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Fourth Annual Conference on Animals and the Law: Foreword

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CONFERENCE

Foreword

SHARI E. CLEMENS*

> [T]he greatness of a nation and its moral progress can be judged by the way its animals are treated.[1]

Nonhuman animals have been used as objects of amusement by humans since ancient times. Among the earliest people known to abuse and kill nonhuman animals purely for entertainment were the Romans, who brought exotic animals from foreign lands and established private zoos.[2] Titus, in celebration of the dedication of the Colosseum brought five thousand animals, including lions, tigers, elephants, giraffes and hippopotami who were baited and suffered miserable deaths.[3] Humans have entertained themselves by abducting nonhuman animals from their natural habitat to put them on display in zoos and marine mammal parks. Nonhuman animals have been forced to perform in circuses and in traveling animal acts. Sometimes they are killed for "sport," at other

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1. MICHAEL FOX, RETURNING TO EDEN: ANIMAL RIGHTS AND HUMAN RESPONSIBILITY 162 (1980) (quoting Mohandas Ghandi); Brennon, *Research Guide for Animal Welfare and Animal Rights*, 4 LEGAL REFERENCES SERV. Q. 3 (1984).

2. *See* GARY L. FRANCIONE, ANIMALS, PROPERTY AND THE LAW, 37 (1995). Mr. Francione is a Professor of Law and Co-Director of the Rutgers Animal Rights Law Center at Rutgers School of Law. He is author of RAIN WITHOUT THUNDER: THE IDEOLOGY OF THE ANIMAL RIGHTS MOVEMENT (1996).

3. *See id.*

times for the mere thrill, and often simply for their skins and body parts.

As early as 1887, a Massachusetts court held that an offense of the anti-cruelty statute was an offense against public morals.[4] The court reasoned that statutes that prohibit cruel and barbarous acts towards animals should be upheld on the theory that such acts tend to corrupt the public morals.[5] One hundred and eleven years later, we have forgotten, or have chosen to ignore, the crucial connection between animal abuse and human violence.

Elephant trainers use razor-sharp bullhooks, whippings and beatings to force these gentle giants to perform unnatural acts.[6] If the elephants are still unwilling to perform, food and water are withheld.[7] According to Pat Derby, former Hollywood animal trainer and founder of Performing Animal Welfare Society, tuberculosis, a disease that is highly transmittable to children, is on the rise among captive elephants in the United States.[8] As an incentive to get bears to stand on their hind legs, their noses are broken or their paws are burned.[9] The chemicals used in the marine mammal pools often cause the dolphins to go blind and their skin to peel.[10] When the nonhuman animals become too old to perform, they are frequently sent to a fenced compound where they are stalked by hunters in "canned hunts."[11]

The 1998 Animals and The Law Conference, titled "That's Entertainment? The Use of Nonhuman Animals For Human Amusement," was sponsored by The Jolene Marion Memorial Fund for the Advancement of Animal Law. The

4. *See* Commonwealth v. Turner, 14 N.E. 130, 132 (1887) (defendant permitted a fox to be subjected to unnecessary suffering when he set it free to be hunted by dogs that caught it and tore it to shreds).

5. *See id.*

6. Pat Derby, Speech given at The Animal Welfare Conference, That's Entertainment? The Use of Nonhuman Animals for Human Amusement (Mar. 21, 1998) (transcript on file with the Pace Environmental Law Review).

7. *See id.*

8. *See id.*

9. *See id.*

10. *See id.*

11. *See id.*

Fund was established at Pace University School of Law in 1995 by friends and colleagues of the late Jolene Marion. Ms. Marion, an adjunct professor of Law at Pace University, devoted her professional life to the advancement of Animal Law through her teaching and her practice. As founder and Senior Staff Attorney of the New York City based Legal Action for Animals, Ms. Marion was a tireless advocate for the legal rights of all sentient creatures. The Fund annually sponsors an Animal Law conference.

Suzan M. Porto[12] opened the Conference that provided a forum for legal and non-legal members of the community to learn from experts about the issues pertaining to the use of nonhuman animals in zoos; circuses; roadside animal acts; marine mammal parks; rodeos; sport and trophy hunting; and greyhound racing. The speakers explored strategies and remedies.

Jane Garrison is the campaign coordinator for the People for the Ethical Treatment of Animals, campaigning to end the abuse of elephants in the circus and other traveling exhibits. Ms. Garrison's most recent victories include the permanent revocation of King Royal Circus' license to exhibit animals and Universal Studios' cancellation of elephants scheduled to appear in a circus. She has appeared on several national television shows denouncing the use of elephants in circuses.

Peggy Larson, DVM., MS, JD, has used her degrees in medicine and law to help improve the conditions of all animals, great and small. Ms. Larson started the National Spay and Neuter Coalition and has consulted with PETA and *Inside Edition* to expose the abuse of horses. She has also consulted with *Hard Copy*, which is to air a two-part series concerning the maltreatment of animals. As a previous rodeo competitor, Ms. Larson provides an inside look at the cruelty involved in rodeo.

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12. Suzan M. Porto, Esq., is an Adjunct Professor of Law at Pace University School of Law. Ms. Porto maintains a private practice in animal rights and environmental law. She is founder and chairperson of the Jolene Marion Memorial Fund for the Advancement of Animal Law and the annual Animals and the Law Conference at Pace University School of Law.

Valerie Stanley, Esq., has been working in Animal Protection Law for twelve years. Ms. Stanley is the co-founder of the Washington based firm of Galvin, Stanley and Hazard, which specializes in animal protection law. Ms. Stanley has been working as a staff attorney for the Animal Legal Defense Fund since 1993 and is responsible for developing briefs and arguing litigation that has a national impact. She is also responsible for drafting rule-making petitions to federal agencies. Ms. Stanley discusses the dire need of an overhaul regarding USDA and the Animal Welfare Act (AWA).

Lisa Weisberg, Esq., is Vice President of Government Affairs at the American Society for the Prevention of Cruelty to Animals (ASPCA). The ASPCA is the nation's oldest humane organization. Ms. Weisberg has worked at the ASPCA for ten years. For the past four years, she has directed the ASPCA's legislative programs, both in New York and Washington D.C. Recently, Ms. Weisberg has developed the ASPCA's advocacy program throughout the United States. She summarizes the legislative proposals to protect animals in entertainment.

Nonhuman animal issues impact human animals in many ways. Fortunately, the public has become more aware of the far reaching ramifications of animal abuse. Countless celebrities including Doris Day, Kim Bassinger, Alec Baldwin, Mary Tyler Moore, and Betty White have helped to increase that awareness.

We must realize how closely the well-being of nonhuman animals parallels that of human animals. Despite increased awareness, proposed bills in the New York State Legislature that would render animal cruelty a felony[13] and put an end to canned shoots[14] have failed each year. Yet, New York estate and trust law now allows for pet owners to include their companion animals in their wills or establish trusts to provide for their care after the owner is gone.[15]

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13. *See* HOWARD F. LYMAN, MAD COWBOY: PLAIN TRUTH FROM THE CATTLE RANCHER WHO WON'T EAT MEAT (1998).

14. A.2268, 221st Leg. (NY 1997); S.3311, 221st Leg. (NY 1997).

15. A.7098, 221st Leg. (NY 1997); S.2442, 221st Leg. (NY 1997).

Perhaps, one day, nonhuman animals will have legal rights also. Until then, if the goal of legislation is to protect the health and safety of humans and in the process it prevents cruelty to nonhuman animals, nonhuman animals will still reap the benefits.