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How Can We Best Help Laboratory Animals Now?

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The Humane Society of the United States

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The humane movement must succeed in creating a powerful public impression of the seriousness and importance of the surplus animal problem. We shall enlist in our cause, inactive, advisory and honorary capacities, prominent people from all walks of life. We shall use every available means of communication including radio, TV, outdoor advertising, newspapers, magazines, transit advertising, specialized publications, along with new and existing materials of our own.

We are confident that after "Operation SPARED" becomes a household word (and it will), the problem will be recognized by all as a major one. We plan to make the term "Pet Population Explosion" as familiar as the expression, "Population Explosion."

Additional plans for our committee, too numerous to even touch upon, are exciting challenges which we feel can be met successfully. Your societies will be contacted at various stages of our development. In the meantime, we are appealing to each of you to participate in this, your "Operation SPARED."

We ask each of you to send us a copy of any and all of your materials related to surplus animals, whether they are already in use or merely being considered. Perhaps you have drafted a model ordinance, or have radio or TV scripts on the subject — or simply a few scattered ideas. Do send them ALL to our clearing house, regardless of whether you feel that they have merit. Let our committee decide this. Possibly even a few words will suggest a new slant or a different approach to us. We do not have all of the answers; possibly you have some of them which we are seeking. Among other things, we are especially interested in learning the mechanics of various compulsory spaying programs in operation. Let us not waste valuable time duplicating efforts, when perhaps you have already said or done it better.

We are counting on each of you to be a member of our brainstorming team in absentia, via long distance. Please flood us with all of your materials, sending them directly to me for expediency, c/o my local society: Animal Welfare Assn., Box 35, Collingswood, N.J. And if you wish to participate more actively in the work of our committee, we would like to hear about this, too.

It is our fondest hope that, with time and continued effort, we shall have disseminated our message so widely that harboring an unspayed female dog or cat will be considered a stigma, and public opinion (and law) will be such that persons will be eager to conform.

Actually, Goethe has given us the magic key: "Only begin and the mind grows heated. Only begin and the task will be completed."

How Can We Best Help Laboratory Animals Now?

By Oliver Evans, Washington, D. C.

HSUS President

Instead of making an attempt to describe all of the varied activities of The HSUS during the past year and to discuss plans for the coming year, I think it is appropriate that I devote my time exclusively to the announced topic, "How can we best help laboratory animals now?"

This is a subject of tremendous importance to The HSUS and to its members. It is a subject of tremendous importance to the humane movement as a whole. And, above all, it is a subject of critical importance to the welfare of the animals themselves.

It is only appropriate that I do so for—as head of The HSUS staff—I made or approved of all decisions involved in the process of drafting the new bill, H.R. 10049, and of negotiating it with Rep. Paul Rogers.

Various drafts of bills were submitted to The HSUS Board of Directors and then, when the last draft was prepared, it was at my suggestion that our Chairman, Mr. Chenoweth, appointed a committee consisting of those five members of The HSUS board who had displayed the greatest interest in laboratory animal legislation and who had examined the drafts submitted with the keenest scrutiny and who had been most discriminating in rejecting some provisions and in making suggestions for improvements in others. This five member committee spent two full days before making its recommendation of approval to the full Board.

It is worth reviewing the events of the last five years. The strategic situation of laboratory animal legislation in the Congress cannot be understood without doing so. The decisions taken by The HSUS Board have validity only in the context of these events.

Five years ago the first bill for the protection of laboratory animals, the Cooper bill, was introduced in Congress. The Cooper bill was followed in the next Congress by The HSUS sponsored Moulder bill and the Clark bill. As most of you know, the Clark bill and the Moulder bill, though much stronger, followed the same general administrative framework: licensing of laboratories and individuals,

pain limiting clauses, inspection, standards for physical plant and animal care, etc.

The move for this legislation gained momentum and reached a high water mark in 1962 when hearings were held by a House subcommittee under the chairmanship of Rep. Kenneth Roberts. Since that date no constructive move has been made in Congress to secure passage of either of these bills. In session after session they were re-introduced. But their sponsors were never able to mobilize sufficient support to have them taken seriously again. It became evident that these bills would be re-introduced and referred to committee—there to languish until the end of the session. This could go on over and over again but nothing—absolutely nothing—would be done to relieve or diminish the suffering of animals in laboratories.

Something had to be done and The HSUS staff made it its business to identify the roadblocks and to find out the pre-requisites for good legislation which would have a reasonable chance of enactment.

About a year ago discussions were held with and letters were written to officers of other humane societies indicating our belief that some movement to new positions by the national humane movement was necessary if the passage of legislation were seriously desired. A degree of flexibility and willingness to negotiate on the part of The HSUS was indicated in these discussions and letters.

Meetings were held in the fall of 1964, then in January of this year, and toward the end of the winter and during the spring a number of meetings were held. During the same period HSUS staff members, greatly aided by two of the society's Directors and one of its members in particular, explored the political situation.

Laws are made by Congressmen and Senators. They are influenced by their own thinking, by pressure from the Administration, and by the voters back home. In Washington a great deal of time was spent in talking with Congressmen and persons in various capacities in executive departments. Congressman after Congressman told us, in effect, "if the humane movement doesn't know what it wants, you can't expect Congress to find out for you."

This position motivated your staff in seeking to find common ground in a bill which as many as possible of the national societies would support. In the late spring Congressman Paul Rogers invited to his office representatives of those societies which had sponsored legislation and announced to them that if they would work out a new bill which would command their united support, he would not only introduce it but would work hard for its passage. This statement, coming from one of the senior members of the subcommittee to which such legislation would be assigned, and from the chairman of a committee investigating the operations of the Department of Health, Education, and Welfare, was to us a meaningful offer.

During the months preceding this meeting in Mr. Rogers' office, we had found uniform objection to the requirements of the Randall-Pepper bill and of the Clark-Cleveland bill for a license issued by the federal government to individual scientists as a pre-requisite to the pursuit of their chosen profession in covered laboratories. It is true that the federal government does issue individual licenses in certain professions where there is a critical and direct relationship to the safety of the public. For example, a federal agency licenses airplane pilots.

On the other hand, in its detailed regulation of the investment business, the Securities and Exchange Act does not provide for licensing of securities salesmen but leaves this field to the states. Similarly, architects, doctors, engineers, school teachers, accountants, and lawyers are licensed by the states. Congress will hesitate to change the precedent established for these professions and to lay itself open to a charge of unwarranted infringement of states rights.

It therefore became necessary to analyze the goals to be achieved by licensing and then to discover some other acceptable and effective means of achieving them.

As I shall point out to you later, these same goals have been achieved in drafting the provisions of H.R. 10049—even to the extent of improving upon the machinery of enforcement set up in the Randall-Pepper and the Clark-Cleveland bills.

The HSUS rightly placed great store by the provision drafted by Fred Myers placing the officer charged with the administration and enforcement of the Act in the Department of Justice where he would be totally independent of the pressures which might be brought to bear upon someone in an ordinary staff capacity in the Department of Health, Education, and Welfare. However, our explorations revealed the fact that the Department of Justice does not act as an administrative agency. For example, the Department of Agriculture is the administering agency for price support programs and for all other matters which logically fall within its scope, and only in cases where prosecution in court for violation of the law seems warranted are matters referred by the Department of Agriculture to the Department of Justice. The Department of Justice acts as counsel and lawyer for other departments of government.

To launch the Department of Justice as an administrative agency as proposed in the Randall-Pepper bill turned out to be a matter for wishful thinking.

Here, again, the achievement of the desired goal—independence from pressure within the Department of Health, Education, and Welfare—had to be achieved by some new means. A diligent search was made and, finally, in consultation with one of the lawyers employed by the House of Representatives to assist Congressmen in drafting legislation, language was found which had served to establish

offices completely independent from political pressure but within existing executive departments. Counsel for the offices created under this language confirmed that these officers were—in fact—free from any dictation or pressure from the Secretary or other personnel of the department in question. You will find this language in Section 2 of H.R. 10049: "...there shall be located for administrative purposes within the Department of Health, Education, and Welfare an independent Office of Laboratory Animal Welfare... headed by a Coordinator... who shall be appointed by the President."

The most widespread political objections found to the former bills were in the field of pain limitation provisions. These provisions constitute the heart of any legislation for the protection of laboratory animals. And, yet, the provisions written into the former bills virtually guaranteed that these bills could not be passed. Congressmen are in Congress because the majority of people vote for them—and it is a rare bird indeed—the truly dedicated idealist—who will lend his support to legislation which seems to be in direct opposition to programs as popular and as widely supported as medical research.

Consider, for a moment, the fact that appropriations by the Federal government for biomedical research have multiplied some twenty times in the last fifteen years. That enthusiasm for these programs has not abated at all is evidenced by the selection by President Johnson, as part of his program of consensus, legislation for large appropriations for new programs to find cures for heart disease, cancer, and stroke.

Some research to achieve these goals will involve severe pain to animals. Other procedures will involve prolonged pain. Herein lies the dilemma of the humane movement.

It is impossible to mobilize meaningful support in the Congress for legislation which will hamper or impede the programs designed to achieve these goals. Much as we would like to see the objective of painless research achieved we must recognize that if we had continued indefinitely to support legislation containing the kind of pain limiting clause of the Randall-Pepper bill, we would not only be deceiving ourselves but—more importantly—we would be failing in our duty to bring every possible measure of relief to the animals used in research. The support of legislation which cannot be passed is an exercise in futility.

It is our compassionate duty to search for those provisions which will bring the greatest possible benefits to laboratory animals and still have a reasonable chance of enactment into law.

To my way of thinking it is not only ridiculous—but it is morally reprehensible—to settle for less than can be achieved. Why try for a bill to provide merely for care and housing when there is a good chance that a united humane movement can get a great deal more? Every year—this year, next year, and the next—we must never cease

trying for better and better legislation to reduce the suffering of animals in laboratories. The law passed in one year is the foundation for further advances in subsequent years.

To demonstrate to you that the philosophical position underlying the foregoing rationale fits into long established HSUS policy, I am going to quote a policy statement adopted by The HSUS Board in May of 1960:

"The HSUS holds that cruelty is immoral, regardless of the pretext for it. Our membership, in a national referendum conducted a few years ago, declared it to be fundamental HSUS policy to oppose and to seek to prevent all uses of animals that cause pain, suffering, or fear. The HSUS Board of Directors adheres to that policy.

"We think that it would be also immoral, however, to refuse to rescue a single animal from suffering, merely because we cannot abolish all suffering. We do not reject humane progress, even if progress does not immediately attain the ultimate objectives of our ideals. The HSUS will always support any legislation and any action that will genuinely prevent cruelty and suffering."

This brief policy statement was drafted by Fred Myers and unanimously adopted by the Board of Directors. Clearly, The HSUS Board, in giving its support to the Rogers-Pepper bill, has acted in conformance with established policy.

I think it is also appropriate that I should cover a few of the salient features of H.R. 10049 which I have not already touched upon.

As the bill is written, the Coordinator—who is the chief administrative and enforcement officer—is appointed by the President to be the head of an independent Office of Laboratory Animal Welfare.

It has been suggested that the goal of complete independence from pressures might be even further insured by provision in the law for a specific term of years for his appointment. Then the Coordinator would be subject to removal only for dereliction in the performance of his duties. When hearings are held, The HSUS plans to recommend amending the present language to provide a five-year term of office for the Coordinator.

H.R. 10049 has a wider coverage of laboratories than the Randall-Pepper bill and, also, contains important additional provisions relating specifically to procedures which involve stress but not pain. By contrast, the Clark-Cleveland bill covers only those laboratories where government funds are spent; it exempts the vast drug industry—where more than half the animals are used.

As I have mentioned earlier in connection with enforcement machinery, Congress and officials in the Administration have said very plainly and very clearly that they are not going to approve the licensing of individuals. We asked ourselves, therefore, in writing the new bill how the goals of individual licensing could be achieved without such licensing. The result of our study and drafting is a

bill with an enforcement system that operates on four levels and not only accomplishes the purposes of individual licensing but assures even greater flexibility of operation and, therefore, far greater protection for the animals.

The Coordinator will issue a Certificate of Approval (a license) to the head of any covered laboratory who then is charged with full responsibility for the care and use of animals, for permitting inspections at any time, for operating the laboratory in conformance with the Act and with all directives (rules and regulations) issued under it, and for approval of the competence of the investigators working in his laboratory.

For failure to comply with the Act and with directives (1) the Certificate of Approval of the head of the laboratory may be suspended or revoked, (2) the head of the laboratory may be made temporarily or permanently ineligible to use animals in research, (3) no payments of federal funds may be made under grants or contracts during a period of non-compliance, and (4) at any time that a laboratory is not supervised by a holder of a Certificate of Approval, all animals shall be in the custody of an appointee of the Coordinator.

Individual researchers, although not licensed, must meet qualifications as a prerequisite to carrying out research and are subject to temporary or permanent ineligibility to use animals in research as a penalty for violation.

Probably the greatest criticism of the new bill has centered around its pain provisions. The criticism has shown a strange and unusual lack of comprehension of fairly straightforward and simple English. One of the critics published the statement that the Rogers-Pepper bill is "a bill which offers no restriction on the infliction of pain." This, of course, is a false statement. Another critic published the statement that "When a researcher plans an experiment for which there is no such directive, and the experiment is not 'compatible' with the section describing standards (meaning that the experiment will cause pain or other suffering), the researcher simply obtains a special directive which he displays near the animals throughout the experiment."

This statement, of course, is a distortion of the facts by choice of words. Either the writer does not really understand what is involved in the pain provisions of the new bill or is not interested in full reporting. For example, the writer says that the researcher simply obtains a special directive. Let us examine carefully what is involved in obtaining permission to perform a painful procedure.

Before any painful procedure can be initiated, three very clear, very definite, steps must be followed for the protection of the animal:

1. The researcher must first get the concurrence of the head of his laboratory. They in turn, together, notify the Coordinator

describing in detail the procedure proposed to be used and the reasons for it.

2. The Coordinator must then determine whether there is any alternative—less painful—means of accomplishing the purpose of the proposal and, if not, the procedure must be absolutely necessary as a means of directly achieving the alleviation of suffering, the prolongation of life, the prevention or cure of disease, or the promotion of national safety.

3. After the Coordinator has made his determination, he must then give interested animal welfare organizations the opportunity to show whether the procedure is necessary according to the provisions of the Act and the opportunity to recommend alternative means of accomplishing the purpose of the proposal before the special directive is issued.

Three very clear, very definite, steps must be followed for the protection of the animals. There is nothing at all simple about obtaining such a special directive.

But a great deal more can be said about the pain provisions of the new bill. All procedures shall conform with directives—directives in whose formation humane societies have participated. If the procedure is painless, it must conform with published general directives. If the procedure involves stress or pain, it comes under the system I just described, and requires a special directive.

In either case, directives will prescribe surgical and other techniques, the use of anesthetics, post-operative care, and the method and timing of painless destruction of animals. In drawing up both general and special directives the Coordinator is directed to work toward refinement of techniques in order to reduce distress to the animals to a minimum, the widest use of statistical techniques in experimental design and sampling to reduce to a minimum the number of animals used, the elimination of duplication of experiments, and the substitution of non-sentient or less sentient forms of life for higher forms.

The provision for student work requires that it be painless except under conditions specified by the Coordinator. Further discussion has indicated that our congressional sponsors are agreeable to tightening or eliminating this exception and The HSUS will so recommend in hearings.

Unannounced, periodic inspections are provided for in contrast to the Clark-Cleveland bill which only states that laboratories must admit representatives of the Secretary of Health, Education, and Welfare at any time; the Secretary should be directed to employ inspectors and to conduct inspections to insure compliance with the law.

A provision not found in other bills is that relating to participation by the humane movement in the administrative process. The Coor-

dinator is directed to consult with representatives of interested animal welfare organizations in the formation of all directives. The humane movement will, thus, have an opportunity to make its voice heard in this important administrative function and also to become fully informed on practices in laboratories. Humanitarians have long sought a better knowledge of the numbers of animals used, their treatment, and the procedures to which they are subjected.

There are many other provisions of the bill—all of which have a bearing on improving conditions for animals—but they are too numerous and too detailed to examine in the time available. I am sure they will be covered in the committee deliberations which will soon follow.

However, suffice it to say that all of the provisions of H.R. 10049 have been drafted in the light of the experience gained since the first bills were introduced in this country--and especially with the benefit of the detailed report issued by the Littlewood Committee. This committee, appointed by the government, made a detailed study of all matters relating to the use of animals in laboratories in England and published its comprehensive findings after two years of investigation and hearings.

A lot of work, a great deal of careful thought, and the exercise of all the ingenuity we possess has gone into making H.R. 10049 a bill with the greatest possible protection for laboratory animals in that form which will win the widest acceptance possible.

May I stress again the importance of passing this bill?

It will establish three basic principles on which all laboratory animal legislation, now and in the future, will rest. They are:

1. Federal regulation of the care, husbandry, and housing of laboratory animals;
2. determination by a Federal agency of procedures prohibited and procedures allowed in using animals in laboratories;
3. prohibition or allowance of experimental purposes by a Federal agency if pain to animals is involved.

These principles are basic to any effective legislation.

Some have wondered if this emphasis on winning wide acceptance has meant compromise with principle. Nothing could be farther from the fact. It is devotion to the principle that something must be done and not just talked about that led us to place so much emphasis upon acceptable form as well as upon the substance of good legislation.

That our efforts have met with some degree of success is attested to not only by the introduction of H.R. 10049 by Mr. Rogers but also by its co-sponsorship by Representatives Claude Pepper, William Springer, Leo O'Brien, William Randall, and Oliva Huot. These Congressmen constitute a bi-partisan group of impressive capabilities. Some are senior members of the House of Representatives

Health and Safety Subcommittee. Most importantly, these men are working for H.R. 10049 and mean to pass it.

Work with the AHA has brought that society from support of a weak and totally unsatisfactory bill last year to the support of H.R. 10049.

Work with other national societies has not been productive. It was not anticipated that the National Catholic Society for Animal Welfare would support H.R. 10049 as this society has a record of withholding full support from all bills for the regulation of laboratories heretofore introduced. Its present position—that a care and housing bill—the weakest bill of all—should now be passed is senseless.

The Society for Animal Protective Legislation was invited to participate in the process of drafting a new bill but did not display a cooperative attitude and, when the new bill was finally introduced, reacted violently. This is regrettable but, I believe, not suicidal for the cause of protection for laboratory animals.

Since its introduction on July 26, humanitarians have been reading and studying H.R. 10049. Support for it is growing daily. The Maryland federation of humane societies is officially on record in its favor. The legislative committee of the Maine federation also is on record. The Florida federation is expected to endorse it at its meeting tomorrow.

H.R. 10049 has been referred to the Health and Safety Subcommittee of the House Interstate and Foreign Commerce Committee. Mr. Oren Harris of Arkansas, who is chairman of both the full committee and the subcommittee, has been appointed to the federal bench and will don his robes after Congress adjourns this fall. Mr. Rogers has obtained the consent of Mr. Harris and of Mr. O'Brien, one of our co-sponsors and the ranking Democratic member of the committee, for Mr. O'Brien to preside at hearings on our bill. It is a great joy to me to be able to announce to you that these hearings will be held starting at 10 a.m. on September 30, 1965.

I urge each one of you to read—and re-read—this bill so that you understand thoroughly not only its great strengths but its limitations. Obviously, it is not a final answer—but it is a tremendous start in the long battle for the elimination of suffering of animals in laboratories.

Bear in mind that this bill is not a propaganda piece designed to inform the public of the high principles of humanitarians. It is a bill which we intend to pass in order to bring substantial relief to animals in laboratories as soon as possible—and which can be passed in 1966 if all humanitarians of good will buckle down and work for it.