sprung up of shipping animals in such large volumes? As I gather the problem, we are not just talking about the individual owner who ships a pet here. This has become a big, big business involving hundreds of thousands of small animals. Should there be some sort of a license obtained for shipping in interstate commerce for which there would be a charge made? Does anybody have any ideas of how you get a handle on this?

Mr. DANTZLER. Senator Weicker, first of all, if I may digress just for a moment relative to the discussion just before I gave my statement, I think it's a known fact that we have to recognize that the problem has been brought on by a failure both of the carrier and the shipper to provide minimum standards. They, therefore, should be applicable in that regard.

As far as extra costs that may be applied to the cost of shipment of animals, I most certainly believe that it should be passed on to the consumer; in other words, the persons that are purchasing the animals, the individual pet owners or the retail pet industry business, et cetera. The cost should certainly be transmitted to the people who are actually using the service as opposed, of course, to the taxpayers who should not carry the burden for it. That would be my reaction to that.

Mr. MORGAN. I think if there were license fees, Mr. Chairman, either on shippers or on carriers, they would ultimately, as was suggested, be passed on to the consumer. While it might raise some question that it would be putting an additional burden on the consumer, we are dedicated to giving minimum protection to animals and I think if animals are to be shipped and the decision is made by the consumer, that is the shipper to ship animals they should pay for at least a minimum degree of protection, whether it's direct cost or whether it's a license fee which will defray some of the Government inspection and so forth.

Senator WEICKER. Let's face it, it's fine that Fay Brisk and others go out to the airport, but they are doing it voluntarily, where in effect they are subsidizing the owners that are going to get those dogs. They are the ones that are taking care of it. There's no getting around the fact that there is an expense attached and, very frankly, we're not talking about cows and farm animals, but we're talking about a luxury here as far as many of the small animals that are shipped through. I've got five dogs myself and I admit to the fact they are a luxury and I've got to take care of them and I don't think I can expect the neighbor to go ahead and do that job for me at all.

Mr. PHILLIPS. Senator Weicker, I just might add to that, perhaps the gentlemen following me—we have discussed this area of environmental concerns with the air carriers, the containerization and that quality, and we are getting some good reaction out of governmental agencies, be they FAA or the Department of the Army or whatever.

Now this kind of thing we also have seen as a possible study to be done at the expense of the airlines or the aircraft manufacturers and there is some progress being made. This would be on that one area. Then the other, I think we all agree definitely with your thinking. You're going to pass on the cost of the proper handling, the training of personnel on the ground, which is also another area of great concern—it's going to be borne by the people who are paying for the shipments and through the airline tariffs and that sort of thing.

Senator WEICKER. I notice in the report here of the Committee on Government Operations in 1973. Americans spent over \$2 billion in 1972, to buy and care for their pets. We are not talking about horses and cows and sheep. Transportation of pet animals is an expensive part of the pet industry. It's a high-profit industry with wholesalers and retailers alike with estimates of the average wholesale price for dogs ranging from \$55 to \$85 and retail price of \$150 to \$300. That's big business.

Do any of you have any questions of any of the gentlemen that appeared from the Federal agencies here that you'd like to ask through me?

[No response.]

Senator WEICKER. Thank you very much, gentlemen. I appreciate your appearance.

Mr. William Bergman, executive vice president, Pet Industry Joint Advisory Council; Dr. H. E. Kingman, Jr., executive director, National Society for Medical Research; and Mr. Leo Seybold, vice president for Federal Affairs, Air Transport Association.

Gentlemen, your full statements will be made a part of the record and I would appreciate it, only so that we can have a dialog here, if you could synopsise so we could get a question and answer discussion session going. With that, whoever would like to lead off, be my guest.

**STATEMENT OF WILLIAM BERGMAN, EXECUTIVE VICE PRESIDENT,
PET INDUSTRY JOINT ADVISORY COUNCIL**

Mr. BERGMAN. Senator Weicker, my name is William Bergman, and I am the executive vice president for the Pet Industry Joint Advisory Council. Mr. Jossierand, who was going to appear with me today, unfortunately was not able to make it, so I will present the council's views alone.

As you suggested, I will attempt to summarize my statement.

Senator WEICKER. It will be included in its entirety.

Mr. BERGMAN. Thank you. First, let me tell you a little bit about the council. It was generated out of an awareness of the responsible members of the pet industry who recognized that there was a need for a forum within the industry to review its practices and to present its views and policies not only to its industry but also to those legislative and regulatory bodies which directly or indirectly affect the pet industry.

The pet industry is a multibillion dollar industry employing tens of thousands of people in all 50 States as well as in many foreign countries. Industry members, the majority of which are small independent businesses, breed, acquire and/or market virtually every species of live animals for pets, for zoological specimens, and for biomedical research throughout the world. Whether breeder, manufacturer, wholesaler or retailer, each segment of the industry is concerned with the humane treatment of animals.

Responsible members of the pet industry recognize that problems do exist with respect to the handling of animals and thus support the intent of the amendments to the Animal Welfare Act in S. 1941, S. 2070, and S. 2430. We do propose some minor modification of the language used in these bills, and, unless otherwise indicated, will address our remarks to S. 1941.

In the proposed amendments to the act, section 10 of S. 1941 suggests standards to be promulgated by the Secretary to govern the handling, care and treatment of animals during transportation in commerce. While the council agrees that such standards concerning feed, water, rest, ventilation, et cetera, are necessary, it is somewhat apprehensive of the inclusion of words such as "air pressure" which may lead to unforeseen problems. Future regulations dealing specifically with air pressure standards may be enacted which cause inconsistencies with the present design and operation of aircraft. Compliance with such regulations would be impossible and undoubtedly force airlines to embargo live animals. This would be of grave consequence to the pet industry since air transportation is one of the best and most reasonable modes of transportation available to the pet industry at present, and is generally one of the most humane means of transportation.

Furthermore, the proposed language in section 13(b) would require that each animal tendered by certain specified persons must be accompanied by a health certificate. Under such requirements a shipment consisting of 500 rodents would need to be accompanied by 500 health certificates identifiable to each individual rodent. To keep rodent and certificate together would require 500 individual compartments or containers. For those jurisdictions requiring certificates for certain

species of animals, the certificates often run to the shipment not to each animal individually. Therefore, the council agrees with section 10 of S. 2070 that the language of proposed section 13(b) be amended to read "dogs and cats, or additional kinds of classes of animals designated by regulation of the Secretary" be required to be accompanied by health certificates. The Secretary should have the discretion to determine which animals or animal shipments, other than dogs and cats, need to be accompanied by a health certificate.

As mentioned in our testimony last year before the House Agriculture Subcommittee on Livestock and Grains, no veterinarian can certify that the animal may withstand the rigors of the intended transportation when he has no method of determining what conditions the shipment may experience. The health certificate should show that, upon examination or inspection, the veterinarian finds that the animals are free from visible signs of infectious disease or physical abnormality which would endanger the animal or other animals during transit.

We therefore suggest that the certification requirements be amended by deleting the term "sound and healthy" and substituting therefore "the animal or animals appeared free of any infectious disease or physical abnormality which would endanger the animal or animals or other animals during transit."

The council supports wholeheartedly the proposed subparagraph (d) of section 10 of S. 2070 and S. 2430 which amends section 13 of the act to condition the live animal shippers' ability to utilize the c.o.d. services of a common carrier.

The council urges that the act be expanded to provide that any person who advertises for sale, and/or sells in interstate commerce should be licensed. Furthermore, all animals in categories which are covered under the act should be protected and there should be no discrimination due to the ownership of the animal. The council recognizes that special waivers must be granted by appropriate regulatory authorities when it has been affirmatively demonstrated that exceptions are warranted.

In section 11 of S. 1941, the language specifically states that no standards with respect to transportation by air shall become effective without the approval of the Secretary of Transportation with respect to flight safety. The council cautions the committee members against the introduction of another agency in the control of air transportation. The CAB presently has the authority to promulgate air transportation regulations, and by placing authority in still another regulatory agency, the amendments will only serve to effect arbitrary regulations and further encumber the regulatory process. The rights of the shippers to voice complaints against unfair regulation will also be denied, and the only recourse open to them will be through the Federal court system.

Our final comments are addressed to the overall method by which the amendments to the act will be implemented. Throughout the proposed amendments, the Secretary will be delegated the authority to promulgate rules and regulations. Various animal interests during the past several years have endured irresponsible and reckless rule-making by various Government agencies involved with live animals. Most recently we have seen it with the FAA and with the Department of the Interior.

Regulations should be based upon evidence and expertise of the agencies regulating, but issues involving live animals are extremely complex and the evidence is not always clear. Moreover, expertise is more often than not found within the Government agencies attempting to regulate. When we deal with animals we are involved with highly emotional and sensitive issues. Standards must be detailed and must be specific. Rulemaking by the submission of written comments would be inadequate, because rulemaking in such circumstances is usually dictated by the numbers of letters written and not necessarily by their content. Therefore, the Council believes that it is imperative that rules and regulations involving live animals should be made following a full evidentiary hearing in which all interested persons may be heard and have the opportunity for cross-examination.

Senator WEICKER. Thank you very much.

[The statement follows:]

STATEMENT OF WILLIAM S. BERGMAN, EXECUTIVE VICE PRESIDENT, PET INDUSTRY
JOINT ADVISORY COUNCIL

Mr. Chairman and Members of the Committee, my name is William Bergman and I am the Executive Vice President of the Pet Industry Joint Advisory Council. I want to thank you for giving me the opportunity to present a few observations and comments on behalf of the Council with respect to several proposed amendments to the Animal Welfare Act. At the outset, we support the committee in its efforts to develop meaningful legislation for the protection of animals.

The Council was generated out of an awareness of responsible members in the pet industry of a need for a forum within the pet industry to review its practices and to present its views and policies not only to its own industry, but also to those legislative and regulatory bodies which directly or indirectly affect the pet industry.

The pet industry is a multi-billion dollar industry employing tens of thousands of people in all fifty states as well as in many foreign countries. Industry members, the majority of which are small independent businesses, breed, acquire and/or market virtually every species of live animals for pets, for zoological specimens, and for bio-medical research throughout the world. Whether breeder, manufacturer, wholesaler or retailer, each segment of the industry is concerned with the humane treatment of animals.

The Council's role is not limited solely to the advocacy of the interests of its members. The Council advocates appropriate, well-reasoned laws, rules and regulations for the protection of the public, the environment, and for the animals themselves. Such laws and regulations must be founded upon evidence and not emotion.

Responsible members of the pet industry recognize that problems do exist with respect to the handling of animals and thus support the intent of the amendments to the Animal Welfare Act in S. 1941, S. 2070 and S. 2430. We do propose some minor modification of the language used in these bills, and, unless otherwise indicated, will address our remarks to S. 1941.

The Council testified as to the problems of animal transportation last year before the House Agriculture Subcommittee on Livestock and Grains. At that time, the Council submitted extensive data in its general support of H.R. 15843 then under consideration. We will not repeat that testimony here, but we urge the committee to review the record there which is equally applicable to the bills presently under consideration.

In the proposed amendments to the Act, Section 10 of S. 1941 suggests standards to be promulgated by the Secretary to govern the handling, care and treatment of animals during transportation in commerce. While the Council agrees that such standards concerning feed, water, rest, ventilation, etc. are necessary, it is somewhat apprehensive of the inclusion of words such as "air pressure" which may lead to unforeseen problems. Future regulations dealing specifically with air pressure standards may be enacted which cause inconsistencies with the present design and operation of aircraft. Compliance with such regulations would be impossible and undoubtedly force airlines to embargo live animals.

This would be of grave consequence to the pet industry since air transportation is one of the best seasonal modes of transportation available to the pet industry at present, and is generally one of the most humane means of transportation.

The Council would also like to point out at this time that substantial evidence has been brought to light in the C.A.B. proceedings which shows that the problems with loss of animals in air transportation stem not from air pressure but from ground handling of the animals both prior to and after flight.

In the proposed amendments to the Act, Section 10 also provides new requirements for health certificates. It provides that any animal as defined under the Act delivered by certain specified persons for interstate transportation must be accompanied by a health certificate issued by a licensed veterinarian. No discretion has been left to the Department of Agriculture to exclude by regulations those animals which may not need such certificates. For example, the industry is not aware of the necessity that any health certificate let alone individual health certificates, should be required to accompany hamsters, guinea pigs, rabbits and non-human primates, the other species along with dogs and cats currently regulated under the Act.

Furthermore the proposed language in Section 13(b) would require that each animal tendered by certain specified persons must be accompanied by a health certificate. Under such requirements a shipment consisting of 500 rodents would need to be accompanied by 500 health certificates identifiable to each individual rodent. To keep rodent and certificate together would require 500 individual compartments or containers. For those jurisdictions requiring certificates for certain species of animals, the certificates often run to the shipment not to each animal individually. Therefore, the Council agrees with Section 10 of S. 2070 that the language of proposed Section 13(b) be amended to read "dogs or cats, or additional kinds or classes of animals designated by regulation of the Secretary" be required to be accompanied by health certificates. The Secretary should have the discretion to determine which animals or animal shipments, other than dogs and cats, need to be accompanied by a health certificate.

The proposed health certificate requirement would necessitate a veterinarian to certify that the animal inspected was "sound and healthy." Diseases or disorders such as hip dysplasia, previous fractures, or cancer would render the animal technically not "sound and healthy," but would have no bearing on the animal's ability to be transported safely or on the safety of other animals during transit. The important consideration is the prevention of transmission of infectious disease or jeopardizing the animals' life due to an existing physical condition.

As mentioned in our testimony last year before the House Agriculture Subcommittee on Livestock and Grains, no veterinarian can certify that the animal may withstand the rigors of the intended transportation when he has no method of determining what conditions the shipment may experience. The health certificate should show that, upon examination or inspection, the veterinarian finds that the animals are free from visible signs of infectious disease or physical abnormality which would endanger the animal or other animals during transit.

We therefore suggest that the certification requirements be amended by deleting the term "sound and healthy" and substituting therefore "the animal or animals appeared free of any infectious disease or physical abnormality which would endanger the animal or animals or other animals during transit."

The Council supports wholeheartedly the proposed subparagraph (d) of Section 10 of S. 2070 and S. 2430 which amends Section 13 of the Act to condition the live animal shippers' ability to utilize the COD services of a common carrier. You will undoubtedly hear emotional statements that COD shipments have caused horrendous problems for the animals being shipped. We contend that this is absolutely not so. While clearly there have been examples of abuses of COD shipments, those abuses constitute a very small number of the shipments that are being properly transported under the COD services. In the Civil Aeronautics Board *Liability and Claims Rules and Practices Investigation*, Docket 19923, Administrative Law Judge John E. Faulk found, upon an evidentiary record, that the experience of the airlines demonstrated that there was no sound reason to deny COD services absolutely for all live animal shipments. A rule which provides that the shipper must guarantee transportation charges in both directions, plus an amount sufficient to reimburse the carrier for all out-of-pocket expenses in the care, feeding and handling of any live animal is proper. COD services as a method of marketing are essential to the live animal shipper be they for bio-medical purposes or for any other purposes. In the pending Civil

Aeronautics Board Rules and Practices Relating to the Acceptance and Carriage of Live Animals, Docket 26310, we find opposition to COD services, but we still don't find evidence warranting its demise. Therefore, we endorse the COD terms of S. 2070 and S. 2430 as a condition precedent to a carrier's acceptance of a COD live animal shipment.

The Animal Welfare Act, as it is now enacted, is far too limited. The Council respectfully urges that the Act be expanded to protect the animals and not to protect the animals' owners, if any dog breeder/broker selling to a pet shop should be licensed, then why not any dog breeder that offers its animals in interstate commerce for sale? Are we protecting the animals or the owners? The discriminatory aspects of this act should be eliminated. The Act ostensibly was designed to protect animals, but in fact has exempted many, many animals from the protection of the regulation. As the Act now reads, only animals being delivered by certain parties would require accompanying health certificates. However, dogs which are advertised for sale in interstate commerce in various dog magazines or offered by fancy breeders for sale in interstate commerce are not regulated under this Act, and would not have to be accompanied by health certificates. Are they more healthy and don't need protection?

The Council urges that the Act be expanded to provide that any person who advertises for sale, and/or sells in interstate commerce should be licensed. Further, all animals in categories which are covered under the Act should be protected and there should be no discrimination due to the ownership of the animal. The Council recognizes that special waivers must be granted by appropriate regulatory authorities when it has been affirmatively demonstrated that exceptions are warranted. The establishment of general standards insuring humane handling, care and treatment of animals is essential and so are exceptions to any rule. Variances therefrom for laboratory animals, in the case of the eight-week rule, are clearly dictated by the public interest. But variances for individual pet owners, hobbyists, humane associations, pounds and commercial operators are not.

In Section 11 of S. 1941, the language specifically states that no standards with respect to transportation by air shall become effective without the approval of the Secretary of Transportation with respect to flight safety. The Council cautions the committee members against the introduction of another agency in the control of air transportation. The Civil Aeronautics Board presently has the authority to promulgate air transportation regulations, and by placing authority in still another regulatory agency, the amendments will only serve to effect arbitrary regulations and further encumber the regulatory process. The rights of the shippers to voice complaints against unfair regulation will also be denied, and the only recourse open to them will be through the Federal court system.

Our final comments are addressed to the overall method by which the amendments to the Act will be implemented. Throughout the proposed amendments, the Secretary will be delegated the authority to promulgate rules and regulations. Various animal interests during the past several years have endured irresponsible and reckless rulemaking by various government agencies involved with live animals. Most recently we have seen it with the Federal Aviation Administration and with the Department of the Interior.

Regulations should be based upon evidence and expertise of the agencies regulating, but issues involving live animals are extremely complex and the evidence is not always clear. Moreover expertise is more often than not, not found within the government agencies attempting to regulate. When we deal with animals we are involved with highly emotional and sensitive issues. Standards must be detailed and must be specific. Rulemaking by the submission of written comments would be inadequate, because rulemaking in such circumstances is usually dictated by the numbers of letters written and not necessarily by their content. Therefore, the Council believes that it is imperative that rules and regulations involving live animals should be made following a full evidentiary hearing in which all interested persons may be heard and have the opportunity for cross-examination.

The experience of animal shippers before the Civil Aeronautics Board has demonstrated the necessity for putting purported "evidence" to the test of the evidentiary process. Half-baked studies and emotional statements must bear the scrutiny of cross-examination. Mere assertions as to "flimsy containers," "absolutely no ventilation," "pressure cookers," and so forth, absent substantiating evidence are not proper for justifying the establishment of standards under a rule-making process. Hard-core data are required. Such data cannot be adequately tested through rule-making by written comment where the only avenue for challenge is in the Federal Courts.

We have just concluded hearings at the Civil Aeronautics Board involving airline rules for the acceptance and carriage of live animals. Briefs have just been filed this week and responses are due December 1, 1975. In the proceeding, interested parties came forward with evidence which was put to the scrutiny of cross-examination and the rules of evidence. The Administrative Law Judge will now have the task of determining on balance what should be the proper rules and regulations. There appears to be no necessity for circumventing the hearing process by which regulatory agencies can better develop and promulgate their rules. Thus, we urge this committee to amend the Animal Welfare Act to require the utilization of the hearing process as a cornerstone for promulgating regulations under the Act.

Mr. Chairman and members of the committee, we thank you again for giving us the opportunity to appear here today. We are willing to assist in providing any additional information the Committee may desire.

STATEMENT OF HARRY E. KINGMAN, JR., EXECUTIVE DIRECTOR, NATIONAL SOCIETY FOR MEDICAL RESEARCH

Dr. KINGMAN. I'm next in the batting order, Mr. Chairman. I'm Harry Kingman, Jr., executive director of the National Society for Medical Research. I will also attempt to summarize my statement.

I would like to state that there are a number of representatives of the American Association for Laboratory Animal Science who had hoped that they would be here to present statements at the hearing but, unfortunately, their annual meeting is now being held in Boston and the officers of the association felt they had better be there than here, and they read my statement and subscribed to it.

I would also hope that the views of the National Institutes of Health—and I noticed their absence when the departmental witnesses were called—the National Institutes of Health has a great interest in the transportation of animals as it affects research communities and I had hoped that their views with respect particularly to c.o.d. shipments and health certificates would be solicited and determined to see what effect that might have on that.

The three bills, as other witnesses have stated, are similar in many respects, but yet they do have significant differences. I will not comment on the animal fighting. We would hope that something would be done to eliminate that immediately.

A very important difference between 1941 and the other bills is contained in section 9 in which it is proposed that section 10 of the Animal Welfare Act which deals with promulgation of standards, be placed on research facilities. The act now requires research facilities to make and retain only those records with respect to purchase, sale, transportation, identification, and previous ownership of live dogs and cats. We believe it would be a very serious mistake to require research facilities to identify and keep records of previous ownership of every rabbit, hamster, and guinea pig which they purchase.

It would likewise be impossible to comply with this requirement as it would include dead and embalmed cats used in some teaching institutions.

We would urge that the language contained in S. 2070 and S. 2430 be followed with respect to this particular section.

Section 10 of the bill under consideration amends section 13 of the Animal Welfare Act which deals with promulgation of standards. Here again, the approach taken by the Dole bill, S. 2070, and the Magnuson bill, is preferred to that in S. 1941. The differences may

appear to be minor in character, but could be significant. We believe it is preferable to leave the existing authority for promulgation of standards as it presently exists and add additional paragraphs to deal with the standards governing transportation.

We believe that it's imperative—and we call to the committee's attention the very significant difference in the language as it pertains to health certificates, minimum age of animals to be shipped, and acceptance of c.o.d. shipments. In all three instances the circumstances surrounding the movement of animals to research facilities are quite different than those involving the shipment of animals to and from others covered by the act.

Exemptions must be granted to research facilities so that young animals, only a few days old in some instances, can be made available and delivered to medical investigators. Likewise, the requirement of a health certificate for animals other than dogs and cats being shipped to research facilities does not seem to be warranted.

I think I should point out that animals used in biomedical research are becoming more and more expensive. Some of this increase in cost is because we are now insisting on a higher quality animal, one that has been conditioned for the type of handling required in research facilities. Adding additional expense, especially if there's not full justification for the added requirement, does not appear to be in the public interest.

We would urge that enactment of broad authority in the statute, particularly with regard to standards, because there will be great difficulty in developing specific and comprehensive standards to cover the transportation of such a wide variety of animals and range of conveyances. I think there's a great deal of expertise available to sit down with the people and write the standards and personally and as an association we stand ready to help wherever we can.

Thank you very much.

Senator WEICKER. Thank you.

[The statement follows:]

STATEMENT OF HARRY KINGMAN, EXECUTIVE DIRECTOR, NATIONAL SOCIETY FOR MEDICAL RESEARCH, WASHINGTON, D.C.

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE: My name is Harry Kingman, Executive Director of the National Society for Medical Research.

The National Society for Medical Research is an organization representing scientists concerned with biological research and teaching in medical, agricultural and pharmaceutical fields.

I appreciate very much having this opportunity to testify on the bills now before your Committee which would amend the Animal Welfare Act of 1970.

The three bills—S. 1941, S. 2070, and S. 2403—are similar in many respects yet have significant differences.

S. 2070 and S. 2430 would amend the Animal Welfare Act by adding a prohibition of certain animal fighting ventures to the federal statute.

While unrelated to biomedical research we of course strongly oppose animal fighting. It is brutalizing, dehumanizing, disgusting and should be stamped out wherever and whenever it happens. We commend the authors of legislation that will prohibit this practice and urge the Committee to move with dispatch in obtaining its approval. Whether the enforcement of prohibitions against animal fighting should be a function of the Department of Agriculture inspectors is a question that can best be answered by those who are fully aware of the capabilities of the forces in the field.

The three bills appear to be identical in the way in which the term "commerce" is to be substituted for the existing language "affecting commerce" and all are

designed to include "common carriers" and persons who can be considered "intermediate handlers."

A very important difference between the provisions of S. 1941 and the other bills is contained in Section 9 in which it is proposed that Section 10 of the Animal Welfare Act be amended to change the record keeping requirements placed on research facilities.

The Act now requires research facilities to make and retain only those records with respect to the purchase, sale, transportation, identification, and previous ownership of live dogs and cats. We believe it would be a very serious mistake to require research facilities to identify and keep records of previous ownership of every rabbit, hamster, and guinea pig which they purchase. It would likewise be impossible to comply with this requirement as it would include dead and embalmed cats used at some teaching institutions. We would urge that the language contained in S. 2070 and S. 2030 be followed with respect to this Section.

Section 10 of the bills under consideration amend Section 13 of the Animal Welfare Act which deals with the promulgation of standards governing the humane handling, care and treatment of animals by dealers, research facilities and exhibitors. Here again, the approach taken by the Dole bill (S. 2070) and the Magnuson bill (S. 2430) is preferred to that in S. 1941. The differences may appear to be minor in character but could be significant. We believe it is preferable to leave the existing authority for promulgation of standards as it presently exists and add an additional paragraph—to deal with standards governing transportation.

One could question the advisability of attempting to identify in the statute all of the requirements to be considered; such as containers, feed, water, rest, adequate veterinary care, etc. Details such as this are more logically a part of the regulatory considerations and could be authorized under the broad authority of "factors the Secretary determines are relevant in assuring humane treatment in the course of their transportation in commerce."

We believe it to be imperative that we call the Committee's attention to very significant differences in the language in S. 1941, S. 2070, and S. 2430 as it pertains to health certificates, minimum age of animals to be shipped and acceptance of C.O.D. shipments.

In all three instances, the circumstances surrounding the movement of animals to research facilities are quite different than those involving the shipment of animals to and from others covered by the Act.

Exemptions must be granted to research facilities so that young animals, only a few days old in some instances, can be made available and delivered to medical investigators. Likewise, the requirement of a health certificate for animals other than dogs and cats being shipped to research facilities does not seem to be warranted.

To require health certificates for all "animals" as is stated in Section 10 of S. 1941 and S. 2430 is felt to be unnecessary and impracticable.

We agree in principle that injured and obviously diseased animals must not be transported in commerce and that only licensed veterinarians are qualified to issue and sign certificates of health and soundness. The meaning of certificates of health and soundness may lead to confusion unless more fully defined. It is often extremely difficult to complete a thorough examination of wildlife and zoo animals prior to shipping without endangering the life of the animal, veterinarian and attending personnel. This class of wild animals must be given special consideration. Again, if this certificate requires animals to be free of all signs of disease, then most commonly used laboratory animals could not be shipped. We refer to the common diseases such as Pasteurellosis (snuffles) in rabbits, Tracheobronchitis (kennel cough) of dogs and a multitude of intestinal parasites which all animals have. At the other end of the spectrum are the thousands of mice, rats, rabbits, etc., that are shipped daily from suppliers and breeders. Certificates for each rabbit, hamster and guinea pig, or even attempts to identify each animal is technically unfeasible for the limited numbers of veterinarians available for such work. At the present time, we can accede only to the necessity and practical value of issuing certificates for dogs and cats.

Animals used in biomedical research are becoming more and more expensive. Some of this increase in cost is because we are now insisting on a higher quality animal, one that has been conditioned for the type of handling required in a research facility. Adding additional expense, especially if there is not full justification for the added requirement, does not appear to be in the public interest.

I believe everyone agrees that improvements in the handling of animals during their transportation is important and requires some form of regulatory authority. We are pleased to support this type of legislative action.

We would urge enactment of broad authority in the statute since great difficulty will be encountered in developing specific and comprehensive standards to govern the transportation of a wide variety of animals in a range of conveyances.

There is, we believe, a substantial body of knowledge, as well as a corps of highly qualified experts available to advise on the transportation of animals intended for use at research facilities. It is hoped that this resource will be fully utilized by the Department in prescribing the intended regulations. In the course of developing standards for the wide variety of animals which enter the channels of transportation, it may be feasible to provide exception for those facilities which regularly maintain adequate veterinary supervision and service in connection with shipment and receipt of specific classes of animals.

The National Society for Medical Research stands ready to assist those involved in accomplishing this objective.

We appreciate this opportunity to present our views to you. If we can provide any further information, please let us know.

Senator WEICKER. Mr. Seybold.

STATEMENT OF LEO SEYBOLD, VICE PRESIDENT FOR FEDERAL AFFAIRS, AIR TRANSPORT ASSOCIATION

Mr. SEYBOLD. Thank you, Mr. Chairman. I'll be happy to summarize my statement also.

Let me say on behalf of the airlines that we share the concerns of the subcommittee and the people that have appeared before you about the humane treatment of animals, and it is our sincere desire to see that animals that are carried by air are carried safely to their destination.

Last year we estimated that in 1973 we carried about 1½ million shipments of animals and based on current volume it will be approximately the same number in 1975. Less than .03 percent of the 1973 shipments resulted in damage claims. Any injury or fatality is deeply regretted and I should point out that the vast majority of the animals arrive at their destination safely and, of course, we regret those unfortunate incidents that do occur. Most of them occur prior to loading or after unloading.

Three agencies regulate the air transportation of animals—the FAA, the CAB and the USDA. We support the concept of the bills before you with some amendments. We would like to see legislation. We are concerned about the requirement that the airlines must register with the Secretary of Agriculture. We presently have to get a certificate with the CAB before we can go in business to carry anything or anybody. We also have to get a certificate from the FAA before we can operate an airplane, and we don't see why we would have to register with the Secretary of Agriculture. I don't think it would particularly add to the purpose of the legislation to require that we be registered.

Similarly, we are concerned about the possible amount of record-keeping that might be required by the Secretary of Agriculture. At the present time there's an air waybill on every single air freight shipment and if there's a claim there's a report to the CAB quarterly and annually on every claim that is filed, and we think there's danger of duplicating and unnecessarily adding paperwork that wouldn't be productive for the basic objectives.

We think the Secretary of Agriculture should promulgate standards for the humane treatment of animals during their various stages of handling prior to and after departure from the aircraft. We also think the Secretary of Agriculture can furnish standards and guidelines to the administrator of FAA for the in-flight conditions that should be established for the transportation of animals by air in the aircraft, but we feel very strongly that the administrator should continue to issue whatever rules or regulations apply to the operation of the aircraft and its equipment and the conditions within it.

The bills talk about c.o.d. shipments and we have a suggestion for an amendment there. We would like to be able to return a c.o.d. shipment that is not claimed within 48 hours, as a suggestion for an amendment.

With respect to civil penalties, we don't understand why the carriers' violation level is \$1,000 whereas dealers and others who might violate the regulations the penalty would be \$500. We think that's somewhat discriminatory.

With respect to the annual report that would be made by the Secretary of Agriculture in carrying out the act, the annual report to Congress, we think it would be useful if he would submit his report with the approval and recommendations of the Board and the FAA with respect to the implementation of any changes in the law that should be needed after experience with the law.

In connection with the language on animal fighting, we believe the word "knowingly" should be inserted in subsection 26(b) as it is in 26(a), because otherwise the carriers might be held accountable for something they had no knowledge of.

In connection with the definition of "dealers" in S. 1941, I was happy to hear the chairman state there was an inadvertent error, that carriers were inadvertently included in the definition of dealers and that would be eliminated.

That completes our statement and we would be happy to cooperate with the committee or answer any questions.

[The statement follows:]

STATEMENT OF LEO SEYBOLD, VICE PRESIDENT, FEDERAL AFFAIRS, AIR TRANSPORT
ASSOCIATION OF AMERICA

My name is Leo Seybold, I am Vice President—Federal Affairs of the Air Transport Association of America. The Association is a trade and service organization representing virtually all of the U.S. scheduled airlines.

I appreciate the opportunity to appear before the Subcommittee on behalf of our other member carriers to comment on the Animal Welfare Act Amendments and to suggest certain changes.

The airlines share the concern of the Subcommittee over the humane treatment of animals. It is our sincere desire to assure that pets and animals which are shipped by air are transported safely.

The airline industry believes that it is providing an important service both to individual citizens who may need or want to transport pets by air and to the various commercial enterprises which ship animals throughout the United States. Both the individual citizen and the commercial shipper depend on the airlines for the safe transportation of these animals. It is partially out of this dependence, along with our concern over the humane treatment of animals, that we appear before you today to testify on the Animal Welfare Act Amendments.

On the basis of a survey made by the Association it has been estimated that the airlines carried an average of approximately 3,735 animal shipments per day in 1973. It should be noted that the term shipment may refer to one animal or, as in the case of baby poultry, hundreds of animals. This figure is conservative since it is based on an examination of cargo waybills and does not include

animals such as household pets, which are carried under the provisions of baggage tariffs. Based on this survey we estimate that the airlines carried approximately one and one-half million animal shipments in 1973. Less than $\frac{3}{100}$ of 1% of the 1973 shipments resulted in damage claims. Any injury or fatality is deeply regretted. We should point out, however, that the vast majority of live animals shipped by air arrive at their destination safe and sound. Of the limited number of unfortunate incidents which do occur, very few can be attributed to conditions or activities on board the aircraft. Most of these incidents can be traced to circumstances which occur prior to loading or after unloading.

Three Federal agencies have jurisdiction over the air transportation of animals: the Civil Aeronautics Board, the Federal Aviation Administration, and the U.S. Department of Agriculture. The Civil Aeronautics Board controls transportation rates and tariff provisions; the Federal Aviation Administration has broad jurisdiction over the aircraft, its operation and stowage procedures; and, the Department of Agriculture has authority to inspect shipments up to the point of delivery to the common carrier.

The carriers have taken the initiative to improve conditions for the air transportation of animals through CAB tariff procedures. However, because of shipper protests, there have been delays in carrier efforts to secure approval of these tariffs which incorporate more effective standards for the documentation, acceptance, delivery and containerization of animals for air shipments.

Mr. Chairman, the Air Transport Association supports the concept of the bills before you today because we sincerely believe that legislation of this type could improve existing shipping standards and provide safer shipment of animals. However, we would like to suggest amendments which we believe are necessary to make the legislation both more feasible and practical in implementation.

Our major concern with all three bills is the unnecessary amount of duplication required by each bill. Increasing the amount of bureaucracy and paper work does not automatically produce an improved transportation system for animals.

REGISTRATION

The bills would include "intermediate handlers" and "common carriers" as part of a select group, including research facilities and unlicensed exhibitors, who must register with the Secretary of Agriculture in accordance with any rules and regulations which he may prescribe.

This proposal poses a definite problem to the air carriers. The need for registration of research facilities and unlicensed exhibitors is clear. They must be readily identifiable to the Secretary. However, air carriers are already registered in innumerable places and carefully certificated by both the FAA and the CAB. Lengthy and detailed certification proceedings result in air service being closely regulated at all times by the Federal Government.

The purpose of this legislation would clearly not be served by the addition of air carriers to the limited group now required to register with the Secretary of Agriculture. Such a requirement would merely add redtape without improving animal transportation.

RECORDKEEPING

Air carriers are also concerned about duplication of recordkeeping which could be engendered by this legislation. Air carriers currently issue airbills on each air freight shipment. Carriers are also required to and do file with the Civil Aeronautics Board records of loss or damage claims. We believe that these records and reports are adequate to reflect the air transportation aspects of animal shipments.

However, air carriers are concerned because, in addition to the records required by the Civil Aeronautics Board, the bills under consideration would require that common carriers, among others, keep such records as the Secretary of Agriculture may prescribe with respect to various aspects of the handling and transportation of animals. In addition, S. 1941 would require the Secretary of Agriculture to prescribe forms upon which the information is to be kept.

The danger inherent in these provisions is that under the broad powers bestowed upon the Secretary in this instance, he could require extensive and burdensome recordkeeping on the part of the carriers which would be time-consuming, duplicative, and expensive without contributing to the improved health, safety or transportation of animals.

Air common carriers currently maintain extensive records on animal shipments. If the Secretary determines further information is needed, it should be approved and effected through the appropriate regulatory authority, which, in the case of air carriers, would be the CAB.

STANDARDS

The bills would give the Secretary of Agriculture authority to promulgate standards for the handling, care and treatment of animals for transportation in commerce.

We fully agree that the Department of Agriculture, with its fine staff of veterinarians, has the knowledge and expertise to develop standards necessary for the care of animals. The Department should regulate, to the extent necessary, standards for the humane treatment of animals during the various stages of handling prior to boarding the aircraft. The Department can furnish information on in-transit physical requirements to the Federal Aviation Administration of the Department of Transportation for its use in promulgating regulations with regard to the in-flight care and treatment of animals. However, we feel very strongly that the FAA of the Department of Transportation should issue any regulations which deal with flight safety or which affect the aircraft or its equipment, as it does at present. There should be no diminution of the absolute authority of the Administration in this area. The Department of Agriculture does not have the knowledge to determine what is or is not economically practical or technologically feasible with regard to the aircraft.

C.O.D. SHIPMENTS

S. 2070 and S. 2430 would permit C.O.D. shipments only where the consignor guarantees in writing all transportation charges. The restrictions placed on this type of transportation make shipping by C.O.D. feasible for the carriers and we strongly endorse this provision. We would, however, recommend that a provision be included permitting the carriers to return any animal shipped C.O.D. and not claimed within a period of 48 hours.

If a carrier were to return a shipment after what it deemed was a reasonable period of time and the consignee thereafter appeared for the shipment, a great deal of confusion and litigation over the party responsible for the costs of transportation would ensue. The 48-hour time limit would alleviate this confusion.

CIVIL PENALTIES

There is a great inequity in S. 2070 and S. 2430 which provide for the assessment of *civil* penalties against intermediate handlers and carriers of up to \$1,000 for each violation of any regulation that would be issued by the Secretary of Agriculture in connection with this Act. The law presently allows the Secretary to impose a cease and desist order on any persons other than intermediate handlers and carriers. Failure to comply with a cease and desist order carries a fine of only \$500 per violation. The airlines oppose this inequitable and discriminatory differentiation in penalties and we would recommend that the same penalty provisions be applied to all persons coming within the jurisdiction of the Act.

ANNUAL REPORT

These two bills, S. 2070 and S. 2430, also require the Secretary to provide in his annual report to the President of the Senate and the Speaker of the House recommended changes in the aircraft's environment as it relates to the carriage of live animals. We in the airline industry believe that the Federal Aviation Administration's advance consideration of the Secretary of Agriculture's recommendations would be beneficial. Again, the Federal Aviation Administration is in a particularly advantageous position to consider any and all suggestions concerning the aircraft's environment. The report submitted by Agriculture would have far greater value to the Congress if it had received the approval of the FAA. Therefore, we request that the FAA be required to approve any recommendations forwarded by the Secretary to the Congress concerning the aircraft's environment.

DEALERS

Mr. Chairman, the final point upon which I wish to comment is one unique to S. 1941, and one which the airlines vigorously oppose. Section 4(c) of the bill brings common carriers within the definition of the term "dealer," a provision

in no other House or Senate amendment, to my knowledge. This action would have serious and far-reaching consequences on the entire U.S. airline industry.

The airlines are not "dealers" in animals. By including common carriers in the term "dealers," the airlines would be required to obtain licenses from the Department of Agriculture by virtue of Section 3 of the existing Act. This additional licensing of air carriers would be an unnecessary and unproductive extension of the Federal Government's regulatory powers. As we have previously pointed out, air carriers must obtain a certificate of public convenience and necessity from the Civil Aeronautics Board before they can hold themselves out to the public. Also they must be licensed by the Federal Government through the FAA's certification process. The FAA has complete authority to regulate the operation of the aircraft to enforce such regulations.

If the Department of Agriculture were given the authority to license air carriers it would be duplicating in many respects the certification process of the FAA and thereby unduly delaying the individual carrier's ability to utilize its equipment.

The Department of Agriculture's jurisdiction over air carriers should be limited to those matters most directly concerning the shipment of live animals and its authority should not unnecessarily duplicate functions of the Department of Transportation.

The inclusion of common carriers in the definition of "dealers" in S. 1941 will disrupt the orderly regulation of the airlines. At a time when efforts are being made to move away from over-regulation, government bureaucracy and inefficiency, this provision would move in the opposite direction. We strongly urge the Committee to delete this particular provision. If it remains in the legislation, Mr. Chairman, the airline industry will be compelled to oppose the bill in its entirety.

Mr. Chairman and members of the committee, I appreciate this opportunity to appear on behalf of the U.S. scheduled airline industry to support the legislation before this committee with the amendments we have suggested; and, I will be pleased to answer any questions.

Senator WEICKER. I don't want to keep people here any longer than we have to. Is there anybody that came here to testify outside of those I have already called?

[No response.]

Senator WEICKER. Let me ask all of you one question. Do you feel that this is something that should be handled by legislation or should it be left to a voluntary system?

Mr. SEYBOLD. I would be happy to answer for the carriers. I think the voluntary system has shown improvement, a definite improvement, and I think it must be continued, but we would support legislation.

Mr. KINGMAN. My answer may sound a little inconsistent. I think that the carrier, the common carrier, the intermediate handler thing requires legislation. I do believe we are broadening the Animal Welfare Act to such an extent by bringing in additional areas to be regulated that unless we are very, very careful and leave the making of regulations to the Department rather than trying to write them into the statute we may be putting some things into the law that will seriously affect medical research, and this would be something I'm sure you don't want to do.

Mr. BERGMAN. Senator Weicker, obviously everybody would hope that voluntary efforts would prove effective. In this case I think that those efforts are improving. We do support the legislation. We feel it is necessary with the proviso that the rulemaking procedures of the evidentiary hearing be adapted so that sufficient input and comment can be made.

Senator WEICKER. I have no further questions of you gentlemen. I thank you for giving your time.

Let me state to all those who appeared, No. 1, Dr. Kingman, any of your people that happen to be away at this convention, if they have any statements to submit, please tell them to do so. Tell them write the committee and it will be part of the record just as if they were here.

No. 2, if there are further questions, not only to this panel but to all the others that appeared here, the committee will be in touch with you and I hope you will give us a written response.

I think one thing is clear or should be clear to everybody. It's not going to be voluntary. So what we want to do is do a good job legislatively, recognizing the various interests that are involved here. I'm not here to demagogue against the airline industry or against pet breeders or against anyone. I think we are here to take a situation that has come to the fore in the past years and do something about it in an intelligent, commonsense way. That certainly is my objective legislatively, something all of us will have input to and we will come up with something that works. Therefore, I would hope if there are further questions that I or my staff have, that we can be in communication with you so you can give answers that will make sense.

Dr. Chaloux, just one last question addressed to you before we leave here. What do you say to the proposal of licensing of these pet breeders that deal in interstate commerce?

Dr. CHALOUX. The commercial pet breeders are already licensed under the Animal Welfare Act.

Senator WEICKER. And what is the cost of that license?

Dr. CHALOUX. It's variable depending on the volume of business that the dealer conducts.

Senator WEICKER. How does that relate, Mr. Bergman, to what you were suggesting here?

Mr. BERGMAN. Senator, the legislation and the licensing act only requires breeders to be licensed if they sell animals wholesale. We believe that there are a number of other dogs being shipped for sale but not necessarily through pet stores—fancy breeders is an example—and we believe they should be covered under the act as well so everybody is under the same umbrella.

Senator WEICKER. OK. Thank you all very much. We will try to do a good job with it.

[Whereupon, at 3:40 p.m., the hearing was adjourned.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

STATEMENT OF THE ASSOCIATION OF AMERICAN RAILROADS

The Association of American Railroads (AAR) is a voluntary, unincorporated, non-profit organization composed of member railroads operating in the United States, Canada, and Mexico. Its members operate 97 percent of the trackage, employ 98 percent of the workers, and produce 97 percent of the revenues of all Class I Railroads in the United States. The railroads provide the transportation necessary for many types of animals, including pets, animals used for research and exhibition, and livestock.

S. 1941, S. 2070, and S. 2430 seek to amend the Federal Laboratory Animal Welfare Act of August 24, 1966 (89 Stat. 350, as amended by the Animal Welfare Act of 1970, 84 Stat. 1560; 7 U.S.C. 2131-2155).

These bills would amend the Animal Welfare Act to include regulation of "intermediate handlers" and "common carriers" by the Secretary of Agriculture in the transportation of warm-blooded animals, other than livestock, used or intended for use for research, testing, experimentation, or exhibition purposes, or as pets. S. 2070 and S. 2430 are almost identical, and S. 1941 is similar to both, but it has some important differences.

One provision of S. 1941 not contained in either S. 2070 or S. 2430 is Section 28(3) which proposes a number of amendments to the word "dealer". The definition of the word "dealer" would be amended by deleting the words "except as a common carrier". As presently worded, the definition reads "... any person who for compensation or profit delivers for transportation, or transports *except as a common carrier* ... any animals ...". The exception in the present definition is not meant to exclude dealers from regulation who are also common carriers; rather the exception exists simply to avoid possible inclusion of common carriers within the scope of the definition of "dealers". S. 1941, in Section 4, amends the Act to include a definition of common carriers. There is no need, and it is entirely inappropriate, to define the word "dealers" in such a way that common carriers may fall within that definition. For example, Section 3 of the Act (7 U.S.C. § 2133) requires "licensing" of dealers and exhibitors. Because of the amended definition of dealers, this section may be interpreted to require licensing of common carriers "who for compensation or profit ... transport ... any animals." Another example is found in Section 5 of the Act (7 U.S.C. § 2135), which provides that "no dealer or exhibitor shall ... dispose of any dog or cat within a period of five business days after the acquisition of such animal ...". There is simply no logical basis for defining "dealer" in such a way as to possibly subject common carriers to this requirement. The clause "except as a common carrier" in the present definition of "dealer" should not be deleted. It does not serve to exempt certain dealers; it simply removes possible application of certain provisions of the Act to common carriers when the intent is to subject only dealers, exhibitors, and the like.

All three bills would directly affect common carrier operations in a number of other areas. Section 7 of S. 1941 (Section 6 of S. 2070 and S. 2430) would amend the Act to require that all common carriers that transport "animals" must register with the Secretary of Agriculture. We question the value of imposing this requirement on the railroads, and we recommend that the railroads not be required to so register. Section 9 (Section 8 of S. 2070 and S. 2430) requires common carriers to maintain such records as the Secretary may prescribe. This provision appears to be unnecessary since Section 10 of the Animal Welfare Act (7 U.S.C. § 2140) already imposes a similar requirement on dealers, exhibitors, and research facilities. The railroads should not be required to maintain records with respect to purchase, sale, transportation, identification, handling, and previous ownership, when that same information is already maintained by others.

Section 10 of S. 1941 directs the Secretary to prescribe standards to govern the transportation, handling, care, and treatment of animals, which standards may prohibit transportation of animals less than eight weeks old or animals not accompanied by a veterinary certificate attesting to the animal's sound health.

Sections 9 and 10 of S. 2070 and S. 2430 also direct the Secretary to prescribe standards to govern the transportation, handling, care, and treatment of animals, but in addition, those sections prohibit transportation of animals when the cost of the animals or the freight charges are to be paid upon delivery.

Section 12 of each of the bills would amend the Act to direct inspection by the Secretary of common carrier facilities and records to assure compliance with the Act or regulations promulgated thereunder and authorizes the Secretary to have any animal, suffering as a result of violation of the Act or regulations promulgated thereunder, destroyed. The railroads object to the broad regulatory authority these sections would grant to the Secretary of Agriculture. All three bills, and the sections discussed in this and the preceding paragraph in particular, direct that the Secretary be given an unnecessarily wide scope of powers over the transportation, handling, care, and treatment of animals other than livestock. Depending on the extent and scope of the regulations issued by the Secretary, registration, recordkeeping requirements, and inspection of facilities may interfere in the efficient day-to-day operations of the railroads. Especially in the case of individual railroads hauling only limited numbers of such animals, the requirements may well be unnecessarily burdensome. We recommend that the railroads not be included within the scope of these three bills. By continuing to monitor the handling of animals both before and after shipment, the Secretary should be able to ensure their safety.

Section 13 of S. 1941 provides for a civil penalty of up to \$2,000 for each *knowingly* committed violation of the Act or any regulation issued pursuant to the Act. The penalty provisions of S. 2070 and S. 2330 include a civil penalty of up to \$1,000, but there is no requirement that the alleged violations of the Act be done knowingly. Knowledge should be made essential; especially as applied to condition of the animals and their future use after the carrier delivers them.

For example, under Section 15 of S. 2070 and S. 2430, it is made unlawful to "receive . . . for purposes of transportation . . . any . . . animal for purposes of having the * * * animal participate in a fighting venture." Violations are punishable by fines of up to \$5,000 and prison terms of up to one year. As applied to the railroads, such a provision is unjustified because it makes the carrier responsible for some event (an animal fight) which may or may not occur after delivery and, thus, after the contract for transportation has been entirely fulfilled. It is one thing to attempt to regulate the promoters of and participants in animal fighting ventures, but it is quite another to place liability upon one who merely accepts freight for shipment and transports that freight to destination.

To sum up, the definition of "dealers" in the Act should not be amended as proposed in S. 1941 so as not to exclude (that is, possibly include) common carriers. There is absolutely no basis for doing so. Also, the penalty provisions should require a "knowing" violation of the Act, as is provided in S. 1941; and the application of any penalties as proposed in S. 2070 and S. 2430 for common carriers relating to animal fighting ventures is entirely inappropriate. But, of greater importance, the railroads oppose these bills because the railroads would unnecessarily become subject to regulation by still another agency. A preferable alternative would be more effective regulation of those persons already subject to the Animal Welfare Act. Railroad operations today are more than adequately regulated by the Interstate Commerce Commission and the Department of Transportation.

STATEMENT OF THE ACADEMY OF PHARMACEUTICAL SCIENCES

The Academy of Pharmaceutical Sciences of the American Pharmaceutical Association, is a national scientific society with members in both academia and industry whose scientific studies rely upon responses elicited in dogs, cats and other animals. We are very much interested in S. 1941, S. 2070 and S. 2430 which are bills to amend the Act of August 24, 1966 (P.L. 89-544), as amended by the Animal Welfare Act of 1970 (P.L. 91-579).

Overall we agree with the intent of the proposed legislation, but we are concerned about several areas discussed in the following comments which should be considered by your committee.

We are also concerned about the economic impact of this legislation. President Ford has requested that economic factors be considered in the drafting of new rules and regulation. The possible cost increases from these bills are tied to such things as new rules for veterinary care, transportation, handling, and record-keeping. All these possible cost increases will ultimately be borne by consumers.

Our specific comments deal with sections of the three bills as individual entities in the order of presentation as follows:

COMMENTS ON S. 1941

Section 4(6). Intermediate handler

Further clarification is desirable in the definition of an "intermediate handler." The proposed definition lacks clarity, and appears to be too dependent upon exclusions. In consequence, it is possible that more individuals and companies might be included in this classification than are intended by the sponsors.

Section 9. Recordkeeping

The proposed recordkeeping requirement has the potential to increase the cost of research by a significant amount. We urge than an exemption, such as that which now appears in Section 10, P.L. 89-544, as amended, be made for research facilities.

Section 10(1)-(4). Humane standards for animals

The proposed revisions itemize factors for which the Secretary would be directed to promulgate minimum standards to govern the care, handling, treatment and transportation of animals in commerce. The Academy agrees that the Secretary should be authorized to promulgate such standards. However, it is our opinion that the Secretary should determine the factors for which minimum standards should be established rather than listing some specific factors in the bill. Such action would accord more recognition to the serious difficulties inherent in the development of comprehensive transportation and environmental standards for the several classes of animals in commerce.

Section 10(4). Age of animals transported in commerce

The Academy urges that an exemption be given to registered research facilities with regard to the age limitations proposed in S. 1941 for the transportation of animals in commerce. This could be accomplished by amending the last sentence of proposed paragraph (b) on page 6, line 24, to read as follows: "Such standards may prohibit the transportation in commerce except to registered research facilities of dogs, cats and other designated animals * * * without adverse effects."

Section 10(4). Veterinary certification

Animals transported in commerce to registered research facilities should be exempt from the requirements for veterinary certification. Research facilities must frequently purchase specific animal models to complete accepted experimental and regulatory protocols. For instance, animals with various types of sarcomas are required for cancer research; hypophysectomized animals are required for potency evaluation of corticotropin preparations; and adrenalectomized animals are specified to determine the potency of adrenal cortex extracts. Further, the expenditures for identification and inspection of each of the thousands of guinea pigs, hamsters, rabbits and rats that are shipped each day from breeders and suppliers to registered research facilities, would impose unjustifiable and unwarranted increases upon the costs for research studies.

COMMENTS ON S. 2070

Section 2. Animal fighting ventures

Animal fighting ventures, particularly dog fighting, are unrelated to biomedical research. The Academy favors the proposed prohibition of such ventures, and encourages incorporation of the proposed legislation into the Animal Welfare Act, P.L. 89-544, as amended.

Section 5. Intermediate handler

Further clarification is desirable in the definition of an "intermediate handler." The proposed definition lacks clarity, and appears to be too dependent upon exclusions. In consequence, it is possible that more individuals and companies might be included in this classification than are intended by the sponsor.

Section 8. Recordkeeping—Intermediate handlers and carriers

A more precise definition of the term "intermediate handlers" is urged. Such a definition would preclude interpretation of the bill to include "Recordkeeping" by more individuals and companies than is intended by the sponsor of the bill.

Section 9. Promulgation—Humane standards

The development of comprehensive transportation and environmental standards for the several classes of animals in commerce will present serious difficulties. It would be desirable if the Secretary would solicit, and employ, the knowledge available among the many highly qualified experts in academia and industry when these proposed standards are drafted.

Section 10. Veterinary certification

Animals transported in commerce to registered research facilities should be exempt from the requirements for veterinary certification. Research facilities must frequently purchase specific animal models to complete accepted experimental and regulatory protocols. For instance, animals with various types of sarcomas are required for cancer research; hypophysectomized animals are required for potency evaluations of corticotropin preparations; and adrenalectomized animals are specified to determine the potency of adrenal cortex extracts. Further, the expenditures for identification and inspection of each of the thousands of guinea pigs, hamsters, mice, rabbits and rats that are shipped each day from breeders and suppliers to registered research facilities, would impose unjustifiable and unwarranted increases upon the costs for research studies.

Section 10. Transportation charges

The Academy urges that research facilities be exempted from provisions of proposed paragraph (d). The requirements for supplying payment guarantees, as required by this paragraph, would increase the cost of research efforts by significant amounts. We respectfully suggest that the means to achieve the intent of this proposal are presently included under Sections 6, 9 and 20 of P.L. 89-544, as amended.

Section 16. Animal fighting

Full support is given to the incorporation of proposed Section 26, which deals with animal fighting ventures, into the Animal Welfare Act, P.L. 89-544, as amended by P.L. 91-579.

COMMENTS ON S. 2430

Section 2. Animal fighting

The prohibition of animal fighting is encouraged; therefore, support is given to the proposal to incorporate the proposed legislation into the Animal Welfare Act, P.L. 89-544, as amended.

Section 5. Intermediate handler

Further clarification is desirable in the definition of an "intermediate handler." The proposed definition lacks clarity, and appears to be too dependent upon exclusions. In consequence, it is possible more individuals and companies might be included in this classification than are intended by the sponsor.

Section 8. Recordkeeping—Intermediate handlers and carriers

The Academy urges a more precise definition of the term "intermediate handler." This action would preclude interpretation of the bill to include "Record-keeping" by more individuals and companies than is intended by the sponsor of the bill.

Section 9. Standards

The promulgation of standards to govern transportation in commerce of all classes of animals will present serious difficulties. The definition of "... adequate veterinary care . . ." in transit could cause untoward confusion, and perhaps should be clarified to indicate the intent is to assure the use of sound and humane animal care standards.

Section 10. Veterinary certification

Animals transported in commerce to registered research facilities should be exempt from the requirements for veterinary certification. Research facilities must frequently purchase specific animal models to complete accepted experimental and regulatory protocols. For instance, animals with various types of sarcomas are required for cancer research; hypophysectomized animals are required for potency evaluation of corticotropin preparations; and adrenalectomized animals are specified to determine the potency of adrenal cortex extracts.

Further, the expenditures for identification and inspection of each of the thousands of guinea pigs, hamsters, mice, rabbits and rats that are shipped each day from breeders and suppliers to registered research facilities, would impose unjustifiable and unwarranted increases upon the costs for research studies.

Section 10. Transportation charges

The Academy urges that research facilities be exempted from provisions of proposed paragraph (d). The requirements for supplying payment guarantees, as required by this paragraph, would increase the cost of research efforts by significant amounts. We respectfully suggest the means to achieve the intent of this proposal are presently included under Sections 6, 9 and 20 of P.L. 89-544, as amended.

Section 16. Animal fighting

The Academy supports incorporation of the proposed Section 26 into the Animal Welfare Act, P.L. 89-544, as amended.

STATEMENT OF FREDERICK C. ARMSTRONG, PH. D.

As a pharmacologist, with over twenty-five years of experience in both academia and industry, whose scientific studies and experiments rely upon responses elicited in dogs, cats and other animal species, I am an interested person with respect to S. 2430, June 13, 1975, which is a Bill to amend the Act of August 24, 1966 (P.L. 89-544), as amended by the Animal Welfare Act of 1970 (P.L. 91-579).

My comments deal with specific Sections of S. 2430 as individual entities in the order of presentation.

Section 2. Animal fighting

The prohibition of animal fighting is encouraged, therefore support is given to the proposal to incorporate the proposed legislation into the Animal Welfare Act, P.L. 89-544, as amended.

Section 5(i). Intermediate handler

Further clarification is desirable in the definition of an "intermediate handler." The proposed definition lacks clarity, and appears to be too dependent upon exclusions. In consequence, it is possible more individuals and companies might be included in this classification than are intended by the sponsor.

Section 8. Recordkeeping—Intermediate handlers and carriers

I urge a more precise definition of the term "intermediate handler." This action would preclude interpretation of the bill to include "Recordkeeping" by more individuals and companies than is intended by the sponsor of the bill.

Section 9. Standards

The promulgation of standards to govern transportation in commerce of all classes of animals will present serious difficulties. The definitions of "... adequate veterinary care ..." in transit could cause untoward confusion, and perhaps should be clarified to indicate the intent is to assure the use of sound and humane animal care standards.

Section 10. Veterinary certification

Animals transported in commerce to registered research facilities should be exempt from the requirements for veterinary certification. Research facilities must frequently purchase specific animal models to complete accepted experimental and regulatory protocols. For instance, animals with various types of sarcomas are required for cancer research; hypophysectomized animals are required for potency evaluations of corticotropin preparations; and adrenalectomized animals are specified to determine the potency of adrenal cortex extracts. Further, the expenditures for identification and inspection of each of the thousands of guinea pigs, hamsters, mice, rabbits and rats that are shipped each day from breeders and suppliers to registered research facilities, would impose unjustifiable and unwarranted increases upon the costs for research studies.

Section 10. Transportation charges

I urge that research facilities be exempted from provisions of proposed paragraph (d). The requirements for supplying payment guarantees, as required by this paragraph, would increase the cost of research efforts by significant amounts. I respectfully suggest the means to achieve the intent of this proposal are presently included under Section 6, 9 and 20 of P.L. 89-544, as amended.

Section 15. Animal fighting

I support incorporation of the proposed Section 26 into the Animal Welfare Act, P.L. 89-544, as amended.

STATEMENT OF ANN COTTRELL FREE, WRITER ON ANIMAL WELFARE AND THE ENVIRONMENT

There is a certain bitter irony in the indisputable fact that probably the most unprotected of domestic animals are those creatures forced into protection of man—you and me. I refer specifically to guard dogs, known variously as "attack, sentry, protection or security" dogs.

Due to the language of section of Public Law 91-579 the guard dog does not qualify for protection under the Animal Welfare Act of 1970. Only certain animals intended for use in research, exhibition or for pets are covered. Surely, the law should be amended to include guard dogs—in fact, all "working" dogs. They should be accorded the same federally regulated protection in care, handling, housing, transporting as the other animals covered by the law.

This exclusion may, indeed, be an understandable oversight. Since the law went into effect, the increase in guard and attack dog training, leasing and supply business has been nothing short of spectacular. This is due to the well-warranted need of protection of property (especially commercial property and its chattels) from all types of theft, vandalism and arson in a society somewhat run amuck.

There is no central source of information as to the numbers of attack training, leasing and supply companies nor the numbers of dogs involved. A mere glance at the yellow pages of telephone books of big cities will give some slight indication that this is a thriving, and undoubtedly, lucrative business. Certainly, more than 100,000 such animals are in use.

If the law is amended and guard dog trainers, leasors and operators are required to register and be licensed by the U.S. Department of Agriculture, USDA, at least, will have a handle on the problem and "shady" operators can be brought into conformity with its minimum standards. And not to be discounted, a valuable potential by-product: a decrease in the rising number of dog bites throughout the nation. In short, a partial sheathing of a sword.

The reason for concern is based on reports from animal welfare organizations and especially to the various sadistic, brutal methods of enhancing and inducing throughout the nation. Complaints range from improper housing, inadequate food, viciousness in these animals. In the latter connection, there have been numerous reports of dogs being teased and tormented to the point of un-natural rage and ferocity at the very sight of man.

I can supply to this committee reports of some of the almost unspeakable methods used in training these dogs—some of them docile by nature—but primarily shepherds, dobermans.

"Fear and pain are the two basic tools attack trainers use," according to the distinguished animal behaviourist scholar, Dr. Michael Fox, until recently with the Washington University, St. Louis, author of many scientific volumes and such popular books as "Understanding Your Dog." "Their methods of severe punishment and intimidation should be outlawed because they are inhumane," he states.

Cyril H. Moore, Jr., an assistant Attorney General in New York's Environmental Protection Administration, has been quoted as saying that attack dog trainers "Use cattle prods and they beat, starve and whip dogs into submission."

Barbar Austin of Manhattan's Dawn Animal Agency is reported as saying:

"You find dogs in these attack dog schools tied up in a row lunging at someone slapping them in the face with burlap sacks. Many of these schools are turning out raving maniacs. I know of dogs that had to be destroyed after their so-called training—because they had become too dangerous to handle safely."

(Note the words "too dangerous.")

This brings us to the particular concern of Dr. Alan Beck, Director of New York City's Bureau of Animal Affairs, as to the spectacular increase in the city's dogs bites of innocent men, women and children. A considerable number of these biters were trained to be vicious.

In a letter to me (copy attached) Dr. Beck wrote:

"The phenomenon of protection dogs is rapidly increasing in size and seriousness in most of our urban area. They pose dual problems as uncontrolled and potentially lethal weapons."

This is no speculative opinion. The increase in the use of "trained attack dogs" is cited as contributory to the rising rate of dog biting in New York City (40,000 bites reported annually) in a 19-page, well documented paper: "Dog Bites—An Unrecognized Epidemic" in the October, 1974 issue of the *Bulletin of the New York Academy of Medicine*. It is authored by Dr. Davis Harris, Associate Director of Mount Sinai Hospital; Dr. Pascal James Imperato, First Deputy Commissioner, Department of Health, New York City and Barry Oken, Research Fellow of the Department of Health, New York City.

Between 1965 and 1972, they point out, dog bites increased 37 per cent. Nearly 10 per cent of the dogs that have bitten people have received attack dog training. All of this coincides with the increase of crime in the area and the use of guard dogs to control it.

Alarmed by the problem, New York has taken several steps to reduce dog bites which will also provide certain protection of luckless animals trained to bite: Specific identification must be worn by all guard or attack trained dogs and conspicuous warning signs must be posted wherever they are kept.

Owners of dogs that have received such training must register with the N.Y. Health Department.

The N.Y. Health code now requires that all establishments engaged in guard or attack dog training be open for inspection by the Health Department and meet certain standards of caging and care.

Dog trainers, as well as animal merchandisers, are required to take a course in animal care from the Health Department.

A giant step—but few, if any, other cities are so progressive in coping with a problem that had reached horrendous proportions. For the other communities in the land, the only hope may be Federal regulations to bring attack and guard dog establishments into conformity with decent standards.

We must bring an end to such shocking episodes as reported in *Newsday* on August 29, 1975 from Manorville, L.I. Under the byline of Bob Wacker, read the first two paragraphs:

"Twelve gaunt, listless dogs, licensed to a proprietor of a guard dog service have been found chained to a dozen young pine trees here, and the proprietor has been arrested and charged with "torturing and injuring" animals by starvation.

"The remains of a dog that had been dead two or three weeks were chained to a 13th tree. 'They didn't even bury the poor thing,' said a Riverdale police officer Frank Romaniello. 'And the other 12 were just starved. I have never seen anything like it.'"

Mr. Chairman and members of this Committee, I have a collection of clippings and letters from all over this land—from Texas, the West Coast, to New England. They all tell of similar neglect and abuse—and frustration at not being able to nail down the guard dog operators so their cases will stick in court.

I have seen some of this with my own eyes. But like any reporter or humane investigator, I find it a dangerous business poking into places filled with dogs trained to bite, mutilate, or to kill. I wanted to find one that I knew—a gentle shepherd (she couldn't even bark or growl)—but I never found her. I have seen the trucks speeding on their rounds. The sight is enough to bring anger even to a leaden heart.

One observer of cramp-caged dogs aboard such a truck approached it. "They tore at the bars like they were insane," he told me. Had they become psychotic because of a nerve shattering substance fed them? Not an idle question. For a few years ago, the Food and Drug Administration removed from the shelves of a pet store here a male hormone sold to make dogs aggressive! Nothing stops my imagination after years of seeing what my fellow man will do to his other fellow creatures. But I do not deal in emotion. Only facts. I can supply them. That is my business. And I expect to be writing articles on these animals in the near future. This committee, however, by its responsible and enlightened outlook on animal welfare needs no "pressure" from outside from aroused public opinion. As, surely, it can see that this guard dog area is one that needs supervision.

Further, the committee might consider the possibility that the acquisition of guard dogs might indeed be tied into the thefts of dogs that in some areas are on the upswing, despite the USDA and the Animal Welfare Act. I raise the question of whether guard dogs, fighting dogs and research dogs might not be connected in some instances.

Overworked humane agents in most communities are unable to cope with the irregularities in the guard dog training and supply business. I have available case histories of societies trying to enter certain properties and the various deter-

rents put in their way. This is the same story repeating itself of the humane groups not having the time, money, muscle, manpower to handle the cruelties perpetuated on animals now covered, in certain categories of use, by the Animal Welfare Act.

Among the national humane groups there is unanimity of opinion that these guard and attack dogs should be covered by the Act. In fact, all working dogs. I refer to the stated hopes of the Society for Animal Protective Legislation, the Humane Society of the United States, the Fund for Animals. Also USDA officials favor coverage of these animals.

Thank you for printing this statement in the published hearings. I regret that I was unable to attend the hearings to deliver it in person and to be available for questions from the committee. My credentials to speak in this field follow:

Ann Cottrell Free; writer on animal welfare and environment for the Washington Post, the Washington Star, the Washingtonian Magazine, Defenders of Wildlife, North American Newspaper Alliance, the Birmingham News, the Baltimore Sun. Board member: The Rachel Carson Trust for the Living Environment and the Albert Schweitzer Fellowship. Former vice-president, Education, Montgomery County Humane Society. Former corr. Newsweek, Chicago Sun, N.Y. Herald Tribune. Recipient: Albert Schweitzer Medal and Writing Award, Dog Writers' Association of America. Author, "Forever the Wild Mare" (Dodd, Mead.)

NOVEMBER 24, 1975.

HON. LOWELL P. WEICKER,
*Chairman, Subcommittee on the Environment, Senate Committee on Commerce,
Dirksen Building, Washington, D.C.*

DEAR SENATOR WEICKER: I respectfully submit the following statement for consideration and to be inserted in the record of the Hearings on the Animal Welfare Act of 1966, as amended, held November 20, 1975.

My name is Mary Eleanor Brademan. I am the Deputy Director of Airport Activities for the Washington Humane Society and have been a participant in the Civil Aeronautics Board Hearing Docket 26310.

The taxpayer has a stake in this legislation. Directly or indirectly the taxpayer pays for a major portion of animal research. Vast sums are spent on animal research for the benefit of mankind and surely every dollar must count. Animals must not suffer and die before they have even been able to contribute to this research. Shipping by common carrier presently results in the suffering, ill-health and death of laboratory animals, caused by lack of in-transit care, improper handling and improper packaging. Additional replacements require additional funds and research is delayed. The shipper must build into his prices the losses sustained in shipment. Mortality rates are built into the cost. At the current rate of fifteen dollars a guinea pig, the costs are gigantic.

I have seen countless mice, rabbits, rats, guinea pigs, hamsters, ferrets and primates improperly packaged, poorly handled, neglected at airline terminals and dead or dying before arrival at their destination. On July 17, 1974 (W/B 671677) I saw forty monkeys shipped from Florida to the National Institute of Health. As the result of lack of care in transit at airline terminals and inadequate packaging they were dead or dying. On June 27, 1973, the Washington Humane Society was called to National Airport to take eight hundred or more rats that had arrived via air freight. (Allegheny Airlines). Most were dead and decaying in the hot sun, the live ones were eating the dead carcasses, and were euthanized. These shipments were from consignors who were familiar with their needs.

Zoo animals are also usually paid for with taxpayer's money. Their abuse in transportation by common carrier is caused by the same conditions and the results are the same. In both instances, neither the zoo nor laboratory animal shippers or their consignees are spending personal funds but rather the taxpayer's money. The taxpayers are already subsidizing some of the airlines to the tune of 68 million dollars in 1974 (CAB Report March 1975), why shouldn't the airlines give humane care to animals in their custody?

Much of the suffering and abuse of animals by common carrier can be eliminated by the passage of this proposed legislation.

Sincerely,

MARY ELEANOR BRADEMAN (Mrs. R. A.).

PURDUE UNIVERSITY,
OFFICE OF THE DEAN OF GRADUATE SCHOOL,
West Lafayette, Ind., November 25, 1975.

Hon. PHILIP A. HART,
Washington, D.C.

DEAR SENATOR: On behalf of Purdue University, I am pleased to submit comments on the Senate Bills referenced above. These Bills seek to amend the Act of August 24, 1966 (Pub. L. 89-544) as amended (Pub. L. 91-579) to assure humane treatment of certain animals, and for other purposes.

Purdue University is a Land Grant institution and is engaged in research in the area of biological sciences which requires the use of substantial numbers of animals in pursuit of one of its missions. Our University Animal Care Committee has and continues to diligently monitor all phases of research involving animals from their acquisition to their ultimate disposition. It is our opinion that certain provisions in the three Senate Bills should be modified to prevent undue curbing of important and relevant research targeted to safeguarding the health of the people.

Our comments deal with specific sections of the Senate Bills and are presented on the attached pages.

We appreciate your consideration of these comments.

Yours truly,

FREDERICK N. ANDREWS,
Vice President for Research.

S. 2070 (INTRODUCED BY MR. DOLE, JULY 7, 1975, AND REFERRED TO COMMITTEES ON AGRICULTURE AND FORESTRY AND COMMERCE)

Section 5(i). Intermediate handler

We are concerned with regard to the definition of the term "Intermediate handler." It is our opinion that the "intermediate handler" may be interpreted to include more individuals and companies than is intended unless the term is defined more precisely.

Section 8. Recordkeeping—Intermediate handlers and carriers

We urge a more precise definition of the term "intermediate handler." This action would preclude interpretation of the Bill to include "Recordkeeping" by more individuals and companies than is intended.

Section 9. Standards

The promulgation of standards to govern transportation in commerce of all classes of animals appears to be an assignment with gargantuan ramifications.

It is our opinion that the definition of "... adequate veterinary care ..." in transit could cause untoward confusion. Literal interpretation of the language of the Bill could require that a veterinarian accompany animal shipments from their point of origin to their destination.

Section 10(b). Veterinary certification

We object to the proposal that "... No animal ..." shall be delivered ... unless "... the animal was sound and healthy." Veterinary inspection of individual animals in small animal shipments, that may number in the hundreds, would cause hardship upon such vendors, and would be of questionable value in relation to the increased cost of such animals to research facilities.

We object to the requirement for veterinary certification that "... the animal was sound and healthy ..." We respectfully request that research facilities be exempted from the requirement. The request is based upon the fact we must frequently purchase specific animal models. For instance, animals with various types of sarcomas are required for cancer research studies.

Section 10(d). Transportation charges

We urge that research facilities be exempted from provisions of paragraph (d). The requirements for supplying payment guarantees, as required by this paragraph, would increase the cost of research efforts by significant amounts. We respectfully suggest the means to achieve the intent of this proposal are presently included in P.L. 89-544, as amended.

S. 2430 (INTRODUCED BY MR. MAGNUSON—SEPT. 11, 1975 AND REFERRED TO THE COMMITTEE ON COMMERCE)

Section 5(i). Intermediate handler

We are concerned with regard to the definition of the term "intermediate handler." It is our opinion that the "intermediate handler" may be interpreted to include more individuals and companies than is intended unless the term is defined more precisely.

Section 8. Recordkeeping—Intermediate handlers and carriers

We urge a more precise definition of the term "intermediate handler." This action would preclude interpretation of the Bill to include "Recordkeeping" by more individuals and companies than is intended.

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We object to the requirement for veterinary certification that "... the animal was sound and healthy ..." We respectfully request that research facilities be exempted from the requirement. The request is based upon the fact we must frequently purchase specific animal models. For instance, animals with various types of sarcomas are required for cancer research studies.

Section 10(d). Transportation charges

We urge that research facilities be exempted from provisions of paragraph (d). The requirements for supplying payment guarantees, as required by this paragraph, would increase the cost of research efforts by significant amounts. We respectfully suggest the means to achieve the intent of this proposal are presently included in P.L. 89-544, as amended.

S. 1941 (INTRODUCED BY MR. WEICKER FOR HIMSELF AND MR. MAGNUSON, 6 JUNE 1975 AND REFERRED TO THE COMMITTEE ON COMMERCE)

Section 10(b). Humane standards and veterinary certification

The promulgation of standards for the handling, care and treatment of all animals shipped for whatever reason would unduly place constraints on the shipment of certain animals required for research. Such research animals may require special temperature, caging, watering, etc.

We object to the proposal that "... No animal ...," shall be delivered ... unless "... the animal was sound and healthy." Veterinary inspection of individual animals in small animal shipments, that may number in the hundreds would cause hardship upon such vendors, and would be of questionable value in relation to the increased cost of such animals to research facilities.

We object to the requirement for veterinary certification that "... the animal was sound and healthy ..." We respectfully request that research facilities be exempted from the requirement. The request is based upon the fact we must frequently purchase specific animal models. For instance, animals with various types of sarcomas are required for cancer research studies.

THE UNIVERSITY OF NEBRASKA MEDICAL CENTER,
COLLEGE OF PHARMACY,
Omaha, Nebr., November 25, 1975.

Hon. PHILIP A. HART,
253 R.S.O.B., Washington, D.C.

DEAR SENATOR: This letter is being written in an effort to have the following comments registered regarding Senate Bill S. 1941, which is entitled "Animal Welfare Act". My concerns with this particular bill lie primarily in Section 13, paragraph (b), which deals with standards regarding the transportation of experimental animals. In this particular paragraph, it is stated that transportation of animals may be prohibited "unless the animal involved is accompanied by a certificate issued by a licensed veterinarian certifying that such animal as delivered to an intermediate handler or common carrier is sound, healthy, and in such condition that it can reasonably be expected to withstand the rigors of the intended transportation without adverse consequence". My concern lies in the use of the terms "sound" and "healthy" in this context, since they are certain types of experimental animals which could not be considered to be sound or healthy by definition. In this latter case I am referring to animals such as C57/BL/KsJ-db/db mice which are an inbred mutant species that is inherently diabetic, or 129/ReJ-dy/dy mice, which are an inbred strain of dystrophic mice. I doubt that any licensed veterinarian would certify that these animals are sound and healthy, although it could certainly be reasonably expected that they could withstand the rigors of transportation. There are also many experimental animals which are shipped in a surgically pre-treated condition, such as the hypophysectomized rat, which is utilized in endocrine research. Therefore, I feel that the bill contains some wording that is extremely limiting when one considers the necessity of the use of animals of this type in research.

In order to avoid this problem with the definition of "sound" and "healthy", I would suggest that you replace these terms with the words "free from infection or infestation". I think that this will guarantee that any animals that is shipped is in as sound and healthy a condition as would be possible for that animal, but that this substitutive wording would not prevent the shipment of many inbred or surgically prepared models that are currently in use in laboratory animal research.

I hope that you will forward these comments to the senate committee that is considering this bill and it is hoped that they may come up with some appropriate terms other than the words, "sound" and "healthy" which appear to be too definitive in some ways and yet too diffuse in other ways with regard to the definition that is necessary in this particular statement in the bill.

Sincerely,

ROBERT W. PIEPHO, Ph. D.
Coordinator of Clinical Education,
Department of Clinical Education and Services.

NORWICH PHARMACAL Co.,
RESEARCH AND DEVELOPMENT,
Norwich, N.Y., December 1, 1975.

Hon. PHILIP A. HART,
253 RSOB, Washington, D.C.

DEAR SENATOR: These comments are filed on behalf of the Norwich Pharmacal Company and Eaton Laboratories, Divisions of Morton-Norwich Products, Inc., a manufacturer and distributor of prescription and proprietary drugs. Various aspects of our Company's operations are subject to the provisions of the Animal Welfare Act. We are, therefore, interested in and would be affected by this proposed legislation.

Prior to commenting on the specific sections of the proposed bill (S. 1941) we find most objectionable, we feel impelled to make the following general observations. The intention of this proposed legislation to increase the protection afforded animals in their transportation and treatment is most enviable and one which we most fully agree. However, it is our impression that in the ardor of affording this additional protection the sponsors may have overlooked the realities of transporting and maintaining animals.

Certainly the additional burdens placed on individuals governed by this proposed legislation will have an adverse economical effect. President Ford has repeatedly stated that legislation and regulations that have an inflationary

impact on the economy should be avoided, if at all possible. The cost of implementing this legislation and the contemplated regulations will ultimately be borne by the consumers reflected as higher retail prices. We only ask that the benefits afforded by this proposed legislation be weighed carefully against increased costs that are sure to follow as a result of its implementation.

Sec. 4. Section 2(i). Intermediate Handler

We are concerned with regard to the definition of the term "intermediate handler." It is our opinion that the "intermediate handler" may be interpreted to include more individuals and companies than is intended by the sponsors of the bill, unless the term is defined more precisely. In general, the bill defines what an "intermediate handler" is not, rather than what it is.

Sec. 10. Recordkeeping

We believe that the present recordkeeping provisions in the Act are adequate. The recordkeeping indicated for all warm-blooded animals, in addition to dogs and cats, by research facilities may cause undue hardship to some research facilities and increase the cost of research efforts by significant amounts. We urge that . . . "Research facilities shall make and retain such records only with respect to the purchase, sale, transportation, identification, and previous ownership of live dogs and cats," as presently included in P.L. 89-544 are adequate for research facilities to achieve the intent of this proposal.

Sec. 10. Section 13(b). Humane Standards for Animals

We object to the proposal that ". . . Such standard may prohibit the transportation in commerce of dogs, cats, and other designated animals that are less than eight weeks of age . . . unless the animal involved is accompanied by a certificate issued by a licensed veterinarian certifying that . . ." Many animals are weaned and transported, especially rodents, before eight weeks of age. Veterinary inspection and certification of individual animals in small animal shipments, that may number in the hundreds, would cause hardship upon such vendors, and would be a questionable value in relation to the increased cost of such animals to research facilities.

In conclusion, it is our belief that the above proposed amendments are not needed and that they should not be enacted. Furthermore, the regulations should only be changed when there is a demonstrated need for change, no such need has been demonstrated.

We appreciate your consideration of these comments.

Respectfully submitted,

ALAN W. CASTELLION, Ph. D.,
Chief, Pharmacology Section.

PARKE, DAVIS & Co.,
QUALITY CONTROL AND GOVERNMENT REGULATIONS DIVISION,
Detroit, Mich., December 3, 1975.

HON. PHILIP A. HART,
253 RSOB, Washington, D.C.

DEAR SENATOR: Park, Davis & Company, a Michigan based corporation engaged in research and production of pharmaceutical and biological products requiring the use of laboratory animals, is an interested party with respect to Senate Bill S. 1941, a Bill to amend the Animal Welfare Act (P.L. 89-544, 80 Stat. 350, August 24, 1966; P.L. 91-579, 84 Stat 1560, December 24, 1970). Accordingly, we wish to submit the following comments and suggestions.

In general, we object to the broad phraseology used in the proposed amendment. Much of the language is confusing, and we feel it does not take into account the unique problems experienced by research facilities. In addition, implementation of this Bill would sharply increase the cost of obtaining research animals, thereby increasing expenditures involved in the development of a new drug product which in turn would increase the prices consumers must pay for the finished drug product.

Our comments on specific sections of the Bill are as follows:

SECTION 4 (6) (i) —INTERMEDIATE HANDLER

The definition of an "intermediate handler" is too broad and may cover more individuals and companies than intended. We feel a more restrictive definition of this term is required.

SECTION 9—RECORDKEEPING

We feel the "recordkeeping" requirement of Section 9 of the Bill, when viewed in connection with the broad intermediate handler definition, is unnecessarily burdensome and will tremendously increase the paperwork, manpower hours, and costs of all who deal or have contact with animals, with an especially heavy impact on research facilities. Therefore, we suggest that this provision be deleted.

SECTION 10—VETERINARY CERTIFICATION

This provision purports to prohibit the transportation of animals of less than 8 weeks of age unless the animal is certified by a veterinarian as being "sound and healthy".

We object to this requirement because it would require an enormous expenditure of time and money, especially by research institutions and would be of questionable value. Moreover, we think that the requirement that the animal be certified by a veterinarian as being "sound and healthy" is unreasonable and impractical for research institutions. Frequently these institutions purchase animal models—animals bred with certain diseases—to complete accepted experimental and regulatory protocols. Clearly, these could not be certified as healthy. We feel, therefore, that an exemption for research facilities is warranted.

We hope these comments will aid the Senate Committee in its determination, and that care will be taken in the final language of the proposed amendment to avoid development of rigid standards and definitions that would allow no flexibility to bio-medical researchers.

Very truly yours,

L. M. LUECK, Ph.D.,
Vice President.

PARKE, DAVIS & Co.,
QUALITY CONTROL AND GOVERNMENT REGULATIONS DIVISION,
Detroit, Mich., December 3, 1975.

Hon. PHILIP A. HART,
253 RSOB, Washington, D.C.

DEAR SENATOR: In response to the invitation for written comment regarding Senate Bill S. 2070, a bill to amend the Animal Welfare Act (P.L. 89-544, 80 Stat. 350, August 24, 1966; P.L. 91-579, 84 Stat. 1560, December 24, 1970), Parke, Davis & Company, a corporation with laboratories in Detroit, Rochester, Ann Arbor, and Holland, Michigan, engaged in research and production of pharmaceutical and biological products requiring the use of laboratory animals, respectfully submits the following comments:

In general, we object to the broad language used in the proposed amendment. We feel that much of the language is confusing and that it tends to embrace more individuals and companies than we believe was originally intended. Further, we feel that Senate Bill S. 2070 does not take into account the unique problems experienced by research facilities such as ourselves.

Our specific comments are as follows:

SECTION 5 (i)—INTERMEDIATE HANDLER

The definition of an intermediate handler is too broad, and we feel a more restrictive definition of this term is required.

SECTION 8—RECORDKEEPING

We think the "recordkeeping" requirement of the bill, when viewed in connection with the broad "intermediate handler" definition, is unnecessarily burdensome and will tremendously increase paperwork and manpower hours needed by all who deal, or have contact with, animals, with an especially heavy impact on research facilities. We suggest, therefore, that this provision be deleted.

SECTION 9—STANDARD FOR TRANSPORTATION

We feel that the term "adequate veterinary care" is undefined and needs clarification. Without such clarification, we feel that this phraseology could be taken to require a veterinarian to accompany all animal shipments from their point of origin to their destination. Clearly, this practice could get to be quite costly,

especially for research institutions who receive numerous shipments of animals each year.

SECTION 10 (b)—VETERINARY CERTIFICATION

This provision would require "veterinarian certification" for each animal 10 days prior to delivery. The animal must be certified as being "sound and healthy".

We object to the requirement that each animal be inspected 10 days prior to delivery because it would require an enormous expenditure of time and money, especially by research institutions, and would be of questionable value.

Further, we think that the requirement that the animal be certified by a veterinarian as being "sound and healthy" is both unreasonable and impractical for research institutions. Frequently these institutions purchase animal models—animals bred with certain diseases—to complete accepted experimental and regulatory protocols. Clearly, these could not be certified as healthy. We feel, therefore, that an exemption for research facilities is warranted.

SECTION 10 (d)—TRANSPORTATION CHARGES

This provision would prohibit cash-on-delivery (C.O.D.) animal shipments unless the shipper guaranteed, in writing, to pay transportation charges both ways and boarding fees if the animals are not acceptable to the receiving party. We appreciate the problem to which this provision addresses itself, but we feel that implementation of such a procedure would significantly increase the cost of research efforts. We, therefore, suggest that the licensing procedure set out in Section 7 of the Animal Welfare Act be utilized in this regard.

Alternatively, we urge that animal shipments to research institutions be exempted from the provisions of this section.

We appreciate this opportunity to present comments and hope that care will be taken in the final language of the proposed amendment to avoid development of rigid standards and definitions that would allow no flexibility to bio-medical researchers.

Very truly yours,

L. M. LUECK, Ph. D.,
Vice President.

PARKE, DAVIS & Co.,
QUALITY CONTROL AND GOVERNMENT REGULATIONS DIVISION,
Detroit, Mich., December 3, 1975.

HON. PHILIP A. HART,
253 RSOB, Washington, D.C.

DEAR SENATOR: Parke, Davis & Company, a corporation with laboratories in Detroit, Rochester and Ann Arbor, Michigan, is engaged in research and production of pharmaceutical and biological products requiring the use of laboratory animals. It is, therefore, an interested person with respect to Senate Bill S. 2430, a bill to amend the Animal Welfare Act purportedly to assure humane treatment of certain animals, and for other purposes. That being the case, we wish to submit the following comments and suggestions.

In general, we object to the broad phraseology used in the proposed amendment. We feel that much of the language is continuing, and that it tends to embrace more individuals and companies than we believe was originally intended by the sponsors of the Bill. Also, Senate Bill S. 2430 does not take into account the unique problems experienced by research facilities such as ourselves. It is our hope that care will be taken in the final language of the proposed amendment to avoid development of rigid standards that would allow no flexibility to bio-medical researchers.

Our comments on specific sections of the bill are as follows:

SECTION (51)—INTERMEDIATE HANDLER

The definition of an "intermediate handler" is too broad, and we feel that a more restrictive definition of this term is required.

Additionally, we think the "recordkeeping" requirement of Section 8 of the subject Bill, when viewed in connection with the broad "intermediate handler" definition, is unnecessarily burdensome and will tremendously increase paperwork and manpower hours needed by all who deal or have contact with animals, with an especially heavy impact on research facilities. We suggest, therefore, that this provision be deleted.

SECTION 9—STANDARD FOR TRANSPORTATION

We feel that the term "adequate veterinary care" is undefined, and needs clarification. Without such clarification, we feel that this phraseology could be taken to require a veterinarian to accompany all animal shipments from their point of origin to their destination. Clearly, this practice could get to be quite costly, especially for research institutions who receive numerous shipments of animals each year.

SECTION 10 (b)—VETERINARIAN CERTIFICATION

This provision would require "veterinarian certification" for each animal 10 days prior to delivery. The animal must be certified as being "sound and healthy".

We object to the requirement that each animal be inspected 10 days prior to delivery because it would require an enormous expenditure of time and money, especially by research institutions, and would be of questionable value.

Further, we think that the requirement that the animal be certified by a veterinarian as being "sound and healthy" is both unreasonable and impracticable for research institutions. Frequently these institutions purchase animal models—animals bred with certain disease—to complete accepted experimental and regulatory protocols. Clearly, these could not be certified as healthy. We feel, therefore, that an exemption for research facilities is warranted.

SECTION 10 (d)—TRANSPORTATION CHARGES

This provision would prohibit cash-on-delivery (C.O.D.) animal shipments unless the shipper guaranteed, in writing, to pay transportation charges both ways and boarding fees if the animals are not acceptable to the receiving party. We appreciate the problem to which this provision addresses itself, but we feel that implementation of such a procedure would significantly increase the cost of research efforts. We, therefore, suggest that the licensing procedure set out in Section 7 of the Animal Welfare Act be utilized in this regard.

Alternatively, we urge that animal shipments to research institutions be exempted from the provisions of this section.

We appreciate the opportunity to comment.

Very truly yours,

L. M. LUECK, Ph.D.,
Vice President.









