

INSIDE:

New York
to Mutts:
“You’re
Worthless”

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Darwin, Meet Dershowitz

*Courting legal evolution
at Harvard Law*

“Rights,” declared Alan Dershowitz, pacing the floor of a lecture hall at Harvard Law School, “grow out of wrongs.” It seemed the type of pronouncement Dershowitz, who teaches law at Harvard, might deliver during a typical lecture to one of his classes. But this was no typical lecture, and the Ames Courtroom in Austin Hall bore only a passing resemblance to *The Paper Chase*. The scene was a first-of-its-kind symposium, “The Evolving Legal Status of Chimpanzees.” And Dershowitz’s featured role signaled how far the idea of legal rights for animals has come since the 1970s, when the fictional Professor Kingsfield did his blustery best to stem the tide of change at Harvard and beyond.

Harvard Law School today boasts one of the most active chapters of the Student Animal Legal Defense Fund in the nation. The chapter co-sponsored the daylong symposium with the Chimpanzee Collaboratory, a consortium of attorneys, scientists and public-policy experts of which ALDF is a charter member. The symposium was moderated by ALDF President Steve Ann Chambers, chair of the Collaboratory’s legal committee and the primary organizer of the event.

In his latest book, *Shouting Fire*, Dershowitz — a civil libertarian and appeals specialist best known for representing high-profile clients like Mia Farrow, Claus von Bulow and Mike Tyson — notes that “in the world in which we live, humans make the rules. That reality imposes on us a special responsibility to be fair and compas-



PHOTO BY NANCY O'BRIEN

sionate to those on whom we impose our rules. Hence the argument for animal rights.”

With his fellow legal scholars Laurence Tribe (who was scheduled to speak at the symposium, but was unable to attend) and Cass Sunstein (who did appear), Dershowitz is helping to put animal law on the map. And for one bright, sunny day in October, Harvard was the capital of the emerging new world of animal rights.

World-renowned primatologist Jane Goodall

**Still a “legal thing” —
but for how long?**

Continued on page 4

For the **RECORD**

“That animal liberation is the logical next step in the forward march of moral progress is no longer the fringe idea it was back in 1975. A growing and increasingly influential movement of philosophers, ethicists, law professors and activists are convinced that the great moral struggle of our time will be for the rights of animals.”

Michael Pollan, “An Animal’s Place,” *New York Times* magazine, Nov. 10, 2002

“That’s the problem with this country.”

Cockfighting fan **Robert Novak** on CNN’s “Crossfire,” complaining that America has “too many” anti-cruelty statutes.

Letter from the **PRESIDENT**

Repay Faith with Trust(s)

Rock ‘n’ roll and change have something in common: Both tend to be loud and boisterous. But just as the Rolling Stones lower the volume for a ballad now and again, social reform also has its quiet side.

Without fuss or fanfare, significant changes are occurring in the field of estate planning and trust law. And they’re having a big impact not only on your ability to provide for the animals you love, but on how the courts view the emotional and financial bonds between humans and nonhumans generally.

For decades, trust attorneys have struggled to help animal lovers who wanted to provide for their nonhuman companions after they’re gone. These estate advisors typically told their clients to transfer “ownership” of companion animals — as well as money for their care — to someone they had complete faith in. That faith had to be well-earned indeed, because trusts for animals were not traditionally enforceable. If the friend or family member you chose didn’t use the money as stipulated in the trust, there was little a judge could do about it.

In other words, there was no guarantee that your wishes would be honored — or that the animals would be cared for.

But that’s no longer the case in a growing number of states. Working behind the scenes with experts in trust law — including the attorneys who drafted the Uniform Probate and Trust Code, the uniform laws that many states adopt as their own — ALDF has helped craft new guidelines that specifically validate trusts for nonhuman animals. These new rules have already been adopted by 19 states: Alaska, Arizona, California, Colorado, Florida, Iowa, Kansas, Michigan, Missouri, Montana, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Tennessee, Utah and Washington. In addition, Wisconsin has a provision on honorary trusts, though it does not specifically provide that a trust for the benefit of nonhuman animals is valid.

Don’t see your state listed above? Then it’s time to turn up the volume a notch — by letting your state legislators know how important this issue is to you.

For the animals we love, the message is “Gimme Shelter.” By making just a little more noise, we can accelerate the trend toward adoption of trust provisions that enable us, their human guardians, to provide for their welfare after we’ve gone. In a nation that regards companion animals as family members, it’s only natural that people would want to include those animals in their estate planning. And the more courts are forced to acknowledge the special bonds between humans and nonhumans, the closer we are as a society to extending true, lasting, *legal* protection to animals.

As Mick Jagger might say: It’s only probate law — but I like it.



For the animals,

Steve Ann Chambers

Steve Ann Chambers
President

What's a Dog's Life Worth?

Backed by ALDF, a New York woman is seeking to reverse a court ruling that she can't sue for loss of companionship even though a local pharmacy's blunder caused the death of her dog. In May 2002, a state appeals court rejected the argument (made in friend-of-the-court briefs filed by ALDF) that due to the emotional bond between humans and companion animals, the guardian should be awarded damages for pain and suffering when an animal is killed maliciously or negligently. Now attorneys retained by ALDF are petitioning New York's highest court to take another look at that argument.

In 1997, Iris Lewis purchased medicine for Emily, a 9-year-old Chow, at a Stone Ridge, N.Y., pharmacy. The directions on the medicine were mislabeled, resulting in the dog's death. Lewis filed suit, seeking reimbursement for the thousands of dollars in emergency medical care the error cost her. She also sought damages for a much more painful consequence of the pharmacy's mistake: the loss of Emily's friendship.

In 1999, ALDF stepped in, filing an *amicus curiae* brief that argued for Lewis' right to claim damages for loss of companionship. A state appeals court judge agreed. But in early June, a higher appellate court overturned the decision.

"Pets are recognized as personal property," the judges wrote in their decision, "and damages for the loss of a pet are limited to the value of the pet at the time it died, which are ordinarily proven by establishing the market value of the pet, if it has one, or, if there is no market value, by such fac-

tors which tend to fairly show its value."

Attorney David Wolfson, who went before the appellate court to argue ALDF's position on recovery for loss of companionship, says that ruling amounts to little more than a judicial Catch-22.

"They're saying, 'With animals that have no market value, you look at other factors to determine their worth. But no matter what, we won't let you look at the concept of companionship,'" says Wolfson, of New York's Milbank, Tweed, Hadley & McCloy. "Well, most companion animals don't do anything other than provide companionship. So if you can't put a value on that, then there's nothing, and the judgment ends up saying that companion animals in New York are worthless under the law."

Far from worthless, Emily meant so much to Lewis she once risked her life to save her, jumping into a frozen lake after the dog fell through the ice.

"It's ludicrous to say that Emily was just a piece of property — a thing," says Lewis.

Now Lewis and her attorney are working with Amy Trakinski and Len Egert, animal law specialists retained by ALDF, to launch an appeal. As this issue of *The Animals' Advocate* went to press, Trakinski and Egert hoped to have a petition before the New York Court of Appeals by the end of December.

"Saying there are no damages when a companion animal dies under circumstances like these flies in the face of public opinion and public policy," Egert says. "You have to take the bond that existed between Iris Lewis and Emily into consideration. Most Americans would be willing to do that. The courts should be, too."

In the future, new legislation could make it easier for New York residents to collect damages after the wrongful death of an animal companion. Using a model law developed by ALDF, animal-friendly legislators last year proposed a new law that would explicitly recognize the right to compensation beyond market value when a companion animal is killed or injured. (ALDF helped legislators in Tennessee develop a similar law in 2000.) Although the bill never came to a vote, New York animal advocates expect lawmakers to reintroduce it when they reconvene in 2003. 🐕

"You have to take the bond that existed between Iris Lewis and Emily into consideration."

Attorney Len Egert



Emily

A New Way to Show Your Support

Interested in finding a new way to help animals? Well, it might be as easy as taking a picture off the wall or digging out those collectibles in the closet. In the months ahead, ALDF will be gathering unique and valuable items for a silent auction. We'll be looking for artwork, memorabilia, tickets, gift certificates — anything we can put on the auction block to raise funds for our efforts to protect animals and end suffering. If you'd like to donate an item for the auction, contact Linda Manning by sending an e-mail to manning@aldf.org or calling 707-769-7771, ext. 16. More details about the auction will be available soon on the ALDF Web site (www.aldf.org) and in future issues of *The Animals' Advocate*. 🐕

Legal Evolution

continued from front page

set the tone for the event by posing a question. "In a world where there is so much suffering," she asked, "why are you getting people together to talk about legal rights for great apes?" The answer grew clear as she described the threat of extinction facing wild great apes in Africa from poaching and habitat destruction, as well as the threats to America's captive chimpanzees, many of whom are doomed to misery at the hands of the research and entertainment industries.

"We seek help from the legal community," Goodall said, "to ensure that some of these wrongs will not be perpetrated in the future."

The attorneys who followed her to the podium agreed that help is on the way — though its precise form is yet to be determined.

Steven Wise, whose most recent book is *Drawing the Line: Science and the Case for Animal Rights*, argued that the legal line between humans and nonhumans — the one that assigns rights exclusively to humans, and designates nonhumans as property — is "already drawn," and that it's really not a line at all, but "a high, thick wall." Washoe, the first chimpanzee taught to speak American Sign Language by primatologist Roger Fouts — who also addressed the symposium — is considered a "legal thing." Wise pointed out, while a "vegetative human" is accorded rights under U.S. law.

But Sunstein, a legal scholar and author who teaches at the University of Chicago, suggested that "property may not be as important as we think," and said animals regarded as property can still have rights under the law.

That view was echoed by David Favre, a law professor at Michigan State University and a member of ALDF's board of directors, who urged a



Alan Dershowitz

more incremental approach to winning recognition of animals' rights. Perhaps, he said, animal lawyers should "find a shallower place to cross the river," shepherding chimpanzees and other non-human animals into the frontier of legal rights via "a series of stepping stones," rather than trying to break down the property status wall.

In the end, the symposium may not have settled the issue of just how animals will win their day in court. But it left little doubt that their day is coming. And it confirmed that the field of animal law has already arrived.

"If I could have dreamed this might happen 22 years ago," mused Goodall, "I'd have thought I'd died and gone to heaven."

For a few shining moments in October, at least, Harvard Law seemed like the next best thing. 

"We seek help from the legal community to ensure that some of these wrongs will not be perpetrated in the future."

Jane Goodall

Spotlight on Enforcement

The annual Animal Law Conference at Lewis and Clark Law School in Portland, Ore., celebrated its 10th birthday in style in October by drawing more than 200 attorneys, scholars, students and animal activists. Organized as always by members of the school's Student Animal Legal Defense Fund chapter, this year's conference examined the theme "Issues of Enforcement in Animal Law."

Workshop topics included "Investigations by Individuals," "Problems of Enforcement under the USDA" and "Issues of Enforcement for Exotic and Captive Animals." Among the guest speakers were Annemarie Lucas, star of the Animal Planet series *Animal Precinct*, and Alan Green, author of the exposé *Animal Underworld: Inside America's Black Market for Rare and Exotic Species*.

ALDF's Dana Campbell, a former prosecutor, told audience

members about what she calls "The 3 Be's" — three key steps to convincing reluctant prosecutors to take on cruelty cases. The 3 Be's are: (1) Be Squeaky — contact the prosecutor and build a relationship; (2) Be a Resource — provide useful information, such as a list of local veterinarians who are willing to act as expert witnesses; and (3) Be Prepared — begin working on these relationships and resources *before* a specific cruelty case presents itself.

"I think the clear message of the conference was that there are ways we can push for effective enforcement of the laws we've got," says Steve Wells, director of ALDF's Law Professional Volunteer Program, who was on hand for the event. "You can get involved as an attorney by forming a bar association committee on animal rights or using environmental laws to protect animals. Or, if you're not a lawyer, you can testify before legislators considering new animal laws or use the Freedom of Information Act to hold lawmakers and law enforcement officials accountable for their actions. There's a lot we can all do. We just have to get out there and do it." 

Old Dog, New Tricks

From 'Abuser' to Animal Champion

Once upon a time, Texas attorney Robert "Skip" Trimble raced horses. Now he rescues them.

"I'm a former animal abuser. I used to own racehorses, raise roping steers, hunt and eat meat," Trimble says. "I've probably done it all. But that's changed."

Changed so much, in fact, that today Trimble is a busy animal advocate — and chairman of ALDF's Board of Directors.

Since packing up his hunting rifles and retiring his racehorses to a private ranch in the early 1990s, Trimble has devoted himself to animal causes and campaigns. He's helped establish spay/neuter clinics and programs in his home state, served on the boards of several animal advocacy organizations, offered pro bono legal advice to even more animal groups and been awarded the HSUS Legislative Achievement Award, the PAWS Volunteer of the Year Award, the Operation Kindness Humane Award and the PETA Activist Award.

Yet growing up near Dallas in the 1950s and '60s, Trimble never gave the treatment of animals much thought, or encountered anyone who did.

"It just wasn't on my radar screen, to tell you the truth," he says. "I liked animals, but that's as far as it went. I was totally unaware of the issues."

Trimble's eyes were opened in 1992 by a random dinner conversation. One evening friends in Ruidoso, N.M., told him about a new town ordinance that encouraged spaying and neutering by discounting registration fees for companion animals that had undergone the procedure.

"I asked them if Dallas would have the same animal population problem as Ruidoso, and they said, 'Oh yeah. Ten times over,'" Trimble recalls. "So I came back here and found a group that was trying to get a similar ordinance passed and I joined them."

Though spay/neuter programs remained Trimble's focus in the early days of his volunteer work, it didn't take long for his new comrades to educate him on other animal issues, as well.

"They started telling me about vivisection and circuses and farming abuses and everything else," Trimble says. "The more I learned, the more I wanted to do something."

In 1994, Trimble attended his first animal rights conference — where he encountered ALDF. An attorney with a law degree from Southern Methodist University, Trimble was drawn to the idea of using the courts to help animals.

"The laws need to change if animals are going to be given the respect they're due on this earth, and there's nobody better equipped to change laws than lawyers," he says.

Trimble became an ALDF volunteer almost immediately. After six years as an active board member, he was elected board chair in 2001. He also has kept busy with several other animal advocacy groups, including the Texas Humane Legislation Network, which recently launched an effort to shut down the last slaughterhouses in America that kill horses for human consumption. Though the market for horsemeat is primarily overseas, the plants are located in Texas, which prompted Trimble to do a little research.

"I found that Texas has a state law that says you can't sell, offer for sale or exhibit for sale horsemeat for human consumption and that you can't transfer it to anyone who intends to do any of those things," he says. "I started making inquiries and I couldn't find anybody who could tell me why these plants weren't being prosecuted. So I asked a member of the state legislature to go get the state attorney general's opinion on this, and what we heard back was that the law applied to these plants even though the consumption was taking place elsewhere."

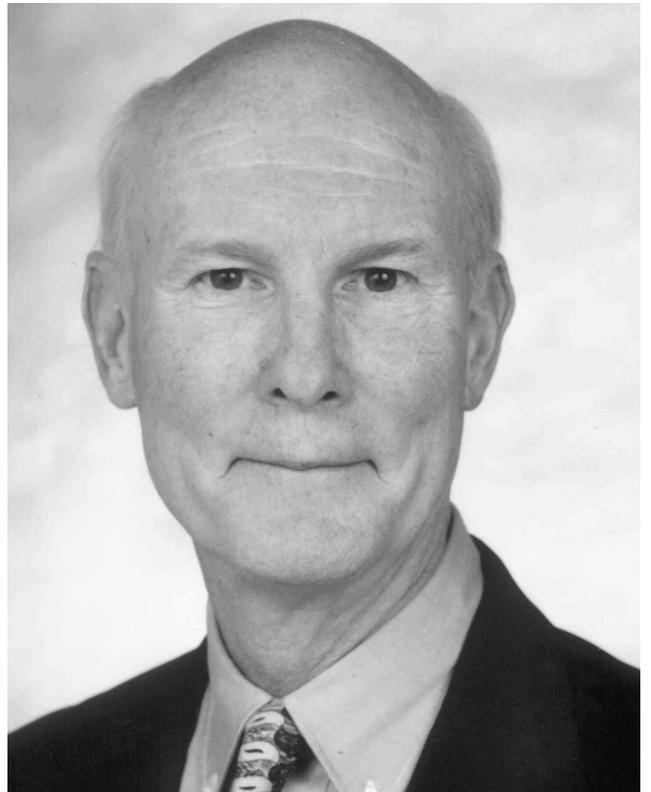
With that legal opinion from the attorney general in hand, local district attorneys prepared to take action. Though the plants have managed to delay prosecution by seeking a federal injunction, Trimble hopes to see the slaughterhouses shut down in the months ahead. If they are, it will be thanks largely to his efforts.

Obviously, for a former "animal abuser," Trimble has come a long way.

"Making the changes in my life wasn't hard, once I knew the truth," he says. "I'm confident that society can change, too. That's why it's so satisfying and exciting to be involved with ALDF. We're pushing that change forward, into more laws and more lives. And that's going to result in a world with a lot less suffering in it." 

"The laws need to change, and there's nobody better equipped to change laws than lawyers."

**ALDF Board Chair
Robert "Skip" Trimble**



BRIEFS...

ALDF Board Adds Two New Members

The ALDF Board of Directors added two new members this fall: Cheryl Teser, a nonprofit tax specialist based in Nebraska, and Paul Leonard, an Ohio politico turned animal lawyer.



Teser is a revenue agent with the IRS Tax Exempt and Government Entities Division in Omaha. She received her undergraduate degree from the University of Nebraska in 1983 and passed her CPA exam in 1998. She lives in Bellevue, Neb., with her husband, Les, and cats Bob and Gigi. She has served as a volunteer with the Nebraska Humane Society since 1995.



Leonard is an attorney in Dayton, Ohio. A former politician, he served in the Ohio House of Representatives from 1972 to 1980, was the mayor of Dayton from 1982 to 1986 and served a term as the state's lieutenant governor from 1987 to 1990. He recently formed his own nonprofit organization, the Center for Animal Law and Advocacy, which is committed to expanding animal rights in Ohio. As an attorney, Leonard has represented a number of animals and animal advocates in court.

“The Maasai have respect for animals and oppose the greed of the outsiders who kill wildlife and abuse humans.”

David Favre,
ALDF Board member

Report Exposes Abuse Of African Wildlife

With a boost from ALDF and other organizations, the Maasai people of Kenya and Tanzania have taken a step toward protecting their ancestral land from overdevelopment, intrusive tourism and commercial game-hunting operations. The Maasai Environmental Resource Coalition, aided by financial support from ALDF, recently released “The Killing Fields of Loliondo,” a comprehensive report on the abuses that threaten the wildlife and ecosystem of the land the Maasai have called home for thousands of years.

In particular, the report targets the destructive practices of the Ortello Business Company, which profits from the unrestricted capture and indiscriminate killing of endangered species. Among the animals at risk are the black rhinoceros, the

Pemba flying fox, the wild dog, the African elephant, lions and cheetahs. The coalition hopes the report (available online at www.maasaierc.org) will draw attention to the abuses perpetrated by the Ortello Business Company and prompt the international community to take action.

ALDF's support of the coalition's efforts grew out of meetings that took place when board member David Favre met with Maasai leaders in Kenya four years ago.

“The Maasai have respect for animals and oppose the greed of the outsiders who kill wildlife and abuse humans,” says Favre, an expert on international wildlife law and a professor at Michigan State University's Detroit College of Law. “Working with them and other native tribal groups is one of the best ways I can think of to protect African wildlife.”

New ALDF Items Available Online

ALDF checks, checkbook covers and mailing labels are now available. The merchandise, which features the ALDF logo and animal photos, can be viewed online at the ALDF Web site (www.aldf.org). Visitors to the site can purchase 200 ALDF checks for \$14.95, 240 mailing labels with the ALDF logo for \$9.95, a cotton checkbook cover for \$11.95 or a hemp checkbook cover for \$14.95. Funds raised from the sale of these items will be used to support ALDF's work on behalf of animals.

ALDF T-shirts and posters are also available. Both feature the slogan “We May Be the Only Lawyers on Earth Whose Clients Are All Innocent.” The 20” x 28” poster can be purchased for \$15. T-shirts are available in medium, large and extra large sizes and also cost \$15. Prices include shipping and handling. To order, send a check payable to Animal Legal Defense Fund to: ALDF, 127 Fourth St., Petaluma, CA 94952.



ALDF Joins N. J. Deer Battle

ALDF has stepped in to support animal activists in Princeton, N.J., who have been fighting to stop the township's use of the brutal "net and bolt" method for killing deer. Members of a group called Princeton Concerned Citizens (PCC) have been protesting ever since they learned that a company hired by the town to reduce the local deer population has been using the technique, which involves setting out bait for the deer, capturing them in nets and then killing the trapped, terrified animals with a device that shoots a five-inch metal rod through their skulls.

"To our knowledge, no other town in the country engages in this barbaric practice," says Carl Mayer, one of the attorneys helping PCC fight the net-and-bolt killings. "It's been condemned by every veterinary group and animal rights organization we know of."

ALDF grants have supported two PCC lawsuits. One is aimed at challenging an ordinance that allows animal control officers to enter a citi-

zen's private property — and kill animals there — without permission. The other suit, filed in U.S. District Court, alleges that Princeton officials violated the First Amendment by harassing local net-and-bolt opponents.

"This suit is going to demonstrate in federal court that municipalities or any other group that tries to intimidate animal activists and impinge on their First Amendment right to free speech will be held accountable," Mayer says. "We've seen a nationwide effort to squelch animal activists' right to protest, and we're delighted that ALDF is joining us in standing up to this bullying."

A decision is expected on the first lawsuit shortly, while the federal civil rights suit will probably end up in court later in 2003. But while neither has been resolved, the lawsuits have already had an effect.

"Thanks to the activists and the lawyers who've put in so many pro bono hours and the support from ALDF, we were able to save dozens of deer here," says Cynthia Seda-Schreiber, another attorney working on the case for PCC. "The deer hunt was called off early [in 2002] because of all the attention it was getting, and we estimate that as a result they killed 200 fewer deer than they'd planned to. Now we just have to keep the pressure on to save even more." 

ALDF Expertise Bolsters Chinese Laws

Animal advocates in China have launched an effort to craft their nation's first anti-cruelty laws, and ALDF has pledged to help them. Anti-Cruelty Division Director Pamela Frasch traveled to Beijing recently to offer her expertise at a two-day workshop organized by the International Fund for Animal Welfare. Legal scholars and animal advocates from across China attended the event along with Frasch and other experts from abroad. Frasch offered a presentation on U.S. anti-cruelty laws and explained the strengths and weaknesses of American animal protection legislation.

"There are currently a few animal protection laws in China, but they're mostly limited to wildlife issues and don't address general cruelty to animals," Frasch says.

While in China, Frasch also gave a lecture at Beijing University and distributed copies of *Animal Law, Cases and Materials*, the casebook written by her, ALDF board member Sonia Waisman and ALDF volunteer attorney Bruce Wagman. In the months ahead, Frasch will continue to provide Chinese animal advocates with guidance as they draft anti-cruelty legislation.

"They're absolutely committed to this process, and we're committed to doing whatever's needed to help them create the best laws they can," Frasch says. 

Admitted Cat Killer Set for Trial

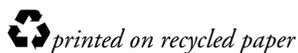


A Connecticut woman who admitted she killed her roommate's cat — but offered no apology or signs of regret — faces felony charges of cruelty and conspiracy to commit cruelty. Jill Mazurek, of Newington, Conn., will go on trial in 2003 along with two men who allegedly witnessed the killing but did nothing to stop it, Michael Oziomek and Michael Pajak.

According to a statement signed by Mazurek, she tortured and killed her roommate's cat because of a dispute over rent. Mazurek said she took the cat, an orange tabby named Adonis, to a lake, where she repeatedly hit him with a log as Oziomek and Pajak watched. She then threw Adonis into the water, according to her statement, and beat him to death with beer bottles when he managed to swim to shore. Though the statement details Adonis' death in excruciating detail, police sources told a local newspaper that Mazurek expressed no remorse while admitting to the crime.

If convicted, Mazurek, Pajak and Oziomek face a maximum sentence of five years in prison and fines of \$5,000 each. To encourage the judge in the case to take this matter seriously — and stipulate that none of these individuals ever be allowed to live with an animal — send a letter to:

The Honorable Howard T. Owens Jr.
New Britain Superior Court
20 Franklin Square
New Britain, CT 06051 



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Taking the Initiative

Animal advocates and pregnant sows won a major victory on Election Day when Florida voters banned the use of “gestation crates” on pig farms in the state. The crates — tiny cages used to imprison sows for months at a time — are commonly found in factory farms throughout the country. By approving a November ballot initiative, Floridians outlawed the cages. The measure is the first ever enacted in the United States to bar inhumane confinement in so-called intensive farming operations.

The ballot initiative was the product of a coalition that brought together several animal advocacy groups, including ALDF, the Humane Society of the United States, Farm Sanctuary and Floridians for Humane Farms. The wording of the initiative was developed and presented to the Florida Supreme Court by Holland & Knight, a law firm retained by ALDF. (In Florida, all initiatives must be approved by the court in order to appear on state ballots.) After the state Supreme Court gave the go-ahead, volunteers worked to gather the 488,000 signatures needed to actually place

the measure on the November ballot.

There was more good news across the country, where other animal-friendly initiatives were also popular with voters:

► In Arizona, a measure that would have expanded gambling at greyhound racetracks — thus providing new revenue for those who profit from the abusive sport — was defeated.

► In Georgia, a newly passed amendment authorizes the creation of a spay/neuter license plate, which will channel much-needed funds to spay/neuter programs.

► In Oklahoma, voters agreed to ban cockfighting in the state, making Louisiana and some counties in New Mexico the only places in the U.S. where this blood sport is still legal. Oklahoma voters also rejected a measure designed to make it harder for animal protection initiatives to get onto state ballots.

► In West Virginia, six counties voted to continue a ban on hunting on Sunday, the only day when hikers and campers can make use of area forestland without fear of being shot. 