

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.

JOSEPH D. BECKER

40 Rector Street, New York 10006

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.

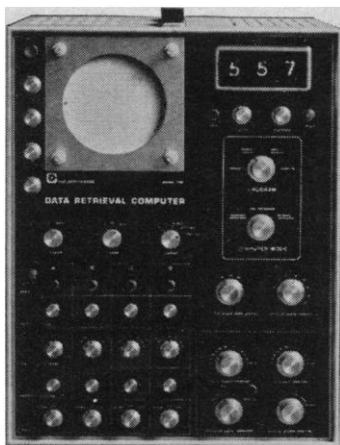
This policy statement, of course, did not advocate abolition of the IEG's, but rather urged their continuation as a means of informal communication among scientists with common interests. The policy statement embodied in item 1 above is essentially an extension and a restatement of a long-standing policy 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

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learn promptly of work by others that bears closely upon his own problems is increasingly insistent. The IEG's have provided such a means of rapid exchange of information among certain groups of workers with closely related interests; they also provided a forum for controversy and discussion, without the inhibiting influences that would attend formal publication. Scientists moving into new fields of research could make their activities known to others at an early stage, long before publication. All these purposes, and others, can be served by the IEG's, and by similar groups that may arise in the future.

By well-established practice many scientists circulate advance copies of manuscripts that have been accepted for publication to a limited group of colleagues who share their interests. This practice obviously serves the advancement of science, and no journal regards it as a violation of copyright if the number of copies so circulated is fairly small. Such manuscript copies may fail to reach other workers whose research might profit greatly if copies were available to them. Circulation of very brief notices of current research among members of an IEG or some similar group might serve to establish communication in cases of this sort.

As editors we recognize the responsibilities of the scientific journals for speeding the process of publication and the distribution of journals after publication. We wish to maintain high standards of careful but prompt reviewing before a paper is accepted; but the interval from acceptance to publication should be as short as possible. Some journals have reduced this interval to 2 months, sometimes even less, while maintaining high standards of publication; this of course requires the cooperation of authors in careful preparation of manuscripts and prompt return of proofs. We recognize the responsibility of the journals to make every effort to shorten publication time.

Distribution of published journals by air can make scientific findings available all over the world within a few days of publication, whereas journals sent by surface mail may take 2 months or more to reach Asia or Australia from Europe or America. The obstacles to circulation of journals by air are not technical but financial. IEG memoranda, as a result of being sent by air mail, reached investigators throughout the world almost simultaneously; this was one of the great merits of the IEG experiment. The overseas copies of some journals are already distributed by air; the editors of others are eager to follow their example, if they can solve the financial problems involved. We believe that the rather moderate costs of such rapid distribution will be far more than repaid by the resulting stimulus to the progress of science, and the strengthening of communication among the members of the worldwide scientific community. We believe that the International Scientific Unions should play an active part in promoting such rapid communication.

In summary: (i) We recognize the value of the IEG's and of similar groups that may be expected to arise in future

among scientists with related interests, in promoting rapid communication of material not intended for publication. If the scientists themselves wish to form more such experimental groups, and to find ways of meeting the costs of operating them, such groups may well become more numerous and more varied in the future. (ii) The journals listed below will not consider manuscripts for publication if preprints, of essentially identical content, are to be distributed, in substantial numbers, by an agency independent of the author or of the publisher of the journal. (iii) We recognize that editors and publishers of scientific journals must make every effort to accelerate publication and distribution of accepted papers.

The following journals have subscribed to this general statement of policy: *Archives of Biochemistry and Biophysics*, *Biochemistry*, *Biochemical Journal*, *Biochimica et Biophysica Acta*, *Carbohydrate Research*, *Clinica Chimica Acta*, *European Journal of Clinical Investigation*, *Journal of Lipid Research*, *Journal of Molecular Biology*, *Journal of Nutrition*, and *Molecular Pharmacology*.

The following members of the Commission were present at the meeting in Vienna and voted to approve these policies: J. T. Edsall (*J. Biol. Chem.*), J. C. Kendrew (*J. Mol. Biol.*), H. Neurath (*Biochem.*), E. C. Slater (*Biochim. Biophys. Acta*), W. V. Thorpe (*Biochem. J.*).

W. V. THORPE

Department of Physiological
Chemistry, University of Birmingham,
P.O. Box 363, Birmingham 15, England

Chemical and Biological Warfare: Is Propriety the Issue?

What is the issue concerning University of Pennsylvania research on Army and Air Force Chemical and Biological Warfare projects? (News and Comments, 13 Jan., p. 174). The issue is muddy in my mind. The more I ponder it, the muddier it becomes. Is the research illegal? Is it immoral? Is it unsportsmanlike? From time to time, the issue of the propriety of certain research at universities does arise, and although I find CBW and spy-related work personally distasteful, my personal tastes don't determine right or wrong. Other factors have to be considered.

In any country, the scholars and scientists (they may not be mutually exclusive) depend on the wealth of that country for support. Actually, the emergence of an urban population superstructure (innovators, scholars, scientists, military, merchants, financiers,