

Letters

Animal Testimony

Greenberg's remarkable report (News and Comment, 16 Dec., p. 1424) on the new scientific challenge to the nation, "to teach an animal to speak in this decade," mentions that legal scholars have been drawn into the project and are wrestling with the problem of the admissibility of animal testimony in legal proceedings.

Your readers may wish to know that legal scholarship has already solved that problem, as the attached opinion of the English Court of Appeal (Fictive) indicates.

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In the
Court of Appeal

REX v. BARKER

Welp, Cur and Bellow,
Justices

In this appeal, we are called upon to decide the extraordinary question whether a conviction for larceny must be set aside on the ground that the only evidence against the convicted appellant was the testimony of a dog.

At the threshold, we are confronted by a curious argument, advanced rather gruffly by counsel for the appellant, Mr. Collie. It is urged that our *Admissible Evidence Act* enables any "person" to testify in a judicial proceeding; that the dog, known as Spot, who was allowed to testify against the appellant, Barker, was manifestly not a person; and, consequently, that the conviction of Barker rests on inadmissible evidence and must be quashed.

The argument has a certain superficial appeal, but the law is quite capable of dealing with sophistries. In other instances, our decisions have held that corporations, partnerships, public bodies, women, ships, and tuna fish are "persons" within the meaning of pertinent statutes. On the Continent, Professor Schnauze has collected the cases in his monumental work, *Hunde und Recht*, especially with regard to German shepherds, and concludes that dogs are persons, or at least "quasi-persons in a Wagnerian sense" (p. 627, translation). In America, a court has plainly held that a dog is man's best friend, *People v. Mutt*, 100 Tex. 1 (1880) (Poodle, C.J.). We accordingly hold that Spot was a "person" within the meaning of our *Admissible Evidence Act* and was competent to testify.

The appellant next contends that Spot did not properly take the oath required of witnesses. The record does disclose that when Spot was asked by the bailiff whether he did "solemnly swear to tell the whole truth, etc." his answer was more of a growl than a clear affirmation. But Johnson's reaction to a dog walking on its hind legs is apposite: it is not done well; but you are surprised to find it done at all. A reasonable dog cannot be held to the same standards as a reasonable man. The oath was satisfactorily taken.

The appellant's final contentions are directed to the examination of Spot by the Counsel for the Crown, Mr. Terrier, that elicited critical testimony against Barker. The record discloses the following colloquy:

Terrier: Now, Spot, do you see the thief anywhere in this courtroom?

Spot: Grrr. Grr.

Terrier: Can you point him out?

Spot: Grrr. Grr. (raising paw).

Terrier: Let the record show that Spot pointed his right front paw in the direction of the accused.

The appellant moved to strike Spot's testimony as unresponsive because, it is asserted, Spot was not here answering questions but was merely scratching at fleas. The trial judge denied the motion. Judge Nimrod, with his broad experience in these matters, was plainly in a better position than we to determine whether Spot was answering or scratching. The judgment of conviction is **AFFIRMED**.

International Statement on Information Exchange Groups

The following statement was prepared by the Commission of Editors of Biochemical Journals of the International Union of Biochemistry:

In the course of a meeting in Vienna 10-11 September, we considered some fundamental questions of journal policy in their relation to material that has been distributed by an Information Exchange Group (IEG).

The Commission recognized the value of the Information Exchange Groups as a medium for rapid exchange of informal suggestions, comments, queries, criticisms, and general discussion among groups of scientists who share a common interest in a particular field, provided that such memoranda are not intended for publication. This was indeed the primary, original purpose of the IEG's. In order to make this purpose clear the Commission recommended that each

IEG memorandum should state on its front page that the memorandum is not intended for publication and is not to be quoted in published papers.

The circulation of an IEG memorandum that is identical (or nearly identical) with a paper simultaneously submitted for publication in a journal can cause much trouble and confusion. The paper may undergo drastic revision before acceptance by the journal; in that case many workers in the field will read the earlier unrevised version, and may fail to read the published paper. The confusion that has arisen in some such cases is unfortunate.

Moreover there are objections to the circulation by an IEG of manuscripts already accepted by journals; that is, the distribution of preprints by an agency entirely independent of the publisher of the scientific paper. This raises questions concerning possible violation of copyright.

In view of these considerations the Commission of Editors proposed that its member journals adopt the following policies:

1) No paper will be considered for publication if that paper, in essentially the same form, has previously been released as an IEG memorandum. Papers may not be submitted simultaneously to a journal and to IEG, nor may papers already accepted for publication in a journal be released through IEG.

2) IEG memoranda are not to be cited as such in a published paper. An author may refer to the information contained in such a memorandum as a "personal communication" from the writer and the editor may require evidence of this before permitting the inclusion of reference to such a personal communication.

This policy statement, of course, did not advocate abolition of the IEG's, but rather urged their continuation as a means of informal communication among scientists with common interests. The policy statement embodied in item 1 above is essentially an extension and a restatement of a long-standing policy that has been embraced by nearly all scientific journals; it is designed to prevent multiple publication of the same paper. Editors have operated for some years on the assumption that IEG memoranda were personal communications, not publications. Gradually this distinction has become blurred, since some of the IEG's have distributed many hundreds of copies of papers simultaneously submitted to journals. Such wide distribution of preprints by an agency independent of the publishers of the journals where the papers will appear is in many ways tantamount to publication, and thereby becomes a violation of the rule against simultaneous publication of research results in more than one medium.

Recently the U.S. Public Health Service has announced, in a letter by Eugene A. Confrey (Letters, 18 Nov.), that the IEG program as at present conducted will be terminated early in 1967. In view of this decision further comments are in order.

All of us recognize that we face a crisis in scientific communication. The volume of the literature has become overwhelming. The need of each scientist to