CHAPTER I

"THEY OUGHT TO BE THE OBJECTS OF OUR BENEVOLENT REGARDS": THE ANTECEDENTS OF ORGANIZED ANIMAL PROTECTION IN THE UNITED STATES

Is it not sufficient for man to absorb the useful labors and lives of the inferior creation, without superadding excessive anguish, want and misery? When his own cup of suffering is full and overflowing, desperate resort to revolution sometimes rids him of his cruel tormentors and taskmasters. But of the inferior animals, generations after generations suffer and expire without any chance of relief or redress, unless it be granted by the generosity and justice of man.

- Julius Ames, The Spirit of Humanity (1835)

When the anti-cruelty movement in the United States coalesced during the 1860s, it took root in a society in which the animal protection impulse already had some currency. Before the Civil War, some Americans gave their attention to the mistreatment of animals as a social problem, exploring its religious, moral, and legal dimensions. Although no sustained efforts to prevent cruelty to animals ensued, these Americans explored some of the same issues that would lead a later generation to found animal protection societies.

A handful of American thinkers, for instance, joined their European contemporaries in settling upon animals' capacity for suffering as the decisive reason for according them better treatment. Nineteenth century Evangelicalism’s embrace of Old Testament admonitions on the moral duty to treat animals well reinforced such concern. During the same period, the kindness-to animals-ethic gained recognition as a critical constituent of childhood socialization. In addition, persistent dissatisfaction with the
public mistreatment of animals led a number of states to pass statutes that prohibited acts of cruelty.

Finally, concern for animals was tied to several social movements of the antebellum period. Vegetarians advanced the issue by choosing not to kill, nor cause animals to be killed, for their sustenance. More importantly, abolition, the most significant reform of the nineteenth century, laid the groundwork for the stigmatization and suppression of many commonly accepted cruelties, including the mistreatment of animals.

When it did emerge, organized animal protection was able to draw upon important precedents in the realms of religion, moral philosophy, law, pedagogy, and social reform. Antebellum experience and discussion concerning issues of cruelty and kindness shaped the context in which the humane movement arose. After the anti-cruelty societies formed in the 1860s, they gave formal expression to values and ideas that had been circulating in North America for some years already.

Colonial Era Folkways and the Development of an American Moral Ecology

Although concerns about the mistreatment of animals rarely surfaced in North America before 1800, the New England and the mid-Atlantic regions were the most consistent sources of anti-cruelty sentiment, most likely owing to their respective Puritan and Quaker cultures. In these regions, as in parts of England, the opposition of both Puritans and Quakers to cruel diversions was influential. Authorities often tried to
discourage blood enthusiasms such as bull baiting, cockfighting, gander pulling, throwing at cocks, and horse racing, but they could not entirely suppress them.¹

Virginia, in contrast, was “a great chain of slaughter,” according to David Hackett Fischer, and the colony’s complex culture of sport was so hierarchical that every man “could be ranked according to the size of the animals that he was allowed to kill.” (Cockfighting was the major exception, extending to all ranks and offering an atmosphere in which the boundaries and conventions of class and race could be transcended.) The same blood pursuits that scandalized Puritan and Quaker authorities elsewhere in America thrived in early Virginia.²

The Massachusetts Bay Colony produced America’s first enactment on cruelty to animals. When the Puritan lawyer minister Nathaniel Ward (1578-1652) prepared “The Body of Liberties,” the code of laws adopted in 1641, he included two clauses dealing with animal welfare. One of Ward’s proposed principles became Liberty 92: “It is ordered by this court and authorities thereof; That no man shall exercise any tyranny or cruelty toward any bruit creatures which are usually kept for the use of man.” Another provision, Liberty 93, ensured the convenience of drovers who traveled long distances


with their stock, authorizing the grazing of cattle for rest and refreshment "in any open place that is not corn, meadow, or enclosed for some particular use.")

In the narrow focus of such measures on animals commonly kept for human use, Keith Thomas notes, "the coincidence of charity and self-interest was obvious." While Liberty 92 targeted a frequently practiced revenge, malicious wounding of other people's animate property, it also reflected growing recognition of animals' economic value. Domestic animals were a rare and precious commodity during the first years of Puritan settlement. However, they quickly assumed importance in the New England economy because it was relatively easy for a colonist to convert his investment of labor, feed, and care into cash profit. This made mechanisms for resolution of conflict over the status and ownership of animals essential. In many communities, the legal issues created by trespassing animals and by the killing of those animals became a persistent threat to order and comity. The inadequate labor supply, which left few men available for herding and supervision of animals, and the lack of fencing in many settlements, exacerbated such difficulties. Puritan efforts to ensure proper stewardship and treatment were markers of societal self-interest in the protection of animals in their status as property. Like their

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English counterparts, New England Puritans also proscribed certain blood enthusiasms; Liberty 92 included an implicit prohibition of bull baiting. The rationale for suppressing such pursuits centered not only on their degradation of human character but also on their association with such evils as gambling, intemperance, riotousness, and petty crime. Even so, critics frequently expressed sympathetic concern for animals’ suffering, too. In 1687, Increase Mather condemned cockfighting along with other vices that seemed to reflect a decline in the morals of Puritan New England. Yet its effects on human character were not his only concern. The suffering and death of animals were also at issue, as Mather found the practice both a “great inhumanity, and a scandalous Violation of the Sixth Commandment.”

Such evidence notwithstanding, it would be wrong to make too much of Puritan expressions of sympathy. That initiatives to prohibit cruelty to livestock and the most obnoxious and degrading blood pursuits offered some positive protection to animals is surely true. However, they form only a small part of the colonial legacy in the realm of human-animal relations. Wild animals, for example, were among the greatest victims of New England settlement and Puritan industry. Hunting, for the most part, was not considered a sport but a productive activity that brought food to the table and rid the landscape of nuisance animals. Many communities placed bounties on “pest” species and “noxious” predators like wolves. By the 1650s, wild animals were in retreat from

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southern New England and their populations were rapidly declining, as a wholesale conversion of animals into resources occurred.6

Examining still another dimension of early New England life, John Murrin has pointed out that the Puritans’ insistence on executing animals sexually assaulted by humans should temper assessments of their compassion. Merciful feelings did not trump the Puritans’ stern commitment to criminalize “unnatural acts,” their fear of the monstrous offspring that could result from such unions, or their determination to execute human and non-human offenders according to the law of Leviticus.7

Ultimately, eighteenth-century Quakerism proved to be a more important source of expanding sympathy with non-human animals in North America than Puritanism. Quaker expressions of concern evinced deeply spiritual rather than pragmatic motivations, and often rested upon the capacity of animals to suffer. Thomas Clarkson noted that English Quakers were known not only for “treating the different animals under their care with tenderness, but in abstaining from all diversions in which their feelings could be hurt.” Quakerism’s founder, George Fox (1624-1691), had reproved both hunting and hawking, and from its earliest years the Society of Friends opposed blood


pursuits, then common and immensely popular. William Penn included prohibitions against cockfights, bull baits, and other "rude and riotous sports" in the legal code adopted by the Pennsylvania Assembly in 1682.\(^8\)

Penn's discipline did not take firm hold, however, and Pennsylvania authorities deemed it necessary to reassert these and other measures on several occasions between the late 1690s and 1714. Over time, the influx of non-Quakers into the colony made it difficult for Friends to impose their view of proper conduct upon others. Even within the Society of Friends, moreover, it was necessary to reiterate admonitions against cockfights and similar activities.\(^9\)

Importantly, Quakers' compassion for animals extended beyond those used in such pursuits. As Clarkson remarked in 1806, "It has frequently been observed . . . that all animals belonging to them are treated with a tender consideration and not permitted to be abused; and that they feel in like manner for those which may be oppressed by others."\(^10\) Clarkson attributed Quakers' sensitivity not only to their acknowledgment of God's benevolent regard for all creation, but also to their recognition of animals' capacity

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\(^9\) Clarkson, Quakerism 1: 142.

\(^10\) Clarkson, Quakerism 3: 152.
to feel pain. The Quaker, Clarkson wrote, “can anticipate and know their feelings by his own. . . . His own power of feeling strongly commands sympathy to all that can feel.”

In America, a few influential Quakers incorporated the values of compassion toward the non-human world into their lives. John Woolman (1720-1772) bore witness against the cruel treatment of animals in both his writings and personal conduct. Woolman lamented the overworking of draft animals, driven to exert themselves even when “their eyes and the motions of their bodies manifest that they are oppressed.” He was deeply distressed at the suffering of fowl on board the ship that took him to England. He avoided stagecoaches and the use of couriers, having judged the horses and their riders badly abused by the imperatives of expedited arrival and delivery. As a vegetarian, Woolman combined his boycott of the products of slavery--cotton, sugar, and indigo dye--with a personal stand against the exploitation of animals. “I was early convinced in my mind,” he wrote,

that true religion consisted in an inward life, wherein the heart doth love and reverence God the Creator, and learns to exercise true justice and goodness not only toward all men, but also toward the brute creatures; that . . . as by his breath the flame of life was kindled in all animal and sensitive creatures, to say we love God as unseen, and at the same time exercise cruelty toward the least creature moving by His Life, or by life derived from Him, was a contradiction in itself.


“Humaneness, in Woolman’s case,” nineteenth-century animal rights advocate Henry Salt remarked, “was in fact identical with religion.”

Pennsylvania Quaker pedagogue Anthony Benezet (1713-1784) felt the same way. Benezet told one correspondent that he had come to feel himself in “a kind of a league of Amity and Peace with the animal Creation,” and he included lessons on kindness to animals in two readers for children. “The sympathies of Benezet’s nature,” one biographer wrote, “extended to everything that was susceptible of feeling.” So great was Benezet’s sympathy “with everything that was capable of feeling pain, that he resolved, toward the close of his life, to eat no animal food.” Once at his brother’s house, “when his family were dining upon poultry, he was asked by his brother’s wife, to sit down and eat with them. ‘What,’ said he, ‘would you have me eat my neighbors?’”

Benezet and Woolman were not the only American Quakers who encouraged a moral ecology encompassing the ethical treatment of animals. Quakerism had its own tradition of radical ethical vegetarianism, dating back to the admonitions of the English Pythagorean Thomas Tryon (1643-1703), who chided Quakers in The Countryman’s Companion (1684) for the violence of their diet. In Wisdom’s Dictates (1683), Tryon underscored the brutality of man’s treatment of animals and recommended abstention


from foods that "cannot be procured without violence and oppression." Benjamin Franklin adhered to a vegetarian diet for some years under Tryon’s influence.16

Like Woolman, Benjamin Lay (1677-1759), an English Quaker who settled in Philadelphia in the 1730s, abstained from the products of both animal slaughter and slave labor. Lay once challenged slaveholding Quakers by splashing them with red pokeberry juice at a meetinghouse in Burlington, New Jersey. He also dabbled in humane beekeeping, determined to avoid the practice of destroying the bees in order to take their honey.17 Long Islander Elias Hicks (1748-1830), a pivotal figure in the 1827-1828 schism in the Society of Friends, displayed a similar regard. “Possessing a tender, humane spirit, quickly touched by either human or animal suffering,” one biographer commented, “he was all his life a powerful advocate of kindness to animals.”18

The Quaker teachers John Comly (1773-1850) and Joshua Evans (1731-1797) also avoided meat and exemplified the gospel of kindness to animals. Comly remembered that at the age of four or five he had thrown a stone at a chicken. As the animal died, he wrote, “Horror and sorrow seized my infant soul. My heart then learned to feel tenderness toward every living thing that could feel pain.” Comly acknowledged


18 Dictionary of American Biography, s. v. “Hicks, Elias.”
the influence of Benezet and Woolman, and included selections concerning "Tenderness to Animals" in his readers for children. In one he lamented the mistreatment of the dray horse: "What a pity that a beast so brave, should to the cruel be a slave." Another featured excerpts on cruelty to animals from William Cowper's poem "The Task."  

For his part, Evans explained that spiritual reflection had led him to vegetarianism. "I considered that life was sweet in all living creatures, and taking it away became a very tender point with me," he recalled. "I believe my dear Master has been pleased to try my faith and obedience by teaching me that I ought no longer to partake of anything that had life." Evans also avoided the use of carriages when he judged the horses to be suffering in their labors.

The origins and character of Quaker concern for animals have inspired a scholarly debate, centering on whether theocentrism or a doctrine of universal benevolence can best explain it. However, whether founded in an ethic of universal love, or derived

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21 Donald Brooks Kelley argues that Benezet and other American Quakers helped to engender an ecological consciousness rooted in universal benevolence and love toward animals and non-human nature. That sensibility not only diverged from the dominant values of the late eighteenth century; it also helped to shape subsequent environmental concern. In response, Kerry Walters asserts that Quaker concern over the moral treatment of animals was theocentric in its origins: to display and practice compassion and respect for all life was to give honor to God, whose presence was reflected in all parts of the organic order. As an alternative, Walters looks to William Bartram for an ethic of humaneness grounded upon empirically derived comparisons of human and non-human animal behavior. Bartram, Walters claims, found grounds for kindly treatment in the cognizance of animal rationality. See Donald Brooks Kelley, "A Tender Regard to the Whole Creation": Anthony Benezet and the Emergence of an Eighteenth-Century Quaker Ecology," Pennsylvania Magazine of History and Biography, 106 (Jan. 1982): 69-88; idem, "The Evolution of Quaker Theology and the Unfolding of a Distinctive Quaker Ecological Perspective in Eighteenth-
from a holistic reverence for God-given creation, Quaker sensitivity to animals was not simply the product of sectarian doctrine. In laying emphasis on the faculty of suffering, these Friends were part of a developing international consensus in which the capacity for pain defined an animal’s moral interests.

Moral Philosophy, the Quickening of Conscience, and the Emergence of the Humane

Although he was not the first to do so, the English philosopher and jurist Jeremy Bentham most famously articulated the new standard. In a footnote to his Principles of Morals and Legislation (1780), Bentham challenged the conventional basis for denying recognition to animals’ interests—their lack of rationality. The proper criterion for considering animals’ status, Bentham argued, was not rationality but sentience. “The question is not, can they reason? Nor can they talk?” he wrote, “But can they suffer?” Bentham rejected not just rationality but all other criteria based upon difference. As the abolition movement gathered momentum within the British Empire, he drew an explicit analogy between the treatment of animals and chattel slavery. “The day may come when the rest of animal creation may acquire those rights which could never have been withheld from them but by the hand of tyranny,” Bentham wrote. “The French have already discovered that the blackness of skin is no reason why a human being should be abandoned without redress to the caprice of a tormentor. It may come one day to be recognized, that the number of legs, the villosity of the skin, or the termination of the os Century America,” Pennsylvania History 52 (Oct. 1985): 242-53; idem, “Friends and Nature in America: Toward an Eighteenth-Century Quaker Ecology,” Pennsylvania History 53 (Oct. 1986): 257-73; and Kerry S. Walters, “The ‘Peaceable Disposition’ of Animals: William Bartram on the Moral Sensibility of Brute Creation,” Pennsylvania History 56 (July 1989): 157-76.
sacrum, are reasons equally insufficient for abandoning a sensitive being to the same fate."  

The experience of pain and pleasure was at the heart of Bentham's utilitarian philosophy, but others before him had asserted its relevance. Most importantly, the Cambridge Platonists and Latitudinarian divines of the Restoration era had focused on suffering in developing their idealized personality type, "the man of feeling." The notion of a "humane" person—a historically specific phenomenon—emerged from their challenge to Thomas Hobbes's view that base instincts and selfish greed were the primary motivators of human behavior. These English divines argued instead that Christianity as a moral system was founded on innate human virtue, and that charitable action toward others was the hallmark of proper faith. Their understanding of humane sensitivity was closely tied to the awareness that all beings, human and animal, were capable of sensation. Tender regard and feeling for the suffering of others, and responsiveness to that suffering, were qualities to be nurtured and developed, not suppressed.  

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23 Ronald S. Crane, "Suggestions toward a Genealogy of the 'Man of Feeling,'" English Literary History 1 (Dec. 1934): 221-25; G. J. Barker-Benfield, The Culture of Sensibility: Sex and Society in Eighteenth-Century Britain (Chicago: University of Chicago Press, 1992), 66-69; Janet Todd, Sensibility: An Introduction (London: Methuen, 1986); and Thomas, Man and the Natural World, 175-78. Before these developments, the word "humane" had referred to the characteristics of or "the distinct elements of men, in the general sense of the human species." Its currency as a synonym for "kind, gentle, courteous, sympathetic" dates from the early 1500s, but this usage was uncommon until the late eighteenth century. See Raymond Williams, Keywords (New York: Oxford University Press, 1976), 148.
Propounded by a series of influential thinkers from the Third Earl of Shaftesbury, to Francis Hutcheson, to David Hume, to Adam Smith, the belief in human benevolence gathered intensity, until by the end of the eighteenth century it was a widely held conviction. The debate that began with the Cambridge scholars also inspired a secular deliberation on humans as social and moral beings. Some thinkers saw the human capacity for sympathy with others as deriving from human nature itself, as distinct from any God-given morality. This new concept of benevolence rested on the notion that social affection, the desire to be with and to care for others, was natural to humankind. Fellow feeling was identical with the essence of true human nature, and, as some pointed out, it could transcend the boundaries of species.  

By the late eighteenth century, too, the word “humane” had begun to show its versatility. It was descriptive not only of a personality type but also of a broad set of reform concerns, including anti-slavery, debt relief, moral uplift, care for the sick, treatment of the insane, and animal welfare. As early as 1810, an author employed the term to describe his approach to farriery and stable care.  

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25 The term “humanitarian” first emerged in debates over religion, and referred to the doctrine that recognized Christ as human rather than divine. By the late eighteenth century, this use had given way to a new connotation that drew on Enlightenment notions about human self-cultivation and perfection. At that point, the word became associated with a commitment to conscious and deliberate improvement of the general welfare, and “humanitarian” became a synonym for “philanthropist.” For its use in relation to animals, see Yorick Wilson, The Gentleman’s Veterinary Monitor and Stable Guide (Philadelphia: Johnson and Warner, 1810). With the foundation of animal protection societies in the post-Civil War era, the word “humane” quickly came into regular use in public discussion of cruelty to animals. It first surfaced in an organizational title in 1877, with the renaming of the Illinois Society for the Prevention of Cruelty to
Eventually, increased reliance on the term "humane" to describe charitable impulse and action inspired its use in an array of organizational titles. America's original "humane societies" were part of the proliferation of associational organizations devoted to the improvement of civic life in the early Republic. This first humane movement played a vital role by attending to relief functions that the normal institutions of government could not fulfill under the pressures of rapid urbanization, immigration, and early industrialization. These humane societies had nothing to do with animal welfare, however.26

Other late eighteenth-century social, cultural, and intellectual trends helped to advance the idea of a humanity that reached beyond humanity itself. Enlightenment rationalism and natural rights ideology, for instance, inspired a number of thinkers to assert man's moral responsibility toward animals. The occasional expressions of concern by Thomas Paine and other theorists of revolutionary social reform reflected their view

Animals as the Illinois Humane Society. In later years, the term would frequently appear in the titles of societies with the dual functions of child and animal protection.

26 The public use of the word "humane" began in late eighteenth-century Europe with the formation of life-saving societies that rescued the victims of drowning and shipwreck. This use carried over into American life, as humane societies formed in Philadelphia in 1780, Boston in 1786, and Baltimore in 1790 to save people from drowning and to treat those rendered unconscious by sunstroke, lightning, accidental hanging, suffocating gases, traumatic shock, and other causes. In some cases, like that of New York, the Humane Society evolved to fulfill a number of charitable functions. Raymond A. Mohl, "The Humane Society and Urban Reform," Poverty in New York: 1783-1825 (New York: Oxford University Press, 1971), 121-31; Thomas Eddy et al, Report of a Committee of the Humane Society, Appointed to Inquire into the Number of Tavern Licenses (New York: Collins and Perkins, 1810); New York Post, 12 Feb. 1812; and "Humane Society Reward," True Sun, 12 Oct. 1844, 2. During the first few decades of the nineteenth century, the term "humane" also appeared in the name of anti-slavery and moral reform societies. In addition, it sometimes surfaced in the titles of other kinds of life-saving agencies. These included one of Philadelphia's volunteer fire companies, and an association for the rescue of those who fell through the ice of rivers or lakes while skating in winter. Anti-slavery organizations employing the term included the Virginia Society for Promoting the Abolition of Slavery, and the Relief of Free Negroes, or Others, Unlawfully Held in Bondage, and Other Humane Purposes (1795), and the Union Humane Society (1816). On fire rescue and skating club usage, see One Hundred Years of the Philadelphia Skating Club and Humane Society (Philadelphia: Philadelphia Skating Club, 1949).
that a truly transformed society would comprehend and respect the interests of a variety of oppressed classes, including animals.  

This strain of thought was particularly strong in England. John Oswald, the professional soldier who died fighting in the French Revolution, wrote in this tradition, as did the radical printer George Nicholson, the antiquarian Joseph Ritson, and the London bookseller Richard Phillips, jailed in 1793 for selling Paine's *The Rights of Man*. All four were ethical vegetarians.

Similar beliefs inspired an attempt at vegetarian living in the United States. In 1797, former British army officer Joseph Dorril moved from Massachusetts to Guilford, Vermont, with a group of followers. The origins of their doctrine are obscure, but the Dorrilites adopted a vegetarian diet based on the sanctity of all life. They refused to slaughter animals for food, and would not wear garments derived from leather or skins. One of them, a blacksmith, even discarded his leather bellows and fashioned one from

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27 In *The Age of Reason*, Paine wrote, "The moral duty of man consists in imitating the moral goodness and beneficence of God manifested in the creation toward all his creatures. . . . Everything of persecution and revenge between man and man, and everything of cruelty to animals is a violation of moral duty. . . . The only idea we can have of serving God is that of contributing to the happiness of the living creation God has made." Thomas Paine, *The Age of Reason*, in *The Writings of Thomas Paine*, ed. Moncure Daniel Conway (New York: Burt Franklin, 1969), 4: 583. While he was editor, Paine (anonymously) published a poem concerning mercy to animals in the *Pennsylvania Magazine*. It was a depressing piece about his rescue of a kitten tossed toward a pack of dogs by a wretched reprobate. The incident occurred outside a slaughterhouse, whose victims also drew the author's pity. "Cruelty to Animals Exposed, Occasioned by a Real Circumstance," *Pennsylvania Magazine* (May 1775), 231-32.

cloth. The settlement did not last for long, however; as disciples lost faith in Dorril, they dispersed, ending America’s earliest experiment in vegetarian communalism.²⁹

By the late eighteenth century, the question of cruelty to animals had found its way to North America through transatlantic intellectual exchange. English M. P. Soame Jenyns’s essay, “Cruelty to Inferior Animals,” a chapter in his Disquisitions on Several Subjects, was the earliest substantial work to address the topic; a Philadelphia publisher issued an edition of the book in 1790, and a number of periodicals republished the essay on cruelty as a separate piece. Sparing no class from his critique, Jenyns argued on theological grounds that animals had an equal right to enjoy life, and that humans were bound to practice justice and mercy toward them. He condemned such public spectacles as animal fighting and bull baiting, and underscored the problem of children’s thoughtless cruelty. Jenyns conceded that the capacity to take pleasure in giving pain was “in some manner inherent in the nature of man,” and that while “civilization may in some degree abate this native ferocity, it can never quite extirpate it.” Nevertheless, he deplored the fact that “the most polished are not ashamed to be pleased with scenes of little less barbarity, and, to the disgrace of human nature, to dignify them with the name of sports.”³⁰

In subsequent years, other British works invoking the argument for improved treatment of animals began to circulate. In 1802, a Boston publisher released an edition


³⁰ Soame Jenyns, Disquisitions on Several Subjects (Philadelphia: Thomas Dobson, 1790), 15-16. Jenyns (1704-1787), as a Member of Parliament who had spoken out against taxation of the colonies, was well known in North America. Thomas Jefferson owned a copy of the first edition of Disquisitions, published in London in 1782 by J. Dodsley. For the essay’s appearance in periodical literature, see The Lady’s Magazine and Repository of Entertaining Knowledge (Jan. 1793), 61-64, and (May 1793), 303-5; and Monthly Repository of Useful Information I (Sept. 1793), 241-46.
of John Toogood’s The Book of Nature that included an excerpt from Primatt’s Dissertation. Emphasizing religious duty, Toogood’s tract admonished readers that it was “impossible to suppose that we can have a right to rob our fellow creatures (for such they are) of that little allotment of happiness for which they are capable of enjoying,” for “surely, if it was not beneath God to create them, it cannot be beneath man to consider them.”

Humane ideals surfaced in the work of one of America’s founding fathers as well. In an 1808 lecture promoting veterinary education and the study of animal disease, Benjamin Rush (1745-1813) affirmed human obligation to treat animals kindly and lessen their miseries. Rush cited the work of two Englishmen: David Hartley (1705-1757), a pioneer of utilitarian philosophy who devoted a book chapter to “The Intellectual Faculties of Brutes,” and John Hildrop (d. 1756), author of an important tract arguing that animals had immortal souls. Rush grounded his case on the Genesis-derived concept of stewardship (as Hartley had), Hildrop’s argument for animal immortality, and the attending corollary that the service of animals warranted them due consideration.

Presbyterian minister Herman Daggett (1766-1832) of Long Island produced the earliest indigenous work on the subject. In 1791, Daggett delivered an oration entitled

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31 John Toogood, The Book of Nature: A Discourse on Some of Those Instances of the Power, Wisdom, and Goodness of God Which are Within the Reach of Common Observation; to Which is Added, The Duty of Mercy and Sin of Cruelty to Brutes, Taken Chiefly from Dr. Primatt’s Dissertation (Boston: Samuel Hall, 1802), 13-14.

The Rights of Animals at Providence College (now Brown University), where he was a degree candidate in divinity. Like Rush's lecture, Daggett's work reflected the influence of British and European authors. His pamphlet was far less exegetical than that of British religionists like Hildrop and Primatt, but he used Proverbs 12:10, "A Righteous man regardeth the life of his beast"--a common point of departure for sermons on the subject--as an epigraph. Daggett's extensive citation of William Cowper suggests the important influence of the poet and evangelical, one of the strongest animal advocates in English letters, upon transatlantic humanitarian discourse.33

Daggett's adoption of the term "rights" was consistent with a crucial shift in discussions of the question. During the second half of the eighteenth century, ongoing English and Continental debate about the most compelling arguments against cruelty to animals resulted in a turn toward the language of rights. A number of thinkers moved away from the traditional anthropocentric position--that there was an indirect obligation to avoid mistreatment of animals because of its potential to extinguish compassion for the suffering of humans--to an affirmative assignment of rights to animals. This shift arose in part from growing philosophical dissatisfaction with theories of indirect obligation. However, practical experience and disappointment with attempts to impose legal

punishment for cruelty were also influential. In general, prosecutions were only viable in those instances where cruel treatment of an animal could be linked to malice toward that animal’s owner. In cases where an individual mistreated an animal that he owned, it was virtually impossible to trump the right of property. In 1796, frustration with this pattern led English gentleman farmer John Lawrence to argue explicitly for a jus animalium, a legal and formal recognition of “the Rights of Beasts,” as a necessary remedy. When Lawrence, Daggett, and others used the term “rights,” they used it in a very qualified sense, to mean that all beings had some claim to happiness as well as to the avoidance of pain. In reality, the practical demands that derived from this position did not differ greatly from those resting on theories of indirect obligation. Nor did they challenge the presumption of humans’ God-given dominion over animals. Once codified within the law, however, this strategy would yield results, making it possible to punish cruelty to animals even when it did not occur in public, and thus could not have caused offense to other parties.34

Daggett’s sermon also reflected the emerging view—previously articulated by Bentham, Primatt, and others—that the capacity to suffer pain, and not rationality, ought to be the criterion for assessing the claims of animals. Daggett attacked the notion that animals’ sensitivity to pain was less developed than that of humans, identified the inconsistency marking attitudes toward tame and wild creatures, and denied any justification for abuse or neglect. Echoing Bentham, he wrote, “Let their circumstances or characters, dispositions or abilities, color or shape, be what they may; if they are

34 Daggett, Rights of Animals, 5, 7; Machle, “Cruelty and Kindness,” 91-98; John Lawrence, see A Philosophical Treatise on Horses, and on the Moral Duties of Man towards the Brute Creation (London: T. N. Longman, 1796, 1798), 1: 123; and Dictionary of National Biography, s. v. “Lawrence, John.”
sensible beings, and capable of happiness, they ought to be the objects of our benevolent regards.”

During the first few decades of the nineteenth century, other American religionists began to think, speak, publish, and read about the issue as well. In early adulthood, William Ellery Channing (1780-1842), founder of Unitarianism, recalled a childhood trauma in which he came upon a group of dismembered birds. “The incident has given a turn to my whole life and character,” Channing wrote to a friend, adding, “Thanks that I can say I have never killed a bird. I would not crush the meanest insect which crawls upon the ground. They have the same right to life that I have, they received it from the same Father, and I will not mar the works of God by wanton cruelty.”

Another minister, Robert Hunter, published a sermon against cruelty to animals, at Troy, New York, in the mid-1830s. Like many before him, Hunter emphasized the duty of care for animals as part of broader obligations toward God the creator of all. He also challenged the property claim that the cruel person might raise as a defense. Our God-given dominion over animals was not an absolute one, Hunter insisted. It was,

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35 Daggett, Rights of Animals, 3.

rather, "a dominion which can be rightfully exercised only within certain limits, and which, if we push it beyond these, becomes offensive in His sight."\(^{37}\)

Finally, Hunter advanced the notion of a general affirmative duty to act against cruelty. "We may think we are exempted from the charge of guilt as to the matter before us, because we may not remember any acts of barbarity toward the brute creation, which we have committed with our own hands," Hunter observed. "But have we never witnessed, without disapproval, the most savage deportment of others . . . have we never given the sanction of our presence to scenes which can scarcely be brought into keeping with the requirements of the Gospel?"\(^{38}\)

American periodical editors also began to speak out against cruelty and abuse, variously emphasizing animals' divine creation and extraordinary diversity, their capacity to endure pain, cruelty's demoralization of its perpetrators, and the many benefits that humans derived from the use of animals.\(^{39}\) During the 1830s and 1840s, the issue drew occasional comment in workingmen's journals, too. In 1834, Parley's carried a series of items that deplored cruelty to draft animals, and The Man reminded its readers that "kind and familiar treatment" was superior to "harshness and bad usage." The editors of the National Trades' Union condemned the cruelty of tight reins and high-pressure bits.


\(^{38}\) Ibid., 23.

Finally, an editorial in the Workingman's Advocate expressed mystification that docking (cutting horses' tails off for fashion) did not come within the ambit of anti-cruelty statutes, and counseled readers not to support this painful, non-essential procedure by buying horses thus dismembered.40

The agricultural press was another source of exhortations. In the mid-1840s, several journals republished condemnations of restrictive horse reins from English sources. In 1847, Dr. John C. Warren and John H. Dexter both denounced cruelty to animals in Massachusetts, one before an agricultural society, the other in a pamphlet. An article on “Cruelty to Animals,” attributed to the Reverend Pierpont of Boston, whose commentary had “deeply stirred” the sympathies of Lydia Maria Child, began to circulate in 1847. All of these works showed evidence of compassion for the suffering of animals, not merely pragmatic concern for their longevity as beasts of burden or regard for the interests of property owners.41

From the late eighteenth century onward, new ways of thinking about how humans ought to treat animals coalesced within the transatlantic community, and, increasingly, animals' capacity for pain emerged as the key criterion for their moral


considerability. An arcane religious discourse about the nature of humanity gave birth to an idealized personality type, the humane individual. Natural rights philosophy led some to express solidarity with oppressed animals, and others to adopt the language of rights in advancing a new conception of animals' legal status. Acting under these influences, a few Americans began to criticize cruelty to animals in sermons, newspapers, periodicals, and other fora. These developments also laid the groundwork for the earliest legal interventions on animals' behalf.

The Legal Protection of Animals

With his emphasis on individual pain and suffering as the markers of right and wrong in human conduct, Bentham set the stage for the passage of animal protection laws transcending the preservation of property and curbing of public nuisance. "Why," he asked, "should the law refuse its protection to any sensitive being?" As Bentham observed, centuries of jurisprudence had consigned animals to the legal status of property; the title of his footnote was "Interests of the inferior animals improperly neglected in legislation by the insensibility of the ancient jurists." Eventually, British politicians took up the arguments of Bentham, Lawrence, and other theorists of reform. In 1800, Sir William Pulteney sponsored a bill to suppress bull baiting, which failed in a

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42 Bentham, Principles of Morals and Legislation, 311. Bentham failed to acknowledge several striking exceptions. One involved the medieval trials in which animals were held accountable as defendants subject to prosecution and punishment for injuries done to men. Then there was bestiality. Well into the early modern period, animal victims were held responsible for its occurrence along with their human abusers. They were executed not only on the premise that they too had been motivated by base passion, but because of fears that they might give birth to monstrous beings. Edward Payson Evans, The Criminal Prosecution and Capital Punishment of Animals (New York: E. P. Dutton, 1906); Joyce Salisbury, The Beast Within: Animals in the Middle Ages (New York: Routledge, 1994), 84-101; and Murrin, "Things Fearful to Name," 33-34.
close vote of 43-41. In 1809, focusing on the routine cruelties of the street, Lord Thomas Erskine proposed legislation prohibiting mistreatment of domestic animals. Erskine’s bill died in the Commons, thwarted by William Windham, who had also led the opposition to Pulteney’s bill.43

The mistreatment of animals remained a subject of public discourse, however, and, in 1822, Richard Martin, Irish M.P. from Galway, championed the first successful anti-cruelty statute in Great Britain, “An Act to Prevent the Cruel and Improper Treatment of Cattle,” which passed amidst considerable opposition and ridicule. The scope of “Martin’s Act” encompassed those who “wantonly and cruelly beat, abuse, or ill-treat any horse, mare, gelding, mule, ass, ox, cow, heifer, steer, sheep, or other cattle.” Magistrates could fine offenders up to five pounds and sentence them to as much as three months in prison for mistreatment or abuse. Martin’s Act conferred no power of arrest, as all proceedings required a complaint to a magistrate. Policemen were not compelled to interfere with cruelty, and no citizen could lawfully do so. Significantly, too, not all animals were accorded protection; the Act did not cover the mistreatment of bulls, dogs, cats, and other unmentioned species.44


Prosecution presented other obstacles. Hostile or indifferent magistrates and aldermen often dismissed cruelty complaints without due consideration of the facts. Moreover, humanitarians found their intentions frustrated by frivolous defense arguments and judicial rulings that hinged on the term “wantonly,” or took advantage of the absence of references to specific kinds of mistreatment, like use of a whip. Moreover, the claims of necessity frequently overcame those of humanity.45

Prior to the passage of Martin’s Act, cruelty to animals had been punishable within the common law tradition, an accretion of doctrine, custom, and usage based on court decisions as opposed to written laws. Under the common law, cruelty to animals was indictable as either an offense against property or a common nuisance. The former action was usually termed “malicious mischief,” and was regarded as a civil offense, because any injury could normally be made right by the payment of money to the animal’s owner. Over time, the latter category—that of common nuisance—emerged to cover cases in which a man was punished not for his cruelty to animals per se but because his conduct offended the sensibilities of others. In this instance, however, the law placed no restraints upon his cruelty if it occurred in private.

The common law tradition provided the context for a number of criminal prosecutions in the United States, before the passage of specific legislation concerning cruelty. In 1788, a Pennsylvania man was prosecuted under the common law for “maliciously, willfully, and wickedly killing a horse.” Adjudicating the case on appeal, a judge ruled that this act was a public wrong and as such an indictable offense. In 1812,

45 Lewis Gompertz gives a sense of the difficulties with enforcement in The Animals' Friend, which he and others published during the 1830s. The issues I saw at the Library of Congress were undated.
this ruling was reaffirmed in another case. In 1808, when a Tennessee man killed a neighbor’s horse who had broken into his cornfields, he was convicted of a common law offense. An 1812 decision in a Pennsylvania court imposed the same punishment. In 1818, a cartman in Philadelphia was fined $30 plus the costs of prosecution, for beating his horse. A truckman in Boston received the same sentence in 1824. In an 1826 Vermont case, the court ruled that “the wounding and torturing of a living animal . . . but with all the wicked and malicious motives and intentions set forth in this indictment, is a misdemeanor to be punished.”

At least half a dozen cases ensued under the common law in New York State before the passage of its 1829 anti-cruelty statute. Harm or destruction of animals belonging to others was punished as a form of malicious mischief committed against property. In 1825, the Court of General Sessions convicted a man from Delaware County for killing a cow belonging to someone else after the Supreme Court of the state certified that the charge was indictable. The court found his action not merely “a violation of private right” but one of “moral turpitude, dangerous to society.” It was, the court continued, “an outrage upon the principles and feelings of humanity. The direct tendency

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46 Republica v. Teischer, 1 Dallas R. 335, and 2 Penn. H., 249.

47 State v. Council, 1 Overton’s Tenn. R., 305; and Commonwealth v. Eckert, 2 Pa. 249 (1812).


49 State v. Briggs, 1 Aik. 226 (Vt. 1826).
is a breach of the peace. What is more likely to produce it, than wantonly killing out of mere malice, a useful and domestic animal?”50

Two of the New York cases reflected concerns over commercial deceit involving the abuse of animals. In 1821, two men were indicted for misdemeanors for having tied the tongue of a calf to prevent his suckling from a cow, the better to deceive a buyer with the appearance of a full bag. Not long after, a court fined Michael Purdy $50 for tying a calf’s nose for the same purpose; a witness in the case testified that he had known cows’ bags to burst in situations where calves were not permitted to suckle.51

Several common law cases in New York involved the prosecution of men who mistreated their own animals. In 1818, a court indicted a carter for beating his horse to death with a club. While it ruled the horse’s death accidental, the court “wished it to be distinctly understood in the community, that when a proper case of deliberate cruelty towards a dumb animal . . . which too often occurred in this city, should be brought before the Court they would punish the offender with more satisfaction than for cruelty towards one of our own species.”52 In another case, in 1822, Robert Stakes was convicted for viciously beating his horses in public. The recorder noted that “the load was heavy and that one of the horses was vicious and sometimes refused to draw the load; yet it does not appear but that by proper management they might have been made to

50 “Cruelty to a Beast,” 3 N.Y. City Hall Recorder, 205; and People v. Smith, 5 Cowen, 258, followed and approved in Loomis v. Edgerton, 19 Wend., 419.

51 Morris’ and Clark’s Case 2 N.Y. City Hall Recorder, 62; and Purdy’s Case, 6 City Hall Recorder, 106. “Bagging” became the subject of regular arrests once the organized phase of animal protection began.

52 Isaac Ross’ Case, 3 N.Y. City Hall Recorder, 191.
draw it. Yet if they would not, the defendant had no right to beat them in an inhuman manner as he did."\(^{53}\)

Early case law also surfaced in the District of Columbia. In 1821, a court punished public cruelty to a horse even though the driver sought to escape conviction on the grounds that he was carrying the U.S. Mail. In 1834, another court convicted a man for beating a cow to death, holding that whenever an act of this kind took place in or near a public street it was indictable. In 1838, the same court ruled that it was an offense to provoke or encourage a dangerous dog to attack and bite a cow.\(^{54}\)

Between 1820 and 1860, the mistreatment of animals became the focus of more than a dozen state statutes and local ordinances. Because they specified certain kinds of conduct as punishable, these enactments relieved courts of having to resolve cases through common law approaches grounded on public nuisance or the destruction of other people’s property. Legislatures enacted anti-cruelty measures in Maine (1821), New York (1829), Massachusetts (1834), Connecticut (1838), Michigan (1838), Wisconsin (1838), New Hampshire (1843), Missouri (1845), Virginia (1848), Iowa (1851), Minnesota (1851), Kentucky (1852), Vermont (1854), Texas (1856), Rhode Island (1857), Tennessee (1858), Kansas (1859), Washington (1859), and Pennsylvania (1860).\(^{55}\)

\(^{53}\) People v. Stakes, 1 Wheeler Cr. Cases, 3.


These statutes perpetuated common law concerns with public morality and conduct, on the one hand, and with the protection of valuable property on the other. The placement of anti-cruelty statutes within criminal codes concerning public morality and decency has customarily been cited as evidence that abhorrence to the sight of cruelty and apprehension about its impact on human character, as distinct from concern for animals, constituted the major motivation for such legislation. Yet the English legal biographer John (Lord) Campbell (1779-1861) judged this a pragmatic approach to the goal of protection. While it was difficult to protect [animals] by humane laws, Campbell noted, “there can be no doubt that any malicious and wanton cruelty to animals in public outrages the feelings--has a tendency to injure the moral character of those who witness it--and may therefore be treated as a crime.”

By treating such acts as offensive to public morals, it became possible to extend protection to animals without having to confront the problem of infringing on the rights of ownership.

A gradual shift in statutory language during this span of forty years also reflected steady progression in societal attitudes. Over time, state laws designed to protect some people’s animals (in their status as commercially valuable property) from the depredations of others gave way to legislation that recognized animal pain and suffering as constituent elements of cruel treatment justifying intervention, regardless of ownership. In addition, lawmakers introduced improvements based on their evaluation of how well the laws of other states functioned. In 1834, for example, Massachusetts went beyond the New York law and substituted the words “other animal” for “other cattle” in

its statute, thus extending its protective aegis. Legislators also attached a penalty of imprisonment or heavy fine for violations.\textsuperscript{57}

B. F. Butler and John C. Spencer, the men who incorporated an anti-cruelty measure into their comprehensive revision of the New York State laws, acknowledged the helpful precedent of Anthony Hammond's digest of British statutes. They also expressed their general conviction that the common law was no longer satisfactory for establishing criminal punishments.\textsuperscript{58} The 1829 New York statute provided: "Every person who shall maliciously kill, maim, or wound any horse or other cattle, or any sheep belonging to another, or shall maliciously beat or torture any such animal, whether belonging to himself or another, shall, upon conviction, be adjudged guilty of a misdemeanor." While seldom enforced, the law occasionally influenced public discourse. In 1831, the humane implications of the statute surfaced in a debate over legislation governing the establishment of racecourses. The measure clearly influenced the drafting of subsequent enactments in other states, most of which exceeded the New York legislation in the range of animals covered under law.\textsuperscript{59}

On occasion, citizens expressed their frustration over an apparently moribund statute. In 1845, a writer in the \textit{Knickerbocker} described several instances of cruelty he


\textsuperscript{58} \textit{Journal of the Assembly of the State of New York, 51st Session, Second Meeting} (Albany: Croswell, 1828) 45-46; and Revisers Notes, 5 Edm Stat. at Large, 815, 818.

had observed in New York City during the previous year. "So much has been said and
written on the subject, and so many laws against cruelty to beasts remain a dead-letter on
the statute-books, that it seems but a sorry task to utter another word on the subject," the
writer lamented, "and indeed, many humane people, who once took an interest in it, have
given it up in despair." The failure of the authorities to exact compliance with the statute,
the author suggested, had led to a kind of community-level enforcement, in which
citizens personally intervened against the mistreatment of animals. In one incident, a
crowd gathered to remonstrate with a man brutally beating a horse because the animal
could not move a loaded wagon out of a rut. "Some offered to assist him out with his
load, and others threatened him with the law," but he ignored them, threatening to
horsewhip the next man who interfered. A sailor who had been one of the most vocal
bystanders took up the challenge, and soundly thrashed the recalcitrant driver. In a
second case, another sailor intervened when a boy was seen tossing a puppy repeatedly
into shallow water near a wharf, trying to make him a "water-dog." The puppy struggled
to escape the water and crawl away but was forced in again and again. Finally, the sailor
seized the youth and tossed him into the water. 60

A year later, in 1846, the Boston Herald published a thread of articles, notices,
and letters deploring the mistreatment of draft horses, and especially the piling of
unreasonably heavy loads of merchandise onto bulky vehicles. In 1852, a Herald
editorial underscored public concern over wanton cruelty. The writer described an

60 "A Few Random Thoughts on Cruelty to Animals," Knickerbocker 26 (Sept. 1845), 269-70.
William Lloyd Garrison reprinted this account in the Liberator 17 (27 Aug. 1847), 140.
incident in which a crowd gathered to protest the beating of a horse by a teamster. While all agreed that the man ought to have been prosecuted, no one did anything about it.  

In Philadelphia, concern over cruelty to animals during the decade before the Civil War culminated in the 1861 submission to the City Council of a petition signed by 214 men and 250 women, asking “that measures may be taken to abate the constant and inhuman treatment of some of the teams on the various City Freight Railroads.” A council committee heard testimony about the overloading of horses and mules and the terrible punishment inflicted on them when they failed to move the heavy loads.

Their knowledge of two previous legislative actions shaped the council members’ deliberations. The first of these was an 1855 anti-abuse statute introduced by State Senator William A. Crabbe. By the time it passed, this measure—originally designed to encompass the whole state—was restricted to Philadelphia alone. The law held “that any person or persons, who shall, in the City of Philadelphia, wantonly or cruelly beat, or otherwise abuse, any animal belonging either to himself or to others, shall be guilty of a misdemeanor, and shall be fined by any Alderman of said City.” The second measure, an 1860 statewide anti-cruelty statute, provided “that if any person shall wantonly and

61 See articles in the *Boston Transcript*, 16, 18, 23, 25 Apr., and 4 May 1846; and “Cruelty to Animals,” *Boston Herald*, 21 July 1852.


cruelly beat, torture, kill, or maim any horse or other domestic animal, whether belonging
to himself or another, every such person so offending shall be guilty of a misdemeanor,
and on conviction, be sentenced to pay a fine not exceeding two hundred dollars, or
undergo an imprisonment not exceeding one year."

The 1861 Philadelphia council committee noted that few convictions had taken
place under prior laws, owing to great apathy on the part of police charged with
enforcement. “In the few instances of parties being brought before aldermen by citizens,
a lawyer would be employed to clear the party complained of,” the committee reported,
“and he would mostly succeed in convincing the Alderman that the maltreatment or
beating was not done, either wantonly or cruelly, and that it was nothing more than a
correction which was necessary to subdue the stubbornness of the animal.”

This led the Philadelphia panel to recommend passage of an ordinance “which omits the words
wantonly and cruelly, and prohibits the use of certain weapons which have been used to
beat and torture the animals. A person being convicted of using any one of the prohibited
weapons to strike, beat, or torture an animal, he shall be subjected to the fine, without any
inquiry whether it was done wantonly or cruelly.” Ultimately, however, the full council
did not enact this nuanced revision, finding that the 1855 Act was “well adapted to the
case . . . and would . . . be a sufficient protection, if properly enforced.” Its members then
passed a resolution that authorized the Mayor to circulate 5,000 copies of the 1855 Act,


65 “Appendix No. 95,” Appendix to Journal of Select Council of Philadelphia, 120; and Rowley,
The Humane Idea, 41-42.

66 “Appendix No. 95,” 121.
and recommended the discharge of any policeman who neglected to execute its provisions when asked to do so by any citizen.  

From the period of the early Republic onward, the sporadic attention that cruelty to animals received under the common law tradition gave way to rudimentary prohibitions in a number of states. The era also witnessed a few expressions of community disapproval of everyday cruelty, and frustration at the lack of police enforcement of the statutes in place. Legislators, jurists, concerned citizens, and defendants grappled with definitions of cruelty, the rights of ownership, and the relevance of malicious intent. In doing so, they anticipated debates that would intensify in the postbellum era.

Kindness to Animals, Youthful Character, and Class Formation

In no arena was the kindness-to-animals-ethic more prevalent prior to the Civil War than that of childhood socialization. Increased recognition of the value of cultivating concern for animals in children flowed directly from John Locke's ideas about the fundamental nature of humankind--the issue that had sparked dispute between Thomas Hobbes and the English divines. Locke entered this debate with his argument that individuals were born tabula rasa--"as a blank slate"--and that all ideas derived from experience, coming either from the senses or from reflective consciousness. This raised interest in the beneficial moral effect of childhood instruction favoring the kindly treatment of animals. Although others had sounded the theme before him, in 1693 Locke offered the most prominent early statement of the need to chastise youthful cruelty.

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67 Ibid., 126.
"This tendency should be watched in them, and, if they incline to any such cruelty, they should be taught the contrary usage," he wrote. "For the custom of tormenting and killing other animals will, by degrees, harden their hearts even toward men; and they who delight in the suffering and destruction of inferior creatures, will not be apt to be very compassionate or benign to those of their own kind." 68

Over time, Locke's insight would gain influence, as growing comprehension of the importance of childhood experience and its impact on youthful character sustained a robust transatlantic publishing industry devoted to the production of juvenile works infused with the humane didactic. 69 The most important English language title of this kind was Sarah Trimmer's Fabulous Histories or, as it came to be known in abridged version, History of the Robins. First published in 1785, it was reissued almost a dozen times by 1811 and remained in print until the late nineteenth century. Trimmer (1741-1810) was a leader in the Sunday School movement and a friend of Mary Wollstonecraft and Hannah More, both of whom incorporated the kindness-to-animals theme in their


69 Samuel F. Pickering, John Locke and Children's Books in Eighteenth-Century England (Knoxville: University of Tennessee Press, 1981). Goody Two-Shoes (London: Newbery, 1765), an early example of such work, has been variously attributed to Oliver Goldsmith, Giles Jones, Griffith Jones, and John Newbery. Dorothy Kilner's The Life and Perambulation of a Mouse (1783) was the first to feature an animal narrator who described a catalogue of sufferings inflicted by humans. Kilner stayed with the theme in The Rational Brutes, or Talking Animals (London: J. Harris, 1803).
own works for children. In Trimmer’s story, children take care of a family of robins who nest in the family orchard.70

In North America, the first juvenile works devoted to kindness to animals began to appear in the late 1790s and early 1800s. The earliest were reprints or excerpts of English works; a Philadelphia publisher issued Fabulous Histories in 1794, and an edition of Dorothy Kilner’s The Rational Brutes appeared in the same city in 1801.71 By far the most widely distributed of the humane didactic texts in the United States was Looking Glass for the Mind, or Intellectual Mirror. Its French author, Arnaud Berquin (1747-1791), had written L’Ami des Enfans, a set of moral tales for children issued as part of a subscription series in the early 1780s. Berquin’s work circulated broadly within the transatlantic community. Following the influence of Rousseau, Berquin presented animals and nature as children might encounter them, avoiding the fanciful in his work. Looking Glass, an anthology of stories from L’Ami des Enfans, went through at least twenty editions in the United States between 1794 and 1848, and reprints surfaced as late as 1898. Many of the stories from Looking Glass, including “The Bird’s Egg” and “Louisa’s Tenderness to the Little Birds in Winter,” also appeared separately as tracts. In addition, the Berquin tales were frequently appropriated without credit for inclusion in


The genre quickly gained important American enthusiasts, including Lydia Maria Child, who sometimes included stories imbued with the humane ethic in her Juvenile Miscellany between 1826 and 1834. In 1828, the Miscellany published "Dogs," a tale in which the children of a middle-class family, prompted by an encounter the eldest has had with "the learned dog Apollo," discuss the tyrannical character of those who mistreat animals and the beneficial influence of the kindness ethic. Together with their mother, the children explore the reciprocal affection between humans and their non-human companions, who evince honesty, loyalty, and unconditional love, and a capacity to console and redeem humans.\footnote{"Dogs," Juvenile Miscellany 4 (Mar. 1828), 30-43.}

Humanitarianism in this era's children's literature closely paralleled contemporary intellectual fashions. For example, those who wrote for children employed the term "rights" in discussing the claims of animals and the duties and privileges of humans. The period's zoological knowledge trickled into this literature, too, increasing children's understanding of animals' capacity for pain as one important consequence. Works for young people also reflected the limits of the era's thinking. Thus, while condemning certain forms of cruelty and neglect, Trimmer presented her readers with the justifications that contemporary thinkers were offering about the use of animals for food.
Some years later, in a special edition of his *Elements of Moral Science*, abridged and adapted for use in schools, the moral philosopher Francis Wayland included a section on "Our Duties to Brutes." It was the Benthamite calculus distilled for the youthful mind. Men were at liberty to use animals for reasons of necessity, but were "bound to use them kindly, and subject them to no unnecessary fatigue, and to no unnecessary pain."\(^{74}\)

One explanation for the pervasiveness of the kindness-to-animals ethic lies in its consonance with the republican gender ideology of the post-Revolutionary United States. Early American society assumed a set of paternalistic relationships both within and outside of the family, emphasizing the importance of a virtuous citizenry devoted to republican principles of governance. This made education of the boy especially critical, since as a man he would take his place of leadership over family, chattel, property, and social institutions. Responsibility for educating the child for his leadership role rested with women, who were assumed to be the repositories of gentle virtue, compassionate feeling, and deep devotion--a buffering presence against the heartless struggle of the business world and the masculine public sphere. Humane education provided one important means for insulating boys against the tyrannical tendencies that might undermine civic life were they to go unchecked. Animals were nicely suited for

instruction that impressed upon the child their helplessness and dependence upon him, and his considerable power over them.\textsuperscript{75}

The editor of \textit{Pity's Gift}, a compilation of stories by Samuel Pratt, voiced an increasingly common conviction about the instruction of children. It was “of as great importance to teach them lessons of compassion for the dumb creation, as a fellow feeling for their own species,” she noted, “not only because the one is connected to the other, but, because an early neglect of the duties of humanity, in regard to the first, leads but too naturally to an omission of those duties as to the last.” Only a few years earlier, in his 1791 oration, Herman Daggett proffered the transatlantic slave trade as an example of the wickedness that could arise when cruel instincts went unchecked by youthful training in benevolent feelings.\textsuperscript{76}

Whatever its implications for the republican experiment, the presence of the kindness-to-animals ethic in antebellum childhood experience had still broader implications for the process of class formation in North America. From the 1820s onward, sympathy with domestic animals, gradually encoded in education lessons for children, became an important means of inculcating such standards of bourgeois gentility as self-discipline, Christian sentiment, empathy, and moral sensitivity. Moreover, as a


\textsuperscript{76} \textit{Pity’s Gift: A Collection of Interesting Tales, To Excite the Compassion of Youth for the Animal Creation, Selected by a Lady} (Philadelphia: J. Johnson, 1801. 1808), v; and Daggett, \textit{Rights of Animals}, 7-8.
household companion, a domestic animal could serve as a convenient real life medium for the practice and expression of compassionate sentiments. Merciful regard for animals became one hallmark of a developing middle-class culture rooted in liberal Protestant evangelical piety.\(^\text{77}\)

In addition to their sociocultural utility for instilling and enacting the principles of kindness and compassion, the presence of animals in children's literature fulfilled other didactic functions in nineteenth-century domestic ideology. Narratives of animal life offered idealized conceptions of middle-class family relationships, and served as morality tales for human domestic relations. By their example, the animal heroes of these narratives also served to reinforce cherished norms of conduct and behavior. Over time, such functions helped to consolidate the place of animals in the emotional framework of middle-class domestic life.\(^\text{78}\)

The kindness ethic transcended the boundaries of both space and class, and reached as far as the expanding frontier of the growing American nation, where it animated the life and legend of John Chapman, "Johnny Appleseed." Chapman demonstrated great sensitivity to animals, and was apparently a vegetarian. He even eschewed honey unless he could gain assurances that enough had been set aside for the bees to pass the winter safely. Chapman admonished others against unnecessary


\(^{78}\) Ibid. When the humane movement began its work, it focused considerable energies upon children, just as the abolition movement had done. Both endorsed the assumption that parents had a duty to inculcate moral values in their children, and demonstrated a deep faith in children as future agents of change. See Karen Sanchez-Eppler, \textit{Touching Liberty} (Berkeley: University of California Press, 1993), 42; and John Ashworth, "The Relationship between Capitalism and Humanitarianism," \textit{American Historical Review} 92 (Oct. 1987): 826.
destruction of life, and rescued animals from miserable circumstances through purchase or barter. Even wild animals and insects came within the scope of his sympathies.  

Nor was Chapman alone in his reputation for exceptional kindness. According to his friends and family, a young Indiana schoolboy gave both a classroom speech and a private sermon against cruelty to animals in the early 1820s. “Abe preached against cruelty to animals, contending that an ant’s life was to it, as sweet as ours to us,” his stepsister recalled. In an 1860 autobiographical account, the now grown Abraham Lincoln suggested his ambivalence as a hunter. Describing an incident in which he shot a wild turkey outside the family cabin, Lincoln reported of himself, “He has never since pulled the trigger on any larger game.”

By the 1850s, the kindness-to-animals-ethic was a staple of juvenile literature as well as a fixture of many middle-class homes. Most of the major British juvenile works incorporating the theme surfaced in American editions, and American authors gradually began to develop the theme in their own writing. A generation before the advent of

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organized animal protection in America, the humane didactic was an established instrument of childhood socialization.\textsuperscript{81}

\textbf{Vegetarianism, Violence, and the Antebellum Reform Cosmology}

Humanitarian vegetarianism provided another impetus toward animal protection. Although historians have neglected the ethical component of antebellum diet reform, focusing instead on physiological and religious rationales, cruelty to animals killed for food also motivated some vegetarians.\textsuperscript{82} Moreover, vegetarian reformers forged important connections with advocates of other causes, helping to ensure the dissemination of the kindness-to-animals ethic. While vegetarianism was not common before 1830, it regularly surfaced in discussions of temperance, criminal reform, peace, abolition, and the rights of women. Among abolitionists, William Lloyd Garrison,

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\textsuperscript{81} For examples, see \textit{The Hare, or, Hunting Incompatible with Humanity} (Philadelphia: B. and J. Johnson, 1802); \textit{The History of a Goldfinch} (Philadelphia: B. and T. Kite, 1807); \textit{The History of Samuel Bonner} (Boston: Wells and Lilly, 1820); \textit{Stories of the Happy Peasants} (Boston: Munroe and Francis, 1829); \textit{Ellen, Or The Disinterested Girl} (Philadelphia: American Sunday School Union, 1831); \textit{The Little Lamb, or the Reward of Kindness} (New Haven: S. Babcock, 1838); Charlotte Elizabeth [Tonna Browne], \textit{The History of Goody Two-Shoes} (Cooperstown: H. and E. Phinney, 1839); \textit{Instruction and Amusement for the Young} (New Haven: S. Babcock, 1841); \textit{The Bird Book} (Philadelphia: American Sunday School Union, 1844); Charlotte Elizabeth [Tonna Browne], \textit{Kindness to Animals, or the Sin of Cruelty Exposed and Rebuked} (Philadelphia: American Sunday School Union, 1845); D. P. Kidder, ed., \textit{Be Kind: A Narrative, Showing the Result of Good Treatment to Animals, Grown People, and Children} (New York: Carlton and Phillips, 1852); \textit{Harry's Story Book} (Philadelphia: Willis P. Hazard, 1857); Aunt Louisa's \textit{Germs of Kindness} (New York: McLoughlin Bros., 1864-1870); Mary Elliot, \textit{The Bird's Nest} (New York: McLoughlin Bros., 1864-70); Jacob Abbott, \textit{Friskie, the Pony} (New York: Sheldon and Co., 1864); and Anson Randolph, \textit{Autobiography of a Canary Bird} (New York: E. O. Jenkins, 1866).
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\textsuperscript{82} The dominance of physiological arguments has undoubtedly obscured this point, although one historian has interpreted the era's increased emphasis on scientific arguments in favor of vegetarianism as a consequence of reformers' determination that "the most moral diet had to be thoroughly demonstrated to be the most healthful." See James C. Whorton, \textit{Crusaders for Fitness: The History of American Health Reformers} (Princeton: Princeton University Press, 1982), 63-68. The preoccupation of certain Jacksonian era vegetarians like Sylvester Graham and Russell Trall with reforms in sexual conduct and physical activity, and the admitted eccentricity of some of the views they expressed, have also hindered proportionate attention to the humanitarian strain of vegetarianism.
\end{flushright}
Horace Greeley, the Grimké sisters, Theodore Weld, Joshua Levitt, and the Tappan brothers followed the Graham diet, although not all of them held to it over the full course of their lives. The Graham boarding house in New York City was a center of radical abolitionism. Vegetarianism and other body reforms involved a purification of private life that many deemed a necessary concomitant to social regeneration.\(^3\)

The formal origins of vegetarianism as a social movement in America date to 1817, when 42 members of the Bible-Christian Church, a small Swedenborgian sect with vegetarianism as its cornerstone, left Salford, England to promote their beliefs in what they thought would be more fertile ground in the United States. They settled in Philadelphia, where Reverend William Metcalfe, their leader, worked alternately as a schoolmaster, printer, publisher, and editor, while struggling to build up the church. In addition to preaching, Metcalfe carried his ministry into the popular press throughout the 1820s, publishing a number of letters and tracts in favor of vegetarian diet and total abstinence from alcohol. Sylvester Graham was likely one of his converts.\(^4\)


\(^4\) This discussion relies on *History of the Bible-Christian Church* (Philadelphia: J. B. Lippincott Co., 1922), 39-40. Stephen Nissenbaum rejects the claim that Graham was one of the Bible-Christians’ converts. But Graham almost certainly encountered them during an 1829 visit to Philadelphia, where he lectured on temperance. Soon, after a detailed study of diet and physiology, he was recommending vegetarianism. There is no firm proof to support the conversion claim apart from the fact that the Bible-Christians and others commonly made it. However, Nissenbaum produces no evidence whatsoever to support his rejection, save his conviction that Graham’s vegetarianism was more physiological and less religious than that of Metcalfe and his followers. See Stephen Nissenbaum, *Sex, Diet, and Debility in Jacksonian America: Sylvester Graham and Health Reform* (Westport: Greenwood Press, 1980), 39. Robert Abzug believes, and I agree, that Nissenbaum underestimates the religious influence behind Graham’s vegetarianism: see Abzug, *Cosmos Crumbling*, 260-61, n2.
Religious conviction, above all, had guided the Bible-Christians to their chosen diet. However, there was a strong humane component and a commitment to non-violence in the church members' vegetarianism. The Bible-Christian hymnal included an adaptation of Oliver Goldsmith's poem, "The Hermit": "No flocks that range the valley free, To slaughter we condemn, Taught by that power that pities us, We learn to pity them." In his 1840 sermon, "Bible Testimony on Abstinence from the Flesh of Animals as Food," Metcalfe preached:

Our high object is to construct, to correct general sentiment, and to determine the principles of public habits so as to cherish universal humanity; believing that in proportion as the minds of the moral and intellectual among our fellow-mortals are sufficiently awakened to the importance of the dietetics of the Bible, they will withdraw themselves from a system of cruel habits, which involves a portion of the animal creation in needless suffering and untimely death, and which has unquestionably a baneful effect upon the physical existence and the intellectual, moral, and religious powers of man.

In another passage, Metcalfe explored the broader implications of the Sixth Commandment:

Who has authority or presumption to limit this precept to the killing of men? Is it not recollected by my hearers that we are peremptorily enjoined 'not to add to the law, nor yet diminish aught from it?' May we not reasonably believe that its application was benevolently intended to reach the animal creation? . . . Would not the principles of mercy and the sympathies of the human heart lead our judgments to such a conclusion?

Despite the fact that the Bible-Christian Church in America never exceeded 100 persons, it was a significant force in encouraging the vegetarian lifestyle. In 1847, the Bible-Christians who remained behind in Manchester, England established the Vegetarian

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85 They believed that flesh eating violated the very first instructions received from God in Gen. 1:29: "Behold, I have given you every herb yielding seed which is upon the face of all the earth, and every tree, in which is the fruit of a tree yielding seed—to you it shall be for food."


87 Metcalfe, Out of the Clouds, 165.
Society of Great Britain, with the express object of promoting vegetarianism through a secular organization. Their American counterparts followed suit in May 1850, launching the American Vegetarian Society (AVS). In addition to the Bible-Christian leadership, its principals included William Alcott, Sylvester Graham, O. S. Fowler, Joel Shew, Lewis Hough, and R. T. Trall. Throughout the 1850s, the AVS met on a regular basis. A vegetarian banquet offered in 1853 coincident with the Whole World’s Temperance Convention drew over 300 diners, including feminists Lucy Stone, Amelia Bloomer, and Susan B. Anthony.  

For four years, between 1850 and 1854, the AVS used its publication, *The American Vegetarian and Health Journal*, to advance economic, physiological, environmental, religious, and humane arguments against the consumption of animal flesh. The monthly journal, which William Metcalfe and his son Joseph edited, reviewed positive references to vegetarianism, celebrated the longevity of vegetarians from all over the world, and reproduced correspondence between the leading figures of the movement. Most of the discussions centered on the religious and physiological arguments in favor of abstinence from animal flesh. However, contributors frequently cited humane concerns in discussing their vegetarianism, and it was evident in fictional narratives as well.  

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The humanitarian argument was also manifest in the work of William Alcott, typically cast with Graham as one of the apostles of hygienic or physiological vegetarianism. In *Vegetable Diet* (1838), Alcott included a section on "The Moral Argument." He expressed special dismay at the routine slaughter of animals in front of children, and looked forward to the day when instruction promoting kindness to animals would form the cornerstone of youthful education. "What a mighty change will be wrought in society," Alcott wrote, "when it shall be fully understood that our great duty as monarchs of men or other animals, is to promote to the utmost extent of our power, their happiness."  

Some of the utopian communities of the antebellum era practiced ethical vegetarianism as well. There was a humane component in the vegetarianism of the ultraist Quaker communitarians of the Society for Universal Inquiry and Reform. More famously, if briefly, the Alcotts and their fellow communards at Fruitlands shunned not only animal products but also the products of animal labor.  


90 William A. Alcott, *Vegetable Diet: As Sanctioned by Medical Men, and by Experience in All Ages* (Boston: Marsh, Capen, and Lyon, 1838); idem, "What Are Animals Made For, If Not To Be Eaten?" AVHJ 1 (Mar. 1851), 53; and "Remarks of Dr. Alcott," AVHJ 1 (Oct. 1851), 177.  

Colchester, Essex. The official history of the Philadelphia Bible-Christian Church attributes Clubb’s youthful conversion to vegetarianism to the home visits of William Ward, who “described the horrors and cruelties of the slaughterhouse and the dangers of eating the flesh of the animals killed there.” At sixteen, Clubb went to teach at the Alcott House Concordium, a school inspired by Robert Owen and Johann Pestalozzi. In 1847, he participated in the Ramsgate conference that resulted in the formation of the Vegetarian Society and the creation of the term “vegetarian” to describe a meatless diet. For a time, Clubb edited the Vegetarian Messenger, the society’s journal, and in 1853 he immigrated to the United States. He went to work for Horace Greeley at the New York Tribune, where he became acquainted with Gerrit Smith, Joshua R. Giddings, and other abolitionists. He prepared Sylvester Graham’s Philosophy of Sacred History for posthumous publication, and wrote an account of the Maine liquor law campaign. Clubb knew the Metcalfes and other Bible-Christians, and, in 1854, he contributed a two-part narrative, “Margaret Woodrow,” to their journal. The account, probably fictional, concerned a young girl whose deep affection for domestic animals, especially a flock of hens, led her whole family into vegetarianism.92

During 1855, Clubb wrote a series of reports on slaveholding and the South Carolina legislature for the Tribune. In 1856, he went to Kansas as a founder of the Vegetarian Settlement Company, a short-lived Edenic community committed to temperance, anti-slavery, and a meatless diet. Moving to Grand Haven, Michigan, he

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published the first Republican newspaper in Ottawa County. During the Civil War, Clubb, who refused to carry arms, served as an assistant quartermaster in the Union army and was wounded at Corinth, Mississippi. In 1876, he succeeded Joseph Metcalfe as pastor of the Bible-Christian Church, helping to reinvigorate the Church's vegetarian initiatives.93

The ethical vegetarians of the antebellum era did more than just distance themselves from the violence and suffering occasioned by the slaughter of animals for food. They also played a part in bringing the subject of cruelty to animals into public discussion. Vegetarians pointed to the public health dangers of meat consumption, and laid a path for later humane campaigns that emphasized the corruption of flesh from animals treated badly during transportation and slaughter. However, vegetarians were more than just reliable critics of slaughterhouse cruelty and its adverse consequences for human health. Their lifestyle affirmed humane ideology through its most radical extension.

Animals, Abolition, and the Culture of Cruelty

The kindness-to-animals ethic was also one of the cultural sequelae of abolitionism. In many ways, the anti-slavery movement set the stage for the emergence

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of animal protection, transforming attitudes toward pain, suffering, and cruel behavior, and sparking widespread imaginative sympathy and a heightened sense of moral obligation. In important respects, too, abolition was a necessary precondition of any serious effort to organize a movement for the protection of animals.

As his footnote confirmed, Jeremy Bentham saw a natural connection between the two questions; but he was not the only person to do so. In England, William Wilberforce, Samuel Romilly, Thomas Fowell Buxton, and other parliamentary advocates of abolition were among the first supporters of animal protection. In America, too, the culture of abolition provided a fertile soil for the kindness-to-animals-ethic. Between 1851 and 1865, George Angell, eventual founder of the Massachusetts Society for the Prevention of Cruelty to Animals (MSPCA), was the junior partner of attorney Samuel Sewall, whose law office was a hotbed of abolitionist energy. Abraham Firth, Angell’s longtime collaborator, was an active member of the Leicester Anti-Slavery Society. Samuel J. Levick, Secretary of the Pennsylvania Society for the Prevention of Cruelty to Animals (PSPCA), taught in Philadelphia’s black community and founded the city’s Junior Anti-Slavery Society. Caroline Earle White, the mainspring of Philadelphia anti-cruelty work, was the daughter of Quaker abolitionist and 1840 Liberty Party vice presidential candidate Thomas Earle, whose clients included runaway slaves and kidnapped freedmen. A cousin, once removed, of Lucretia Mott, White attended numerous anti-slavery meetings in her youth.94

Not surprisingly, the most substantial indictment of cruelty to animals in antebellum America was delivered by an abolitionist. In 1835, an Albany publisher issued *The Spirit of Humanity*, a compendium of selections on the mistreatment of animals, slavery, prison reform, temperance, peace, care for the insane, and suppression of boxing matches. Its anonymous compiler, abolitionist Julius Ames (1801-1850), exempted no class from responsibility for the suffering of animals. "If the butchers, drovers, drivers, etc.," Ames wrote, "are not always the dispensers of kindness and comfort to the sensitive creatures in their charge, the blame must be fully shared by their employers and the public, who are the accessories and abettors of their criminality."  

*The Spirit of Humanity* contained excerpts from many thinkers who had considered the question of animals' treatment, including Thomas Chalmers, Soame Jenyns, John Locke, Hannah More, William Paley, and Humphrey Primatt. Ames also presented passages from children's authors such as Letitia Barbauld, Arnaud Berquin, and Maria Edgeworth, and an analysis of Hogarth's *The Stages of Cruelty*, the era's most powerful representation of cruelty's perilous implications. In addition, *The Spirit of Humanity* incorporated relevant material from English anti-cruelty publications and North American periodicals.

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Recent historical debate concerning the origins of abolitionism and the emergence and general diffusion of humanitarian sentiment during the late eighteenth and early nineteenth centuries further illuminates the shift in attitudes that helped to foster a host of philanthropic reforms, including animal protection. The rise of market capitalism, Thomas Haskell argues, generated a new range of cognitive perceptions and moral conventions that expressed themselves in reform movements worldwide, the most remarkable of which was anti-slavery. Abolitionism flourished amidst the conscientious performance of duty and scrupulous attention to the fulfillment of commitments and obligations that accompanied the emergence of a market economy. Market capitalism also greatly enlarged the spatial and temporal realms in which individuals operated, and gave them increased confidence in their power and agency. For some individuals, capitalism's expansion of the domain in which one could pursue one's self-interest also enlarged their range of causal perceptions. This brought an enhanced awareness of remote suffering and the effects of one's own action or inaction. Heightened understanding of causality and the adjunct consequences of human conduct produced a broader and far-reaching sense of moral responsibility for the suffering and exploitation of others. Market capitalism's reliance on notions of contract and the importance of honoring one's promises reinforced such feelings of obligation to do right by others. Ensuing shifts in the conventional boundaries of moral responsibility, as observed by influential minorities, pushed society to address evils that had once fallen well outside of anyone's perceived or actual spheres of responsibility.  

The nineteenth century also saw a significant revision in attitudes toward bodily pain, as the notion of pain as divine punishment gave way to a belief in the desirability of preventing and relieving suffering through intervention. Antebellum evangelical religion popularized a mode of "reasoning from the heart" that valued identification with the suffering and pain of others. This burgeoning culture of empathy generated an urgent politics of reform around such issues as slavery, treatment of prisoners, and capital and corporal punishment. The body, and bodily pain and death, became a locus of humanitarian sensibility. 97

Among other outcomes, the campaign for abolition sparked widespread debates about what constituted cruel behavior, producing a context of imaginative sympathy for the suffering of others that would eventually come to include the pain and abuse inflicted upon animals. 98 As part of their indictment of slavery, abolitionists sought to discredit the violence of masters against bondsmen. In Uncle Tom's Cabin, Harriet Beecher Stowe cast bodily punishment as one of the institution's chief horrors. Narratives and compendia providing sensational examples and images of abuse and suffering circulated widely. Tracts, books, and broadsides implored readers to imagine themselves in the

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position of the oppressed and beleaguered slave. In these abolitionist works, beatings, brandings, starvings, and other harsh discipline marked southern slaveholding as the epitome of cruelty.

By stigmatizing brutality and physical violence in relationships, anti-slavery authors established an atmosphere in which cruelty to animals could be perceived and discussed as a social problem. Some critics of the South, like Frederick Law Olmsted, went further, joining the inhumanity of slavery and the mistreatment of animals in their narratives. Such depictions represented a southern culture of cruelty in which the status of slaves was conflated with that of non-humans. In later years, those engaged in the work of animal protection would sometimes invoke rhetoric and symbols common to the campaign against slavery in their efforts to paint those who harmed animals as depraved individuals akin to slaveholders.

Growing uneasiness over physical punishments in the antebellum era led to reform campaigns in diverse realms of public life. A number of state legislatures prohibited corporal discipline in schools and prisons, and in 1850 the United States Congress voted to abolish flogging in the Navy. The use of physical power in other hierarchical relations, like that of husbands over wives, also came under scrutiny. However, while the domestic abuse of women, and to some extent of children, received

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more public attention and criticism, the perception of the domestic sphere as strictly private prevented legal intervention.\textsuperscript{100}

In the southern states, legislation often excluded discussions of slavery on the grounds that it was a "private" concern.\textsuperscript{101} Predictably, animal protection did not gain much statutory ground in the antebellum South. Only Virginia (1848), Texas (1856), and Tennessee (1858) had anti-cruelty statutes in place before the war, compared to nine of the northern states.\textsuperscript{102} Moreover, anti-cruelty causes could make no headway in the courts so long as the issue of human freedom stood unresolved. Judicial rulings from several southern courts confirm how easily the protection of animals became entangled with the far more volatile issue of the legal status of slaves. Generally, the law did not hold masters liable for battery. However, in those cases where the public abuse of slaves by their owners did place masters at risk of prosecution, it occurred, as one court noted, "not because it was a slave who was beaten, nor because the act was unprovoked or cruel; but because \textit{ipso facto} it disturbed the harmony of society; was offensive to public


\textsuperscript{102} AWI, \textit{Animals and Their Legal Rights}, 4.
decency, and directly tended to a breach of peace. The same would be the law, if a horse
had been so beaten.”

In another case, a court held that concern for damage to property was the common
issue linking “public cruelty inflicted upon animals” and “wanton barbarity exercised
even by masters upon their slaves.” However, when it came to the mistreatment of an
animal by an owner, even the invocation of public disturbance as a cause of action had to
meet a high standard. “Cruelty to animals by the owner had to be attended with such
enormity and publicity as to amount to a nuisance,” a Texas judge asserted in State v.
Smith (1858), “or something in the nature of a nuisance, before it was treated as an
offense; and therefore, it did not fill the idea of malicious mischief, although the mere act
of cruelty might be the same as far as the animal was concerned.”

The implications for the institution of slavery of third-party intervention against
cruelty to animals were not lost on that Texas court either. It was “not the policy of the
law in this country,” the judge proclaimed, “to establish espionage over the domestic
concerns, by which every intermeddling, malicious neighbor may have an excuse on the
ground of humanity to thrust his own ideas of propriety or morality into the private
affairs of others around him.”

103 State v. Mann, 13 N.C. (2 Dev.) 263 (1829); and Commonwealth v. Turner, 26 Va. (5 Rand.)
680 (1827).

104 State v. Hale, 9 N.C. (2 Hawks.) 582, 585 (1823). On this and related issues, see Gary L.

105 State v. Smith, 21 Tex. 748 (1858).

106 Ibid.
The persistence of chattel slavery, and the growing preoccupation of antebellum reformers with its abolition, impeded the emergence of an organized animal protection movement, even as the kindness-to-animals-ethic advanced as an inchoate reform. Above all, many who might have gravitated toward humane work (and some who later did) were fully absorbed in abolition. Of course, despite this same challenge, other causes, like temperance, feminism, and the elimination of corporal punishment, flourished during the period 1830–60.¹⁰⁷ None of these reforms, however, could become so easily conflated with slavery in public discussion and under law. There were special difficulties in launching a movement that advocated better treatment for non-human animals at a time when an entire class of human beings was mistreated, denied freedom, denigrated as animal-like, and relegated to the status of property before the law. On occasion, abolitionists publicly expressed their ambivalence about concern for non-humans as a misplaced priority so long as human slavery existed.¹⁰⁸

Contemporaries certainly believed that the abolition of slavery was a necessary precondition for any serious movement for the prevention of cruelty to animals. In 1879, a journalist observed that “the work [of animal protection] was first rendered possible by the liberation of the slave, because a reasonable people could not have listened to the claims of dumb animals while human beings, held in more ignoble bondage, were subjected to greater cruelty and added outrage.” A hundred years earlier, Bentham had

¹⁰⁷ Strictly speaking, in the decade that preceded the conflict, slavery became such an overwhelming preoccupation that it pushed many other reforms aside. Abolitionists were too preoccupied with their principal object to pursue corollary interests with much energy. By the late 1850s, even a substantial reform concern like the campaign against corporal punishment diminished as political conflict over slavery intensified. See Glenn, Corporal Punishment, 145.

anticipated this same progression, a logical consequence of utilitarianism’s emphasis on the moral actor’s accountability for the pain inflicted on any sentient being. “We have begun by attending to the condition of slaves,” Bentham wrote, “we shall finish by softening that of all the animals which assist our labors or supply our wants.”\(^{109}\)

Certainly, the extraordinary growth of animal protection reform after the war attests to the validity of these judgments. The Thirteenth Amendment to the United States Constitution was ratified in 1865, and, within four years, the first three animal protection organizations in North America began their work, securing effective anti-cruelty legislation in their state legislatures. There was a fantastic proliferation of anti-cruelty societies in the decade following the Civil War, as the concept seized the imagination of influential figures in dozens of communities.

After the war, Harriet Beecher Stowe, Lydia Maria Child, and others once active as abolitionists gravitated to animal protection. Stowe participated in anti-cruelty work and discussed the rights of animals in her writing.\(^{110}\) Child, whose commitment to the kindness-to-animals ethic was evident before the war, intensified her efforts once the conflict ended. In 1865, almost forty years after the theme surfaced in her \textit{Juvenile Miscellany}, she included an exhortation on kindness in \textit{The Freedmen’s Book}, published for the education of liberated slaves. The selection reflected Child’s belief that cruelty


begets cruelty, and that the freedmen should strive to transcend any callousness resulting from their own experience of abuse. In addition, she counseled, they needed to take care that they imparted humane values to their children. She even suggested a good role model for such conduct, Toussaint L’Ouverture, of whose youth she wrote, “he differed from other boys in his careful and gentle treatment of the animals under his care.”

During the 1870s, Child supported the MSPCA and published a number of pieces in *Our Dumb Animals*. She also remembered the organization with a bequest upon her death in 1880.¹¹¹

After animal protection became a visible social reform, American humanitarians looked back to England in search of their movement’s origins, and largely saw their own history as an appropriation of the Royal Society for the Prevention of Cruelty to Animals (RSPCA) as an organizational form. They failed to appreciate that the emergence of an organized humane movement in the United States involved deeper and more complex cultural exchanges within the transatlantic community, rooted in significant religious, moral, legal, educational, and social trends that predated the formal beginnings of British animal protection itself.

Nor did humane advocates comprehend the degree to which developments in the United States had helped to prepare the way for the emergence of their movement. Concern for animals was an important, if generally overlooked, element in that cluster of humanitarian impulses identified with the period 1830-1860. The organization of humane societies in the 1860s served to formalize ideas and values that were already

widely dispersed in American culture. Moral sensitivity to the suffering of animals was increasing, and the question of human responsibility toward them was the subject of what amounted to a transatlantic intellectual conversation. The kindness-to-animals ethic was an established and influential element in the domestic education of children. The prohibition of cruelty to animals had gained a foothold in state legislatures. On occasion such cruelty might even be punished by a court of law. Some Americans even thought enough of animals to avoid eating them altogether.

Public discussions of cruelty were on the rise too. In 1857, a satirical composition in Harper's New Monthly Magazine broached popular self-consciousness about the human exploitation of animals, depicting a group of animals who had joined in rebellion to “shake off the galling yoke of the human race.” Less fancifully, in 1858, Frank Leslie's carried a series of articles dealing with New York City’s annual roundup of dogs and the violence employed by dogcatchers and pound masters in destroying them. During the same period, Harper’s Weekly deplored cruelty to animals, printed an illustrated article depicting the misery of the city horse, and published a “humble petition” from beleaguered animal sufferers to their human masters.¹¹²

By 1865, the issue of animal cruelty had entered a new phase. In June, the New York Times noted that poultry dealers and wholesale butchers engaged in “needless torture . . . in bringing their live stock to the market, or in preparing it for the stalls.”

Further, the writer noted, "the manner in which the smaller class of live cattle were dragged or driven to the shambles, is an outrage upon the natural feelings of any one not utterly hardened by familiarity with cruelty in its most barbarous forms." Just a few months later, illustrations of several common forms of animal abuse, with condemnatory text, appeared in three separate issues of Frank Leslie's. The Leslie's writer lamented not only the toleration of such cruelties but the apparent inability to curb them, and plaintively asked, "Shall we ever have among us a Society for the Prevention of Cruelty to Animals?" The answer was not long in coming.113