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S 4/22/76

APPROVED

THE WHITE HOUSE
WASHINGTON

ACTION

APR 22 1976

Last Day: April 26

April 21, 1976

MEMORANDUM FOR THE PRESIDENT

FROM:

JIM CANNON *[Signature]*

SUBJECT:

S. 1941 - Animal Welfare Act

*Posted
4/23/76*

*Archive
4/23/76*

Attached for your consideration is S. 1941, sponsored by Senators Weicker and Magnuson. The enrolled bill would amend the Federal Laboratory Animal Welfare Act of 1966 to expand its scope to prohibit (a) the mistreatment of animals being transported in interstate and foreign commerce, and (b) animal fighting ventures.

A detailed description of the provisions of the enrolled bill is provided in OMB's bill report at Tab A.

All of the agencies contacted by OMB recommend approval except the Federal Maritime Commission and the Department of the Treasury.

The Federal Maritime Commission recommends disapproval because it would subject the common carriers and intermediate handlers under its jurisdiction to inappropriate, increased regulation in an area that the Commission lacks expertise. Treasury recommends disapproval because it could divert the Department's law enforcement agents away from their much more significant law enforcement responsibilities.

The bill passed in the House 335-43 and on a voice vote in the Senate.

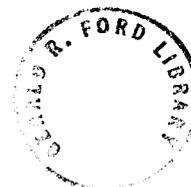
OMB, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign S. 1941 at Tab B.

Approve *[Signature]*

Disapprove _____





EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

APR 16 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 1941 - Animal Welfare Act
Sponsors - Sen. Weicker (R) Connecticut and
Sen. Magnuson (D) Washington

Last Day for Action

April 26, 1976 - Monday

Purpose

Increases the protection afforded animals in transit and assures the more humane treatment of certain animals.

Agency Recommendations

Office of Management and Budget	Approval
Department of Agriculture	Approval
Department of Transportation	Approval
Civil Aeronautics Board	Approval
Department of Commerce	No objection
Interstate Commerce Commission	No objection (informally)
United States Postal Service	No objection
Department of Justice	Defers to Agriculture
Department of Health, Education and Welfare	Defers to Agriculture
Department of the Army	Defers to Agriculture
Department of the Treasury	Disapproval
Federal Maritime Commission	Disapproval

Discussion

The Federal Laboratory Animal Welfare Act of 1966 provided the Secretary of Agriculture with authority to prescribe standards for the humane treatment of animals used for research and experimentation while in scientific institutions, on the premises of animal dealers, or in transit. In 1970, the Act's



coverage was extended to include non-laboratory animals transported, bought, or sold for teaching purposes or for use as pets, thus placing exhibitors and wholesale pet dealers under the Act's regulations.

However, under the existing law, the Secretary has no authority to regulate the treatment of animals shipped in commerce by common carriers. As an increasing number of animals have been shipped in commerce during the 1970s, the resulting increase in injuries and deaths to these animals has focused growing public attention on the problems associated with the transportation of animals.

In broad terms, S. 1941 would expand the scope of the Animal Welfare Act to prohibit (a) the mistreatment of animals being transported in interstate and foreign commerce, and (b) animal fighting ventures. More specifically, the enrolled bill would:

(1) Require common carriers and intermediate handlers to adhere to humane treatment regulations promulgated by the Secretary of Agriculture governing the transportation of animals.

(2) Require that animals, within 10 days prior to shipment, be certified as healthy and sound by a licensed veterinarian (covers dogs, cats, and other animals that may be designated by the Secretary).

(3) Prohibit the shipment of dogs, cats, and other designated animals before they reach a minimum age as determined by the Secretary. The Secretary may exempt animals to be used in research from this provision and the veterinarian certification requirement.

(4) Allow the transporting of animals under collect-upon-delivery arrangements, only if the shipper guarantees payment of round trip fare and other out-of-pocket expenses of the common carrier or intermediate handler for the care of animals. Those not claimed within 48 hours after notice of their arrival would be returned.



(5) Provide for civil penalties imposed by the Secretary of not more than a \$1,000 fine for each violation; in the case of one who is convicted of knowingly violating the Act, criminal penalties consisting of imprisonment for not more than one year and/or a fine not to exceed \$1,000 may be imposed by the courts (the above penalties apply to violations of the provisions cited above). With the consent of the Attorney General, Agriculture's attorneys could prosecute the criminal cases.

(6) Add a new section to the existing Act making it a criminal offense for any person knowingly to sponsor or exhibit an animal in any animal fighting venture, to buy, sell, transport, deliver or receive animals for participation in such a venture, when these animals are moved in interstate or foreign commerce, or to use the mails or any interstate instrumentality to promote such a venture. Cock fighting would not be an offense in States where it is not illegal under State law.

(7) Provide criminal penalties for violation of the animal fighting section consisting of imprisonment for not more than one year and/or a fine not to exceed \$5,000.

(8) Authorize appropriations to the Secretary of Agriculture for enforcing the animal fighting section in amounts not to exceed \$100,000 for the transition quarter and \$400,000 for each fiscal year thereafter.

(9) Empower the Secretary to obtain assistance from the Federal Bureau of Investigation, Treasury, or other law enforcement agencies of the United States, and State and local governmental agencies, in the conduct of animal fighting venture investigations.

In initially reporting to Congress on this legislation, the Administration generally opposed the entire bill. Subsequently, ameliorating amendments were made to the provisions dealing with the humane transportation of animals. The remaining troublesome provision of the bill is the animal fighting

section. This provision was opposed by the Administration because the policing of animal fighting should be a responsibility of State and local law enforcement agencies. The Administration has argued that Federal jurisdiction should only apply to matters directly involving a function of the Federal Government or otherwise beyond the normal enforcement capability of State or local authorities. Animal fighting is not such a case.

However, in its report on the bill, the House Agriculture Committee did not share the Administration's view, and stressed the interstate nature of the problem, as it stated:

"A different and extremely vicious problem is presented by the animal fighting ventures uncovered by the Committee during the hearings. Dog fighting, a minor problem prior to World War II, has unfortunately grown and prospered to the point that Regional Conventions are held which attract fighting dogs and 'dog fanciers' from numerous states ..."

"The Committee considers the practice of dog fighting, and the setting of one dog upon another or upon other animals as bait, etc., in the training of dogs, for fighting to be dehumanizing, abhorrent, and utterly without redeeming social value. It may, of course, not be possible to completely eliminate these practices. However, it is hoped that Federal legislation will complement local law enforcement which, without such assistance, cannot successfully cope with this essentially interstate problem."

S. 1941 passed in the House by 335-43 and on a voice vote in the Senate.

Agency Views

The Federal Maritime Commission and Treasury both recommended veto. The FMC takes the position that

S. 1941 would subject the common carriers and intermediate handlers under its jurisdiction to inappropriate, increased regulation in an area that the Commission lacks expertise. Treasury objects to the bill because it could divert the Department's law enforcement agents away from their much more significant law enforcement responsibilities.

On the other hand, all other agencies either offer no objection to approval, defer to Agriculture, or concur in Agriculture's approval recommendation. These agencies support the objectives of the bill -- more humane treatment of animals -- although several of them reiterate the Administration opposition to the animal fighting section. Justice also objects to the provision which authorizes Agriculture to litigate violations of the animal transportation portion of the bill. Agriculture's enrolled bill letter reflects the attitude of most agencies as it concludes that:

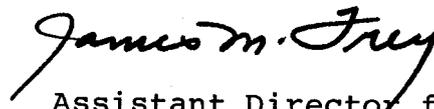
"The bill S. 1941 would effectively eliminate the current lack of jurisdiction to require the humane care and handling of animals during the course of their transportation and delivery to a consignee. We agree totally with the provisions of the bill concerning animal transportation. The Congress has proclaimed, by overwhelming vote in the House and unanimous vote in the Senate, that the humane standards of the present law should be extended to include the humane care and handling of animals throughout the course of their transportation from consignor to consignee ..."

"We object to the animal fighting provision. However, our objections do not warrant a recommendation for the President to veto the bill. An effective and vigorous effort to implement this provision of the bill would be costly. The bill sets a

maximum limitation of \$400,000 per fiscal year for appropriations to enforce the animal fighting provisions. It would be our intention to conduct an enforcement program in direct proportion to the funds Congress will appropriate."

On balance, this office concurs in Agriculture's approval recommendation. We believe the animal transport provisions of the bill respond acceptably to a well documented problem beyond the reach of State or local governments.

Although we continue to believe that the animal fighting provisions reach somewhat beyond the appropriate role of the Federal Government, we do not share Treasury's concern that this law enforcement activity would in fact "divert" Federal law enforcement agents from their other more serious and significant responsibilities -- that Department and other agencies will continue to retain discretion to devote their resources to the most serious law enforcement problems. Moreover, it should be pointed out that the Federal Government is already engaged in an analogous law enforcement effort to protect Tennessee Walking Horses from inhumane "soring" practices. Accordingly, it is difficult to characterize the animal fighting authority as either precedential or unwarranted. This section of the bill contains a relatively low appropriation authorization, and we will work with Agriculture to limit Federal participation appropriately and to utilize State and local law enforcement agencies as much as possible.


Assistant Director for
Legislative Reference

Enclosure



**GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE**
Washington, D.C. 20230

APR 12 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D.C. 20503

Attention: Assistant Director for
Legislative Reference

Dear Mr. Lynn:

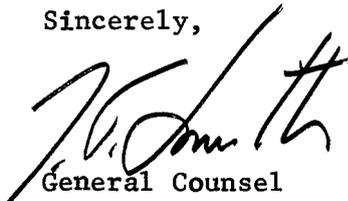
This is in reply to your request for the views of this Department concerning S. 1941, an enrolled enactment,

"To amend the Act of August 24, 1966, to increase the protection afforded animals in transit and to assure humane treatment of certain animals, and for other purposes."

This Department would have no objection to approval by the President of S. 1941.

Enactment of this legislation will not involve the expenditure of any funds by this Department.

Sincerely,


General Counsel





CIVIL AERONAUTICS BOARD

WASHINGTON, D.C. 20428

April 12, 1976



IN REPLY REFER TO: B-1-39

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Attention: Martha Ramsey

Dear Mr. Lynn:

This will respond to your enrolled bill request, which the Board received on April 9, 1976, concerning S.1941, the Animal Welfare Act. The Board has supported this legislation before both Houses of Congress and urges the President to sign the Enrolled Bill.

As we testified before the Congress, ". . . no single government agency has the authority, manpower, and expertise necessary for the establishment and enforcement of adequate standards for the humane treatment of animals by air. Instead, three government agencies (i.e., the Department of Agriculture, the Federal Aviation Administration, and the Board) rather than one are working on some aspects of the overall problem under a regulatory regime which gives each agency only ill-defined and incomplete jurisdiction over the air transportation of animals. The existing setup appears to us to be an unnecessary diffusion of government resources. . . ."

We appreciate the opportunity to comment on S.1941.

Sincerely,

John E. Robson
Chairman



Federal Maritime Commission

Washington, D. C. 20573

Office of the Chairman

April 13, 1976

Honorable James T. Lynn, Director
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

This is in reply to your request for the views and recommendations of the Federal Maritime Commission with respect to S. 1941, an enrolled bill

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

Our comments which follow are limited to those provisions of the bill which would affect Commission jurisdiction and responsibilities. Under its provisions, S. 1941 would, among other things, 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. Specifically, sections 3 and 4 of S. 1941 would amend certain definitions in the FLAWA to apply the requirements of that Act to common carriers by water in the interstate and foreign commerce of the United States. Furthermore, under the definition of "intermediate handler" within section 4, ocean freight forwarders and non-vessel operating common carriers (NVOCC's) under Commission jurisdiction would likewise be subject to the requirements of the FLAWA.

Inasmuch as the Commission does not now require the maintenance of animal transport records, section 8 of S. 1941 would hold common carriers and immediate handlers, under Commission jurisdiction, personally accountable to "make and retain for such reasonable period of time and on such forms as the Secretary of Agriculture may prescribe such records with respect to the transportation, receiving, handling and delivering of animals as the Secretary may prescribe."

Under the enrolled bill, the Secretary would be directed to "promulgate standards to govern the transportation in commerce, and the handling, care and treatment" of animals by intermediate handlers and common carriers, including such rules and regulations he determines are necessary to assure their humane treatment "in the course of their transportation in commerce." In this connection, S. 1941 would require the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission, within their existing authorities, to "take such action as is appropriate to implement any standard established by the Secretary of Agriculture with respect to a person subject to regulation by it."

Despite our strong support for the principle upon which this proposed legislation is founded, namely, the humane treatment of animals while in transit, we do not believe the supervisory reporting and record keeping procedures within the enrolled bill provide the best mechanics for responsible regulation. As a consequence, the Federal Maritime Commission cannot recommend approval of this legislation.

In the present national climate of regulatory reform, and at a time when both the President and the Congress have stressed the need for deregulation, we believe it would be inappropriate to increase the regulatory responsibilities of the Federal Maritime Commission in an area that is clearly outside its realm of expertise. In order for the Commission to adequately oversee those common carriers and intermediate handlers which would be subjected to this bill's requirements, additional expenditures for personnel and supportive services would definitely be necessary. Moreover, in addition to the new duties the bill would impose upon the Commission itself, S. 1941 would also place record keeping requirements upon persons under our jurisdiction. This too seems at odds with the spirit of deregulation, as well as the Commission's own continuing efforts to reduce the volume of paperwork generated in the course of carrying out its statutory responsibilities.

In conclusion, although the Commission certainly shares the concern of the bill's sponsors over the deplorable health and safety conditions too often associated with animal carriage, we do not believe reliance upon the staffs of independent transportation regulatory agencies provides the best method for curing these ills. The type of regulation proposed in S. 1941 is clearly not within the scope of the Commission's primary regulatory purpose. In light of the very specialized nature of this subject matter, we believe it would be best if the Federal Maritime Commission played no regulatory

role in supervising the care and treatment of animals in transit. In this connection, we also believe it would be inappropriate for the independent transportation regulatory agencies to be required to adopt and enforce such standards established by an executive agency, in this case the Department of Agriculture. Furthermore, we do not believe this type of regulation lends itself to interagency cooperative enforcement, and therefore recommend that such duties be vested in only one Federal agency that is not an independent transportation regulator. For all the abovementioned reasons, the Federal Maritime Commission opposes enactment of S. 1941.

Sincerely yours,

Karl E. Bakke

Karl E. Bakke
Chairman



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

APR 13 1976

The Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

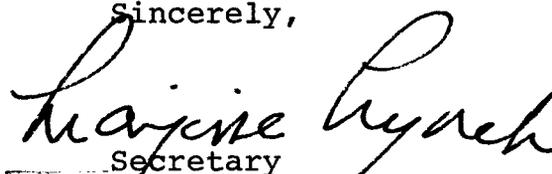
This is in response to your request for a report on S. 1941, an enrolled bill "To amend the Act of August 24, 1966, as amended, to increase the protection afforded animals in transit and to assure humane treatment of certain animals, and for other purposes."

We support the increased protection given to animals (including animals for research) by the bill, but defer to the Department of Agriculture, the agency charged with the administration of the bill, as to the merits of the bill as a whole.

The bill would expand the jurisdiction of the Secretary of Agriculture to require that humane standards be upheld governing the transportation of animals in commerce. Of particular interest to this Department, the enrolled bill would require a veterinarian's certificate of good health before any cats, dogs, or other classes of animals designated by regulation of the Secretary of Agriculture, could be commercially shipped. However, the Secretary of Agriculture could provide for exceptions to this requirement for animals to be used in research.

The original House version of the bill had an absolute requirement for a veterinarian's certificate for all animals covered by the bill. Our objection to that provision has been met in the enrolled bill. Although the enrolled bill may cause some investigators inconvenience and probably will result in increase cost of animal shipment, we feel that these considerations are outweighed by the need for humane care for animals for both scientific and humane reasons.

Sincerely,


Secretary
Under



LAW DEPARTMENT
Washington, DC 20260

April 13, 1976

Mr. James M. Frey
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Frey:

This responds to your request for the views of the Postal Service with respect to the enrolled bill:

S. 1941, "To amend the Act of August 24, 1966, as amended, to increase the protection afforded animals in transit and to assure humane treatment of certain animals, and for other purposes."

1. Purpose of Legislation as it
Pertains to the Postal Service.

Sections 2 through 16 of this bill would amend the Act of August 24, 1966, as amended by the Animal Welfare Act of 1970, to insure the humane care of animals intended for use in research facilities, for exhibition purposes, or for use as pets; to assure the humane treatment of animals during transportation in commerce; and to protect animal owners against theft by preventing the sale or use of stolen animals. However, these provisions, like the existing statutes, would not apply to farm animals such as livestock or poultry. 7 U.S.C. §2132(g). Accordingly, this legislation would not apply to the transportation of live day-old poultry by mail, as permitted by postal regulations.

Section 17 of this bill would add a new section 26 to the Federal Laboratory Animal Welfare Act imposing criminal penalties on those engaged in certain animal fighting ventures. Proposed section 26(c) would specifically make it unlawful "to knowingly use the mail service of the United States Postal Service

or any interstate instrumentality for purposes of promoting or in any other manner furthering an animal fighting venture except as performed outside the limits of the States of the United States." Proposed section 26(d) would exempt from this prohibition a bird fighting venture taking place in a state where such fights are legal. Proposed section 26(h)(2) would amend 39 U.S.C. §3001(a) to make nonmailable any matter deposited in the mails in violation of proposed section 26. This provision would permit the Postal Service to seize and dispose of animal fighting publications and advertisements placed in the mails.

2. Position of the Postal Service.

The Postal Service believes that Congress is best equipped to decide whether it is desirable as a matter of public policy to apply the sanctions of Federal criminal law to those engaged in organized animal fighting activity, and whether there is adequate justification for expending the finite resources of Federal law enforcement agencies in this area. Accordingly, we do not oppose this legislation.

3. Timing.

We have no recommendation regarding the timing of Presidential action on this measure.

4. Cost or Savings.

We have no estimate as to the cost or savings of this measure. However, we note that the enactment of new criminal statutes invariably imposes additional investigatory, prosecutorial, and judicial costs on the criminal justice system. In most cases these costs must be met from the pool of available executive and judicial resources, sometimes detracting from the expeditious and thorough enforcement of previously existing criminal statutes. The exact costs of the postal provisions of this bill will depend upon a number of factors, including the number of illegal mailings, the degree of public support for the enforcement of the law, and the ease

with which illegal mailings can be detected and investigated. Obviously, these factors are difficult to quantify.

5. Recommendation of Presidential Action.

The Postal Service does not object to Presidential approval of this measure.

Sincerely,



W. Allen Sanders
Assistant General Counsel
Legislative Division



OFFICE OF THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

APR 13 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

You have asked for our views on S. 1941, an enrolled bill,

"To amend the Act of August 24, 1966, as amended,
to increase the protection afforded animals in transit
and to assure humane treatment of certain animals,
and for other purposes."

This bill is designed to further assure the humane treatment of animals in transportation and other related purposes. This Department in testifying before Congress on this bill and in related correspondence has deferred to the Department of Agriculture on the merits of most provisions of the legislation. We have commented, however, on section 11 of this bill as it respects the responsibilities of this Department for the safety of flight. We have indicated to Congress that we preferred a provision that would have required the Department of Transportation's (DOT) approval prior to the initiation of the Agriculture regulatory process by publication of a Notice of Proposed Rulemaking in the Federal Register. This would have afforded us more time to assess not only the apparent impact on safety but inquire of industry for any implementation problems not immediately apparent. The disapproval period stipulated in the bill to identify safety problems is only 30 days. We believe, however, that cooperation by the Department of Agriculture will allow DOT early consultation to minimize this problem.

We recommend the President sign the enrolled bill.

Sincerely,

A handwritten signature in cursive script, reading "John Hart Ely", is written over the typed name and title.

John Hart Ely
General Counsel



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

April 14, 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, DC 20503

Dear Mr. Lynn:

In reply to the request of your office, the following report is submitted on the enrolled enactment of S. 1941, "To increase the protection afforded animals in transit and to assure the humane treatment of animals, and for other purposes."

This Department recommends that the President approve the bill.

The bill amends the Act of August 24, 1966 (80 Stat. 350), as amended by the Animal Welfare Act of 1970 (84 Stat. 1560; 7 U.S.C. 2131-2155). The principal provisions of the bill are:

1. Carriers and intermediate handlers would be required to adhere to provisions of the Act and regulations and humane standards established by USDA with respect to the transportation in commerce of animals.
2. Dealers, exhibitors, auction sale operators, as well as Federal, State, and local agencies, would be required to obtain a veterinarian's certificate before delivering any dog, cat, or other animal designated by USDA for transportation in commerce; and minimum age requirements for animals being transported are authorized to be established.
3. The transporting of animals under COD is prohibited unless the shipper guarantees payment of round-trip fare and other out-of-pocket expenses of the carrier or intermediate handler for the care of animals not claimed at destination.
4. The provisions are revised to provide for the assessment by the Secretary of a uniform civil penalty of up to \$1,000 for each violation of the Act, regulations, or standards by any person subject to the Act. These penalties would be in addition to possible actions for suspensions or revocations of licenses and cease and desist orders which are now authorized by the Act.
5. A new section is added which makes it a crime, punishable by fine and imprisonment, to knowingly sponsor, participate in, or use the mails to promote animal fighting ventures including cockfighting, or to

knowingly buy, sell, transport, deliver, or receive to or from another person for transportation in interstate or foreign commerce any animal for the purpose of an animal fighting venture. In the case of gamefowl, the prohibitions of the bill would only apply to the States where gamefowl fighting is prohibited and would not apply to the few States, the Territories, and the Commonwealth of Puerto Rico where such gamefowl fights are lawful.

The present law excludes, by definition, common carriers and consequently related activity such as the intermediate handling of animals by express companies, freight forwarders, etc., engaged in the transporting and handling of animals. Only persons who are dealers, exhibitors, operators of auction sales or research facilities are subject to the humane standards of the current law when engaged in the transporting of animals.

In 1973 the House Government Operations Committee issued a report (H.Rept. 93-746) entitled "Problems in the Air Shipment of Domestic Animals." As a result, legislation was introduced to remove the exemption of common carriers and certain other persons handling animals. Extensive hearings were conducted in both the 93rd and the 94th Congress concerning deficiencies in the Act of August 24, 1966, as amended, as concerns the transportation of animals in commerce. The record of these hearings has established that animals are often shipped in flimsy containers which are easily crushed under the weight of other cargo, especially in the case of shipments by air. Few terminal facilities have the necessary accommodations to care properly for animals involved in overnight or longer delays. The hearings disclosed evidence of animals dead of starvation, dehydration, or lack of proper and necessary medical attention. This Department has conducted a monitoring program of animals involved in air transportation. Our investigations confirm much of the evidence presented in the Congressional hearings.

The bill S. 1941 would effectively eliminate the current lack of jurisdiction to require the humane care and handling of animals during the course of their transportation and delivery to a consignee. We agree totally with the provisions of the bill concerning animal transportation. The Congress has proclaimed, by overwhelming vote in the House and unanimous vote in the Senate, that the humane standards of the present law should be extended to include the humane care and handling of animals throughout the course of their transportation from consignor to consignee. This provision of the bill would require additional appropriations of approximately \$570,000.

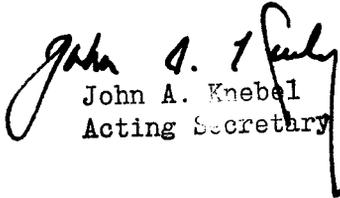
We object to the animal fighting provision. However, our objections do not warrant a recommendation for the President to veto the bill. An effective and vigorous effort to implement this provision of the bill

Honorable James T. Lynn

3

would be costly. The bill sets a maximum limitation of \$400,000 per fiscal year for appropriations to enforce the animal fighting provisions. It would be our intention to conduct an enforcement program in direct proportion to the funds Congress will appropriate.

Sincerely,


John A. Knebel
Acting Secretary

Department of Justice
Washington, D.C. 20530

April 14, 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

In compliance with your request, I have examined a facsimile of the enrolled bill S. 1941, the proposed "Animal Welfare Act Amendments of 1976."

The bill would broaden the Animal Welfare Act by extending its provisions to intermediate handlers and common carriers, as those terms are defined in the bill; by providing for the establishment and enforcement by the Secretary of Agriculture of humane standards for animals in the course of their transportation in commerce; by requiring the maintenance and retention of certain records with respect to certain provisions of the Act; and by providing a civil penalty of not more than \$1,000 for each violation of a provision of the Act or any standard prescribed pursuant thereto.

Proposed section 19(d) of the Act would subject dealers, exhibitors, or operators of certain auction sales who knowingly violate any provision of the Act, to imprisonment for not more than one year, or a fine of not more than \$1,000, of both. Section 19(d) would further provide: "Prosecution of such violations shall, to the maximum extent practicable, be brought initially before United States magistrates...and, with the consent of the Attorney General, may be conducted, at both trial and upon appeal to district court, by attorneys of the United States Department of Agriculture." The Department of Justice has consistently opposed such encroachments upon the litigation functions of the Attorney General. Our opposition is intensified when the erosion of the Department's responsibility concerns the criminal law.

This Department also opposes section 17 of the bill which would add a new section 26 to the Act making it unlawful to knowingly participate in an animal fighting venture to which any animal was moved in interstate or foreign commerce. A violation could result in a \$5,000 fine and one year imprisonment. The Department of Justice has long resisted the use of the Federal Criminal law to regulate activities such as animal fighting which should be the responsibility of the states.

Both of these objections, the sharing of litigating authority and the expansion of the Federal criminal law into areas of state responsibility, were argued to the Congress during its consideration of this bill. Notwithstanding the strength of our concerns, we are hesitant to recommend a veto in view of the fact that the bill would primarily affect activities of the Department of Agriculture. Accordingly, we defer to that Department whether or not the bill should receive Executive approval.

Sincerely,

A handwritten signature in cursive script, reading "Michael M. Uhlmann". The signature is written in dark ink and is positioned above the typed name.

Michael M. Uhlmann
Assistant Attorney General



THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

APR 14 1976

Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Assistant Director for Legislative
Reference

Sir:

Reference is made to your request for the views of this Department on the enrolled enactment of S. 1941, "To amend the Act of August 24, 1966, as amended, to increase the protection afforded animals in transit and to assure humane treatment of certain animals, and for other purposes."

The purpose of the enrolled bill is to insure the humane treatment of animals, in commerce, intended for experimental or exhibition use or for use as pets, and to protect the owners of animals from theft, by preventing the sale or use of stolen animals.

The enrolled enactment, among other things, would add a new section 26 to the Animal Welfare Act of 1970 (7 U.S.C. 2131-2155), which would prohibit the knowing use of transportation facilities in interstate and foreign commerce and of the mails for purposes of furthering animal fighting ventures. In addition, new subsection 26(f) would grant authority to the Secretary of Agriculture to carry out investigations of violations of the section and to obtain the assistance of Federal, State, and local law enforcement agencies, including the Treasury, in carrying out such investigations.

In the view of this Department, subsection 26(f) could be interpreted to require the use of Treasury agents in the Secret Service, Internal Revenue Service, Customs Service, and the Bureau of Alcohol, Tobacco and Firearms, by the Secretary of Agriculture in investigations of animal fighting ventures.

Because Treasury has substantial law enforcement responsibilities of its own, this Department is strongly opposed to the diversion of Treasury resources to matters such as dog fighting and gamecock fighting. Our enforcement commitment should be to such matters as the protection of the President, the prevention of bombings and assassination attempts, the detection and prevention of narcotics trafficking, and debasement of the Nation's revenue and monetary systems by tax fraud and evasion, and by counterfeiting.

The Department believes that there could be a conflict in the implementation of S. 1941 and the implementation of P.L. 90-331, which authorizes the Director of the Secret Service to require the assistance of any other Federal agency in meeting the Secret Service's protection responsibility.

Clearly, the Department's duty for the protection of human beings and the detection of grave crimes, which threaten both individuals and the national welfare, must override any assignment of Treasury enforcement personnel to participate in investigations concerning animal fighting ventures.

In view of the above, this Department recommends that the President not sign the enrolled enactment of S. 1941.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Richard R. Albrecht", written in a cursive style.

General Counsel
Richard R. Albrecht



DEPARTMENT OF THE ARMY
WASHINGTON, D.C. 20310

15 APR 1976

Honorable James T. Lynn

Director, Office of Management and Budget

Dear Mr. Lynn:

The Secretary of Defense has delegated responsibility to the Department of the Army for reporting the views of the Department of Defense on enrolled enactment S.1941, 94th Congress, "To amend the Act of August 24, 1966, as amended, to increase the protection afforded animals in transit and to assure humane treatment of certain animals, and for other purposes."

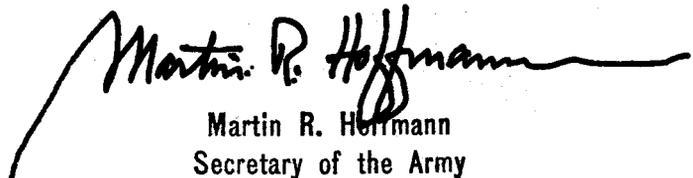
This act provides for (1) insuring that animals intended for use in research facilities or for exhibition purposes or for use as pets are provided humane care and treatment; (2) assuring the humane treatment of animals during transportation in commerce; and (3) protecting the owners of animals from the theft of their animals by preventing the sale of animals which have been stolen.

The Department of the Army concurs in the objectives of the bill; however, as to its merits we defer to the other interested agencies.

The fiscal effect upon the Department of Defense is unknown.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

Sincerely,


Martin R. Hoffmann
Secretary of the Army

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: April 16

Time: 315pm

FOR ACTION: Paul Leach
 Max Friedersdorf *ML*
 Dick Parsons *DP*
 Judy Hope *JH* Steve McConahey *SM*
~~Max Friedersdorf~~
 FROM THE STAFF SECRETARY *Ken Loggers*

cc (for information):

DUE: Date: April 19

Time: 200pm

SUBJECT: S. 1941 - Animal Welfare Act

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

Common

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

Date: April 16

Time: 315pm

FOR ACTION: Paul Leach
 Max Friedersdorf
 Dick Parsons ✓
 Judy Hope Steve McConahey
 Ken Lazarus

cc (for information):

Jack Marsh
 Jim Cavanaugh
 Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: April 19

Time: 200pm

SUBJECT:

S. 1941 - Animal Welfare Act

ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply

x

 For Your Comments Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

Judy -

I think this whole subject is foolish. I think all of the objections stated by the various commentators are valid. Nevertheless, I could not in good conscious recommend the President veto the bill (but I refuse to recommend approval).

Dick

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James M. Cannon
 For the President

Date: April 16

Time: 3:15pm

FOR ACTION: Paul Leach
Max Friedersdorf
Dick Parsons
Judy Hope ✓
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

Steve McConahey

FROM THE STAFF SECRETARY

DUE: Date: April 19

Time: 2:00pm

SUBJECT:

S. 1941 - Animal Welfare Act

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

x

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No objection. Judith Leach Hope

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

THE WHITE HOUSE

WASHINGTON

April 19, 1976

MEMORANDUM FOR: JIM CAVANAUGH
FROM: MAX L. FRIEDERSDORF *M.L.*
SUBJECT: S. 1941 - Animal Welfare Act

The Office of Legislative Affairs concurs with the agencies
that the bill be signed.

Attachments

Date: April 16

Time: 315pm

FOR ACTION: Paul Leach
 Max Friedersdorf
 Dick Parsons
 Judy Hope
 Ken Lazarus ✓

cc (for information):

Jack Marsh
 Jim Cavanaugh
 Ed Schmults

Steve McConahey

FROM THE STAFF SECRETARY

DUE: Date: April 19

Time: 200pm

SUBJECT:

S. 1941 - Animal Welfare Act

ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

Recommend approval. Ken Lazarus 4/19/76

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
 For the President