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## ANIMAL RIGHTS IN THE ROMANTIC PERIOD: LEGAL JURISDICTION IN ENGLAND AND THE INTELLECTUAL MILIEU

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Among the many groups that take a pro-animal position today, the issue of whether animals deserve welfare or actual *rights* is possibly the most divisive.<sup>1</sup> The most representative spokesman for the welfare theory is the Australian philosopher Peter Singer, whose position is for a moral (but secular) position, with sentience (and therefore the capacity to suffer) being the key issue.<sup>2</sup> While this position insists on any suffering being considered a serious ethical issue, it leans towards utilitarianism rather than absolutism. As Singer states:

If one, or even a dozen animals had to suffer experiments in order to save thousands, I would think it right and in accordance with equal consideration of interests that they should do so.<sup>3</sup>

On the other hand Tom Regan, whose demand is for rights for animals rather than welfare, believes that all life has intrinsic value; animals are "subjects of a life" and they therefore are entitled to rights. His position, like Singer's, is secular, and his demand is for "respect" rather than "morality" in animal issues: animal experimentation should be stopped based on "disrespect" rather than simply pain.<sup>4</sup>

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<sup>1</sup> For the sake of clarity I do not include humans in my use of the term "animals."

<sup>2</sup> Singer, Peter. *Animal Liberation: Towards an End to Man's Inhumanity to Animals* (London: Jonathan Cape, 1976).

<sup>3</sup> Singer, Peter. *Practical Ethics*. (Cambridge: Cambridge University Press, 1979), p. 58.

<sup>4</sup> Regan, Tom. *The Case for Animal Rights* (Berkeley: Univ. of California Press, 1983).

Both arguments have been present in animal discourse since the “birth” of the animal rights movement during the Romantic period (1780-1830). Likewise, questions raised about the animal rights agenda—that it extends cultural imperialism with its bourgeois, Eurocentric hierarchies, that it grants rights mainly to “nice, cuddly mammals” that are “easiest to anthropomorphize,” as well as questions about its basic premises also took shape in these years.<sup>5</sup>

Of course the use of the terms “Romantic” and “Romanticism” for this period is a considerably contended one, but I use the term “Romantic” to denote the entire milieu of these five decades. It indicates a link with Europe that the term “Georgian” lacks, and it is preferable, for its brevity, to “late eighteenth- and early nineteenth-century.” It does not, over here, indicate any select group of representatives, and in the wider sense it is indeed the period in which the modern animal rights movement had its birth, growing out of the entire intellectual milieu—philosophic, scientific, religious, educational, artistic, literary, legal, and social—of the time.

Both Singer and Regan have drawn attention to their philosophical precursors, Singer being most closely lined to Jeremy Bentham, the eighteenth-century English philosopher most frequently associated with the theory of Utilitarianism. Bentham’s oft-quoted proclamation (“The question is not, Can they reason?, nor can they *talk*?, but can they *suffer*?”) became one of the slogans for pro-animal reformers in the Romantic period.<sup>6</sup>

Bentham’s own view may be seen as a reaction against the prevailing influence of Descartes, whose 1637 *Discours de la méthode* contained the famous *bêtemachine* theory, declaring animals to be mere bodies, no more than automata. Both the human and the animal body could be classified as machines, but the human was separated from the animal by the soul and by the capacity for speech.

The animal body, on the other hand, operated purely on mechanical principles, and any sound it could produce was simply a product of this machinery. While Descartes himself had not insisted on the incapacity of animals to experience pain, this, as Andreas-Holger Maehle has shown, was the position taken by many of his

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<sup>5</sup> Tester, Keith. *Animals and Society: The Humanity of Animal Rights*. (London: Routledge and Kegan Paul, 1991), p. 16.

<sup>6</sup> Bentham, Jeremy. *An Introduction to the Principles of Morals and Legislation*. (Oxford: Blackwell, 1960; first pub. 1789).

followers, some of whom interpreted an animal's cries for pain as merely the creaking of animal "clockwork." (No effective anaesthesia, such as chloroform or sulfuric ether, was introduced either into curative or experimental surgery until the middle of the nineteenth century.) Dogs were frequently nailed to laboratory tables to be vivisectioned for the study of the circulation of blood, a recent discovery.<sup>7</sup>

As a result of Descartes, the debate on whether animals had souls or not became widely debated during the eighteenth century, not being confined merely to scientists and theologians but infiltrating the entire intellectual milieu of the time. It is this specific soul/matter point of demarcation with which Bentham's focus on sentience therefore takes issue: for him rationality and speech were not the criteria for the award or denial of rights. To some extent Bentham had been anticipated by other philosophers, some of whom had acknowledged animal sagacity (intelligence), language, or the capacity for *experimental reasoning*. But the shift from intelligence to sentience was a crucial move for pro-animal reformers.

Meanwhile, natural history was showing that the demarcation between the human and the animal was a lot less sharp than many members of the former group would care to acknowledge. This was revealed in the changes seen during the so-called Enlightenment in zoological taxonomy, which moved from purely anthropocentric principles to a greater degree of objectivity. Before the Enlightenment, most animals were classified according to their relationship to Man. In Richard Brookes' 1763 *The Natural History of Quadrupeds*, for instance, the "obvious" division of quadrupeds was into "the Domestic and the Savage," and even the Enlightenment natural historian Buffon (Georges LeClerc) dismissed objectivity as a goal in taxonomy; following relationships rather than essences, he stated that the most "natural" way for an animal to be classified was through its relationship to man.

The Linnaen system (*Systema Naturae*, 1735) on the other hand, was the first taxonomy that appeared to be based on more objective criteria. Widely accepted in England by the 1760's, it was based on a binomial system of nomenclature, with the first Latin (or Latinized) word for the genus and the second for the species. The system was based upon establishing distinct categories to classify each animal

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<sup>7</sup> Maehle, Andreas-Holger. "Cruelty and Kindness to the 'Brute Creation': Stability and change in the ethics of the man-animal relationship, 1600-1850," in *Animals and Human Society*, ed. Aubrey Manning and James Serpell (London: Routledge and Kegan Paul, 1994), p. 87.

as well as to ascertain its relative position within the natural order, and although Linnaeus' contribution to the establishment of taxonomic principles cannot be underestimated, his value for animal rights stems largely from two points. Firstly, he blurred the line between humans and animals by firmly grouping *Homo Sapiens* with other mammalian species, and specifically with other primates under the order *Anthropomorpha*. Secondly, although he was convinced about the fixity of the species (about which he took an atemporal stance), he was not so about the genera, and he prepared the way for developments in the last decade of the century in which the immutability of species would no longer be taken as a given.

Evolutionary theory further challenged the line of demarcation between the human and the animal, and by 1800 both Erasmus Darwin (Charles' grandfather) and Jean Baptiste de Monet (the Chevalier de Lamarck) had formulated a theory of evolution, even though they were unable to demonstrate exactly how the process took place. Erasmus Darwin's *Zoonomia* (1794-96) deduced that transmutation of the species took place through the satisfaction of desires and needs. Lamarck, whose first public statement on evolution (or "transformism") was made in 1800 in his lecture *Système des animaux sans vertèbres*, based his theories on his belief in the inheritance of acquired characters, and these theories were further developed in *Philosophie zoologique* (1809) and *Histoire naturelle des animaux sans vertèbres* (1815-22). The many references to animals of all kinds—mice, dogs, and asses—as "fellow creatures," "brothers," or "fellow-mortals" by Romantic poets, such as Burns, Coleridge, and Southey, illustrate the wide dissemination of the discourse of natural history.

While Cartesian doctrine had been widely used by scientists to justify cruelty to animals, a more ubiquitous stumbling block for pro-animal reformers came from the standard eighteenth-century interpretation of the Bible. The grant of dominion in Genesis to Man over all other creatures (not just once but twice—once to Adam and once to Noah) had often been taken to mean a divine sanction for the abuse of animals, and many reformers had to contend with Genesis more than with Descartes. Some of these reformers included pamphleteers such as the vicar James Granger and the Reverend Humphrey Primatt. When Granger held a famous sermon speaking out in favour of kindness to animals in a church in Oxfordshire, he is said to have aroused "almost universal disgust" because his inclusion of dogs and horses in a sermon was considered a "prostitution of the pulpit." The published form of his sermon *Apology for the Brute*

*Creation* (1772) used the motto "Saevitia in Bruta est Tirocinium Crudelaitatis in Homines" (Callowness to Animals is Training for Cruelty to Humans) for the motto on the title page. Primatt, whose influence possibly had a longer span, hoped to reform the public by citing examples of the kindness with which animals were to be treated in the doctrine of other religions. He subverted the popular argument that the suffering of animals was inconsequential because they had no souls, asserting instead that *because* animals had no future life their suffering was worse than human suffering. Like Granger's *Apolo-gy for the Brute Creation*, Primatt's *Dissertation on the Duty of Mercy to Brute Animals or Abuse of Animals Censured* (1776) attempted to link kindness to animals with Christianity and to focus attention on biblical passages in Exodus 20:10, 23:12, Deuteronomy 5:14, 22:6-7, 25:4, and especially Proverbs 12:10 ("A righteous man regardeth the life of his beast"), and away from Genesis 1:26-8 and 9:2-3, the two passages that had been used to deny accountability towards animals.<sup>8</sup>

It is not surprising that many reformers drew attention to the need to teach children to treat animals with compassion. One argument had always been current, which was that theory that cruelty towards animals would eventually lead to cruelty to humans.<sup>9</sup> Hogarth had illustrated this dictum earlier in the eighteenth century through the lesson of Tom Nero, in the engravings he titled *The Four Stages of Cruelty*. Tom Nero, who begins as a juvenile animal-torturer, develops

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<sup>8</sup> Exodus 20:10: "But the seventh day is a sabbath of the LORD your God; that day you shall not do any work...your cattle or the alien within your gates"; Exodus 23:12: "...on the seventh day you shall abstain from work, so that your ox and your ass may rest..."; Deuteronomy 5:14: "...But the seventh day is a sabbath of the LORD your God; that day you shall not do any work, neither you, your son or your daughter, your slave or your slave girl, your ox, your ass, or any of your cattle..."; Deuteronomy 22:6-7: "When you come across a bird's nest by the road, in a tree or on the ground, with fledglings or eggs in it and the mother-bird on the nest, do not take both mother and young. Let the mother-bird go free, and take only the young; then you will prosper and live long"; Deuteronomy 25:4: "You shall not muzzle an ox while it is treading out the corn"; Proverbs 12:10: "A righteous man regardeth the life of his beast"; Genesis 1:26-8: "Then God said, 'Let us make man in our image and likeness to rule the fish in the sea, the birds of heaven, the cattle, all wild animals on earth, and all reptiles that crawl upon the earth.'"; Genesis 9:2-3: "The fear and dread of you shall fall upon all wild animals on earth, on all birds of heaven, on everything that moves upon the ground and all fish in the sea; they are given into your hands. Every creature that lives and moves shall be food for you; I give you them all, as once I gave you all green plants."

<sup>9</sup> This assertion is still the subject of debate today. See, for instance, A.R. Felthouse and S.R. Kellert, "Childhood Cruelty to Animals and Later Aggression against People: A Review," *American Journal of Psychiatry* 144 (1987): 710-717.

into a murderer and is eventually hanged and dissected himself. But in the latter half of the eighteenth century a whole new genre of children's literature arose, focusing, with unabashed didacticism, on the inculcation of moral values in the next generation of adults. While many of these works adopted Hogarth's position, others emphasized the need for a more disinterested compassion for animals, while still others actually called out for rights for animals.

Some of these tales, such as "The Robin" in the 1798 *Pity's Gift* by Samuel Jackson Pratt (or possibly Mary Pilkington), featured a most bloody form of avenging punishment for children who were cruel to animals. Others attempted to teach an equally firm but gentle lesson. Among the latter are the anonymous *The Hare: Or Hunting Incompatible with Humanity* (1799), Dorothy Kilner's *The Life and Perambulation of a Mouse*, Sarah Trimmer's *Fabulous Histories. Designed for the Instruction of Children, Respecting Their Treatment of Animals*, Anna Barbauld's 1786 *Hymns in Prose*, Mary Wollstonecraft's 1791 *Original Stories*, and Edward Kendall's 1798 *Keeper's Travels in Search of his Master*.<sup>10</sup>

Vegetarianism was not the main focus of pro-animal reformers in the Romantic period, and few called out for a prohibition against animal-slaughter; the focus of reform, rather, was on merciful methods of slaughter. In fact, the practice was even considered counter to Christian practice as well as un-English in character. Nevertheless, although the word had not yet been coined, vegetarianism did have a number of ardent proponents who advocated that meat-eating should be eschewed for several reasons: its cruelty, its unnaturalness, its repulsiveness, and, not least of all, its potential to produce bad breath. Within a short period of time a number of tracts appeared urging against animal-slaughter. Some tried to create a change in the current interpretation of Genesis by distinguishing between the two grants of dominion to Adam and to Noah. They argued that only the second grant (to Noah) mentioned a right to slaughter and eat animals. For instance John Hildrop, a Yorkshire rector, suggested that meat-eating was a consequence of the Flood, and that vegetarianism would therefore not be counter to Christianity. Others emphasized the teachings of other religions that highlighted the ethical issues of meat-eating. These included John Oswald, a Scottish officer who had been stationed many years in India, and although atheist,

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<sup>10</sup> Little of this literature actually called out for rights for animals. The exception is Kendall's *Keeper's Travels*, a call for which he was strongly chastised by Sarah Trimmer.

had been sufficiently influenced by the teachings of Hinduism to give up meat and persuade others to do likewise in *The Cry of Nature, or an Appeal to mercy and Justice on behalf of persecuted animals* (1791). The Swedish Joseph Ritson's *Essay on Abstinence from Animal Food As A Moral Duty* (1802), which had been written in English, claimed that "those accustom'd to eat the brute should not long abstain from the man."<sup>11</sup> Ritson had a profound influence on Shelley, who in turn urged against animal slaughter in his *Vindication of Natural Diet and Essay on the Vegetable System of Diet*. Thus though certainly not widespread, vegetarianism in one form or another was, by century's end, no longer an unknown habit among the middle and upper classes. Its English converts had included Aphra Behn, Bernard Mandeville, Lord Chesterfield, and James Boswell, as well as its more vocal advocates.

Perhaps the greatest change in the "rights" of animals was established, however, by legal jurisdiction. Before 1800, the law had occasionally punished "wanton, intentioned, or malicious" cruelty to animals, but only in their role as human property—animals had no legal protection in their own right—and only if malice could be proved.<sup>12</sup> For instance, as Sir Samuel Romilly illustrated in the House of Lords in 1809, there had been an instance of a certain John Shaw's being indicted on the Black Act in the year 1798 for beating a horse on the head with the butt-end of a whip while simultaneously pulling at its tongue. Needless to say, the horse was found dead the same day with its tongue almost torn out of its head. Shaw's act had apparently been one of revenge against his master for the latter's refusing to lend him this particular horse, but "express malice" to the master could not be proved, and he was acquitted.<sup>13</sup> In the case of a certain William Parker however, who had been indicted for ripping out the tongue of a living mare (of which he was not the owner) malice was proved, but according to contemporary commentators, Parker would have been acquitted with impunity had he been the owner of the mare.<sup>14</sup>

Likewise, animals could be killed (and even tortured) with impunity

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<sup>11</sup> Ritson, Joseph. *Essay on Abstinence from Animal Food As A Moral Duty* (London, 1802), p. 124.

<sup>12</sup> The Black Act of 1723 also made wilful damage to the property (including animals) of another person a capital offence.

<sup>13</sup> *Parliamentary Debates from the Year 1803 to the Present time*. (London: Hansard, 1812), Vol. XIV, Column 1031\*.

<sup>14</sup> Andreas-Holger Maehle, "Cruelty and kindness," p. 97.



in violent sports, such as hunting for the upper classes and cock- and dog-fighting, bull-baiting, and bull-running for the lower.<sup>15</sup> Countries fairs often featured performers who entertained spectators by eating live animals (such as cats and foxes), as well as with activities like “goose-pulling” and “sparrow-mumbling” that entailed competitions to pull off the head of the live creature concerned.<sup>16</sup>

When, in 1800 Sir William Pulteney presented to the House of Commons the first bill seeking some protection for animals in their own right, he was met with derision. Pulteney’s bill (Bill for Preventing the Practice of Bull-baiting) was not, however, based exclusively on animal rights and focused as much on the rowdiness it caused as it did on cruelty to the animal, but nevertheless it was a landmark. Stating in the House of Commons, on 2 April 1800, that “several gentlemen, who had been witnesses to the inconveniences which the savage custom of Bull-baiting had occasioned, had come up to town to put a stop to the evil,” he had been “induced to move for leave to bring in a bill to prevent the practice.” The necessity, for this desire, he believed, was obvious:

The practice was cruel and inhuman; it drew together idle and disorderly persons; it drew also from their occupations many who ought to be earning subsistence for themselves and families; it created many disorderly and mischievous proceedings, and furnished examples of profligacy and cruelty.<sup>17</sup>

Bull-baiting was, at this time, possibly the most popular violent sport in England. Having originated in village festivities, it had gradually become associated with drunkenness, gambling, and rowdiness, as much as with blood. The crowd came for the accompaniments as much as for the “game” itself, which was to see a tethered bull set upon by trained dogs. As Pulteney said, the “disorderliness” associated with bull-baiting was as much of a motive to prohibit it as its “inhumanity.” This may be seen in the words of Sir Richard Hill, who seconded the motion “from a love of decency and decorum, and out of humanity to the common people.”

Pulteney’s Bill met with ridicule in the Commons, as is seen in the words of George Canning, for whom it was absurd and below the dignity of Parliament: “The dignity of the House would have been

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<sup>15</sup> Malcolmson, Robert. *Popular Recreations in English Society, 1700-1850* (London: Cambridge University Press, 1973), pp. 49-50.

<sup>16</sup> Turner, E.S. *Heaven in a Rage* (Fontwell: Centaur, 1992), pp. 61-62.

<sup>17</sup> *The Parliamentary History of England from the Earliest Period to the Year 1803* (London, Hansard, 1819), Vol. XXXV, Column 202.

better preserved, had it never meddled with this story of a cock and bull.”

The Bill was opposed by William Windham (the then Secretary of War), losing by 43 votes to 41. The debate that ensued on 18 April between those in favour and those against reveals, again, that issues far other than those of animal “rights” were at stake. Windham’s opposition, he said, was not based on his promotion of the support, but on what he saw as the bill’s attempt to deprive the poor of pleasure that the rich had from hunting. In fact, he remarked that he did not deny that bull-baiting was cruel, but asserted that it was “a mockery in gentlemen to talk of it when they indulged in sports equally cruel.”

But Pulteney objected to this conflation of hunting and baiting, and disputed the implication that the difference between the two lay only in the issue of rich and poor. There was, he insisted, a major difference in the degree of cruelty involved:

In this case a poor animal [is] tied to a stake, with no means of defence or escape, and tormented and tortured for a whole day, or even for several succeeding days. In the other sports there [is] no such refinement of torture.<sup>18</sup>

But these arguments did not convince, and the bill lost. Public reaction to the bill and its failure may be seen, perhaps, in the leading article in *The Times* a week later, according to which the failure of the bill was a victory over the dangers of Jacobinism and therefore a triumph for the spirit of freedom.

A Right Honourable Gentleman is entitled to much credit for the timely check he has given, by his manly eloquence, to that little spirit of interference and legislation, which distinguishes the present character of the country. It has been the effect of Jacobinism, and of the terror it has created to increase the rancor of the people, and redouble the vigilance of the Magistrate.<sup>19</sup>

Claiming that the bill was intended to widen the gap between the rich and the poor by eliminating the middle-class, the article ridiculed, as the language of “Levelers,” the analogies made by Pulteney’s group linking animal cruelty with slavery and racial oppression. It concluded that

It should be written in letters of gold, that a Government cannot interfere too little with the people; that laws, even good ones, cannot be multiplied

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<sup>18</sup> *Ibid.*, Column 209.

<sup>19</sup> *The Times*, 25 April 1800.

with impunity; and that whatever meddles with the private personal disposition of a man's time or property, is tyranny direct.

Two years later, John Dent's attempts to reintroduce a bull-baiting prevention bill were again opposed by Windham. Like Pulteney, Dent tried to draw attention to the "inhuman cruelty" of the sport, citing the example of "two ruffians who poured *aqua fortis* on the wounds of the animal, and cut him with knives and forks so as to irritate him into madness."<sup>20</sup> But once again these arguments met with ridicule and the bill failed.

It was not for another seven years that a decisive attempt was made to introduce an animal-protection bill into Parliament. On Monday, 15 May 1809, Lord Thomas Erskine eloquently attempted to convince the House of Lords to accept his Cruelty to Animals bill. Erskine's bill was much wider in its scope than either Pulteney's or Dent's. Unlike Pulteney's bill, Erskine's was aimed at protecting cruelty to all domestic animals rather than at prohibiting one particular sport. Like Pulteney's bill, however, it appeared to be aimed at the lower classes rather than the upper. Erskine alluded to the failed Bull-Baiting bill, acknowledging its defects and drawing attention to the fact that although its "framers" had been "actuated by motives of humanity" they had "mixed with it very laudable objects of human policy, which rather obscured the principle of protection to animals":

One great object and it was laudable on that account, was to put an end to sports which led away the servants and husbandry of their masters.

He praised Windham, the bill's chief opponent, as being "a person of as humane and feeling a mind as ever distinguished any man—a man, besides, of a most beautiful genius." His bill, however, was designed to establish the basic principle of rights for animals themselves, and he thus struck out at what was considered a fundamental freedom:

The general answer [to reproofs to those who cruelly abuse animals] with the addition of bitter oaths and increased cruelty, is What is that to you?— If the offender be a servant, he curses you, and asks if you are his master? and if he be the master himself, he tells you that the animal is his own.

This, he believe, was an "infamous and stupid defence" which "arose from that defect in the law" which he "sought to remedy":

Animals are considered as property only: to destroy or abuse them, from malice to the proprietor, or with an intention injurious to his interest in them

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<sup>20</sup> *The Times*, 25 May 1802.

is criminal; but the animals themselves are without protection; the law regards them not substantively; they have no rights!<sup>21</sup>

Primarily, Erskine drew upon the issue of sentience which had been the hallmark of Bentham's position and on which Peter Singer now focuses. He did not seek rights for animals at the expense of humans, he emphasized; he was not denying animals the "right" not to be killed for food, but simply to be treated with as much mercy as possible. Likewise, he was not asking for the prohibition of animals as labor but for their merciful use under these circumstances. And, thirdly, he proposed an accord rather than a conflict between animal rights and Genesis:

They are created for our use, but not for our abuse. Their freedom and enjoyments, when they cease to be consistent with our just dominion and enjoyments, can be no part of their natures; but whilst they are consistent, I say their rights, subservient as they are, ought to be as sacred as our own.<sup>22</sup>

The Preamble of Erskine's Bill was as follows:

Whereas it has pleased Almighty God to subdue the dominion, use, and comfort of man, the strength and faculties of many useful animals, and to provide others for his food; and whereas the abuse of that dominion by cruel and oppressive treatment of such animals, is not only highly unjust and immoral, but most pernicious in its example, having an evident tendency to harden the heart against the natural feelings of humanity.<sup>23</sup>

His demand, therefore, was the actual concession of rights for animals, even if these were to be rights that could not conflict with those of men.

Its eventual failure notwithstanding, the bill received a much more enthusiastic reception than had been given to either Pulteney or Dent. Despite asking for limits on the animals to be included, the House of Lords passed it unanimously. But Erskine ran into snags in the Commons. Once again Windham was there to wave the flag of oppression. The Bill he claimed, instead of being called "A Bill for preventing Cruelty to Animals, should be entitled, A Bill for harassing and oppressing certain classes among the lower orders of the people."<sup>24</sup> Its "scandalous defect," he claimed, was "the gross partiality and inequality of its enactments":

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<sup>21</sup> *Ibid.*, Column 554.

<sup>22</sup> *Ibid.*, Columns 555-6.

<sup>23</sup> *Ibid.*, Column 557.

<sup>24</sup> *Parliamentary Debates from the Year 1803 to the Present time*. Vol. XIV. (London: Hansard, 1812), Column 1036.

It fell foul of one class of offences only, while it left untouched an infinitely larger class, and in which the very members of the legislature themselves were implicated, such as hunting, fowling, horse-racing, etc.<sup>25</sup>

Erskine's Bill did not pass in the Commons, being defeated by 37 votes to 27, and it appeared that the position was now back to scratch. Yet if the reception of his bill in the press is any gauge of public opinion, all was not lost. The *Gentleman's Magazine* and *The Times*, for instance, lamented its failure, the latter having given Erskine not only favorable publicity but its complete backing the day before Erskine's bill was to be read for the second time:

We are anxious from motives of humanity to extend as much as possible the knowledge of, and to diffuse the sentiments contained in, the excellent and characteristic speech of Lord Erskine, upon the second reading of his Bill "for preventing malicious and wanton cruelty to animals." Of the necessity of such a measure, no one who walks our streets or travels our roads, if he has the proper feelings of human nature about him, can entertain the least doubt; and we shall therefore best promote the object which the Noble Mover of the Bill has in view, by giving as much publicity as we are able to the humane principles which he endeavours to inculcate, and which, were they but sufficiently attended to, would render legislative enactments useless.<sup>26</sup>

Erskine, a firm believer in the efficacy of the law, asserted that the law would pave the way for future generations. Considering cruelty in the young to stem from defects in education, he contended that those defects stemmed from defects in the law. Thus he affirmed his belief in the power of the law to educate parents and create a new generation, and he avowed that the Bill, by creating a "duty of imperfect obligations" would make compassion "habitual."

Despite the failure of his bill, Erskine did not give up. He proceeded to join forces with Richard Martin, a Connemara landowner who was MP for Galway. Initially known as "Hairtrigger Dick" for his quickness to call a duel, Martin later acquired the nickname "Humanity Dick," which was given to him by George IV. In spite of a number of initial failures, Martin succeeded in establishing the first law against cruelty to animals in the 1822 act to "Prevent Cruel and Improper Treatment of Cattle."

The act made cruelty to any "horse, cow, ox, heifer, steer, sheep or other cattle" punishable, later being amended to include mares, geldings, mules, and asses. Martin's early failures were caused by his attempts to include a wider range of animals within the perimeters

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<sup>25</sup> *Ibid.*, Columns 989-90.

<sup>26</sup> *The Times*, 30 May 1809.

of legal protection, but these attempts drew considerable scorn from his opponents, who jeered by asking if he intended to include the hunting of hares, the boiling of lobsters, or the eating of oysters alive as punishable offences. As a result bulls were excluded from protection, as were dogs and cats.

Martin's success was based on his astuteness as much as on his humanity. His willingness to compromise at a crucial time possibly saved the bill, as did his wording of it to focus on "any person or persons having the charge, care or custody" of domestic animals, rather than on their owners. Once again, the bill was aimed at the lower rather than the upper classes, and certainly this was one of the objections it raised.

But Martin stood his ground, confidently assuring his audience, as Pulteney, Dent, and Erskine had been unable to do, that he had the support of the nation behind him. Declaring that he had "received the approbation of a large portion of the inhabitants of the country," he confidently pronounced that his opponents were placed "in opposition to the common sense of the whole nation.":

The magistracy of London and Middlesex had spoken in an articulate manner in favour of the measure. It had received the support of clergymen who did honour to their calling. There was not a pulpit in London that had not spoken in a pronounced manner in approbation of it.<sup>27</sup>

Having withdrawn his amendment, Martin's bill, when read for the third time, passed on 7 June 1822, thus establishing what became known as Martin's Act—Europe's first law prohibiting cruelty to animals in their own right. As Martin had said in his speech, his bill had the support of the people, and the changes that took place in jurisdiction reveal the changing thought of the average citizen as well.<sup>28</sup>

Martin continued to persevere for further acts to extend protection to dogs and cats, and to ban all animal-baiting sports. He also vigorously prosecuted offenders under his own Act, once even

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<sup>27</sup> *Parliamentary Debates, New Series: Commencing with the Accession of George IV*. Vol. VII (London: Hansard, 1823), Columns 758-759.

<sup>28</sup> Thus a precedent had been set and in the later years of the century, Britain would, especially under the reign of Victoria (1837-1901), enact further laws to protect animals. The 1835 Cruelty to Animals act criminalized blood sports that involved animal-baiting, also making dog-fighting illegal; the 1849 Act "for the more effectual Prevention of Cruelty to Animals" prohibited cock-fighting, and although a bill for the Total Abolition of Vivisection failed, in 1876 the world's first law that regulated experiments-on living animals went into effect.

bringing a wounded donkey into court as evidence against its owner.<sup>29</sup>

The wider inclusion of the public in the concern for animal welfare was reflected in the establishment of the first animal protection societies. In 1809, a Society for the Suppression and Prevention of Wanton Cruelty to Animals was founded in Liverpool. It was short-lived, but soon after Martin's Act a new group met to form an association on 16 June 1824 at Old Slaughter's Coffee House in St. Martin's Lane. The group became known as the Society for the Prevention of Cruelty to Animals (SPCA), with "Humanity Dick" Martin and Arthur Broome the driving force. Also present were William Wilberforce, the MP who had piloted the campaign against slavery, and the reformer Basil Montagu. Arthur Broome became the SPCA's first Secretary.

The group started out as a force to police the laws that had gone into effect, and to prosecute those who offended. Initially its success was steady, even though its finances were not, but it was rescued from debt by donations from Broome, Martin, and Lewis Gompertz, a wealthy member. But gradually, dissension arose, largely because some of the more conservative members feared the SPCA was acquiring a reputation for "spying," and they suggested the group should concern itself more with education and propaganda than with spying. When, in 1828, Lewis Gompertz succeeded Broome as Secretary, Gompertz's flamboyant personality and ethics created a conflict for this image. Gompertz, who was Jewish, what was then considered an eccentric vegetarian, eschewing milk and eggs in addition to meat and refusing to ride in a carriage. All of this set him apart from the conservative group that the SPCA had become, leading one of its members Thomas Greenwood to ask whether the SPCA should be headed by one who followed "the strange and long-explored doctrines of Pythagoras, which prohibited the eating of flesh," and moreover was an "individual who is not a Christian." In order to urge Gompertz' resignation, the SPCA proclaimed that "the proceedings of this Society are entirely based on the Christian Faith, and on Christian principles."<sup>30</sup> Gompertz was thus left to form his own society, and in later life published works, such as *Fragments in Defense of Animals* (1852) attacking, among other practices, the upper-class pursuits of hunting and fishing.

The SPCA meanwhile adopted a more discreet agenda, curbing

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<sup>29</sup> Ryder, Richard. *Animal Revolution: Changing Attitudes Towards Speciesism* (Cambridge: Blackwell, 1989), p. 86.

<sup>30</sup> Turner, James. *Reckoning with the Beast: Animals, Pain, and Humanity in the Victorian Mind* (Baltimore: Johns Hopkins University Press, 1980), p. 42.

its original agenda of prosecution, and acquiring many wealthy and aristocratic patrons. As a result of the patronage it received from the Princess (and future Queen) Victoria it was able to add the prefix "Royal" to its name, becoming, in 1840, the RSPCA.

This move was perhaps symbolic of the direction taken by the animal rights movement in the next few decades. Throughout the Romantic period, its successes had remained largely confined to checks on cruelty by the lower classes. Middle-and upper-class treatment of animals (especially in "huntin', shootin', and fishin'") were entirely ignored.

Thus the question of animal rights involves profound issues about the dialectics between human and animals, and it is not surprising that many of these questions should have come to a head when complex changes were taking place in European thought. Some issues raised in the animal rights discourse of the Romantic period—such as the issue of animal souls—are seldom raised today, but other issues raised in 1800—such as the right to hunt, the grounds for medical experimentation, the justification for animal euthanasia, the killing of "pests" and "vermin," and the cultural hierarchy and basic Eurocentrism of many animal rights groups—are far from being resolved.

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