



ASPEN ELECTIVE SERIES

Animal Law

WELFARE, INTERESTS, AND RIGHTS

SECOND EDITION

■ DAVID FAVRE



Wolters Kluwer
Law & Business

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SECOND EDITION

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Law & Business

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PREFACE

This is a picture of Moppet. Moppet is a being, a being who lives with me. She is alive. Look into her eyes; she is aware, aware of me but perhaps not self-aware. She is quiet, quick, and potentially deadly to other small beings who come into our place. To touch her is to feel like you are touching a cloud. She is soft and flowing, with sharp points hidden in her paws. Her spirit is positive and engaging.



Moppet generally makes good decisions, but they are not always the same decisions that I would make (for a time her nickname was “Deathwish Moppet”). She likes human companionship and the warmth of the sun and seeks out both. To us she is the essence of innocence, of cuteness, of goodness. To her, she simply is. Moppet has become an occasional companion to Rocky, the 100-pound Great Pyrenees, and they spend quality time together until he gets too playful. She wanders about in our part of the world, answering to a drummer that I cannot hear. She knows where home is, and who the members are of our multiple-species family. Moppet lives her life as best she can, as do I.

The world of philosophy and law does not normally intrude into this world. But we need to explore just what Moppet’s status is in my world of moral and legal obligations. We need to reflect upon who she is and how we humans ought to deal with her and the millions of animals that she might represent.

This book will allow the reader to explore the present and potential dynamics of the relationships between human beings and other beings. Given the long-standing interactions between our species and so many others, there is a rich matrix of context through which to view the relationships among all these beings: law, cultural, ecological, neurological, philological, economic, and psychological. Although the primary focus of this book is for the student of law, the non-law student will also be provided a thread of discovery. For the student

focused on the law, be aware that this book contains more than just "the law." As the issue of the status of animals within the legal system is presently in considerable flux, there is a necessity to present considerable nonlegal material to allow readers to make their own judgments about the "oughts" of the legal system. I am of strong opinion that the present state of the legal system is inadequate in its treatment of animals, but there is much room for debate about what possibilities exist for its future growth. This requires us to examine where we are now, what problems exist with the present state of affairs, and where we might want to go.

Animal Law: Welfare, Interests, and Rights is a part of a more extensive set of materials available on the Animal Law and History Center Website, which is hosted by the Michigan State University College of Law.

Additional material on many of the topics covered in this book can be found within the website, www.animallaw.info.

David S. Favre
April 2011

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Although the focus of the materials in this book is on the United States, the reader must be aware that animal issues are global in reach. Therefore, occasionally international materials will be included for general discussion or comparison with approaches in the United States.

Section 1

A Few Issues of Public Policy

Dog- and Cat-Fur Products

Cats and Dogs

In spite of a deep aversion to the exploitation of companion animals in the West, the market for cat and dog fur is a burgeoning international industry, said to amount to more than 2 million lives a year. Bans exist in the United States and in many European Union (EU) countries, such as Italy, yet these laws set limitations based only on the sales value of an individual item. This means that any inexpensive item is considered completely legal, and this category covers the widest use of cat and dog fur, namely as trim or small items with a value under \$150. Animal-hair tests reveal that cat and dog fur is commonly used in jackets, linings in garments, boots, gloves, handbags, hats, collars, scarves, lap rugs (sought after in Germany and Switzerland to treat arthritis and rheumatism), dolls, and even toys for cats and dogs themselves. (In addition to clothing, the skin has a broad range of other uses.) And that's just the legal trade.

The main originating sources are China, South Korea, Thailand, and the Philippines, where cats and dogs are collected and, more recently, commercially bred and farmed. To support this flourishing trade, family pets are commonly stolen and sold. Rows of crates, tightly stuffed with live cats and dogs, are openly displayed in outdoor stalls across Southeast Asia. The cats are usually snared in a wire loop (garrote) and strangled by hanging. The dogs are muzzled, tethered with their legs often over their backs, and then bled to death by slashing their thighs or paws. They all will be skinned and their fur processed for shipment.

This is an international market of trade, export, import, and re-export designed to blur the origin and exact nature of the pelt. Most typically, the fur is collected in one country, processed in another, and assembled in a third to circumvent import restrictions. Creative labeling and fraudulent mislabeling helps manufacturers and retailers thwart bans and oversight and deceive consumers. Investigators have discovered whole garments for sale in the United States and across Europe, in contravention of current bans. At least one reporter revealed active fur trafficking in stolen pet cats from England, whose hides were offered for sale in Belgium.

www.chai-online.org/en/compassion/clothes_fur.htm#cats_dogs (July 2006)

McCartney to Boycott China over Animal Cruelty

Paul Lewis, Nov. 29, 2005

The Guardian online

Sir Paul McCartney says he will never perform in China after watching a secretly taped film of animals being abused and killed for their fur. In one scene, shot in a fur market in Guangzhou, southern China, and due to be broadcast on the BBC's Six O'Clock News last night, workers throw cats into boiling water. The film was watched by Sir Paul and his wife, Heather, at a preview screening.

Sir Paul said yesterday: "I wouldn't dream of going over there to play, in the same way I wouldn't go to a country that supported apartheid. This is just disgusting. It's against every rule of humanity."



Anonymous photograph from the Web: Dogs off to slaughter in China.

Questions & Notes

1. What is your reaction to the information in the story and to the picture? Is the picture, or are the sentences, more emotionally compelling? Why?
2. Do you think the boycott of China by McCartney is a good approach for dealing with the problem?
3. Do you think the use of dogs and cats as food and fur is morally acceptable? Is the method of death morally acceptable? Would you eat dog? Why or why not? If it is acceptable in the Chinese culture, do we have the right to question it? Is there the risk of cultural imperialism? As of 2011 there is no national criminal anticruelty law in China. Do you think they will adopt one in the next ten years?
4. As of the summer of 2006, the State Forestry Administration has responsibility for animal welfare issues. On being shown pictures of the live skinning of dogs and cats at an animal market outside Beijing, officials from the agency expressed horror and shock, claiming that such actions are illegal; but in fact, it is not clear that there is any law on point. For a detailed discussion of the Chinese trying to figure out how to respond to these new Western concerns about animal welfare, see the editorial "Progress against dog and cat fur in China," *Animal People*, June 2006, p. 3.