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“To see differently in this way for once, to want to see differently, is no small discipline”

The Politics of the Pound:

Controlling Loose Dogs
in Nineteenth-Century New York City

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Abstract

THIS ARTICLE EXPLORES THE ORIGINS AND EVOLUTION OF THE DOG POUND AS A NEW YORK CITY INSTITUTION in the long nineteenth century. It first examines the rise of the pound in mid-nineteenth-century New York. While the pound served an important practical purpose of protecting people from dangerous animals, it was also a vibrant cultural institution. Indeed, New Yorkers used tropes associated with the pound to argue about other political problems such as immigration. Next, this article considers New Yorkers' evolving relationship with animals and the rise of animal cruelty laws sponsored by Henry Bergh and his new Society for the Prevention of Cruelty to Animals (SPCA). Bergh's SPCA launched a crusade to end cruel practices that were then prevalent across the city. Finally, this article looks at the ensuing legal, political, ethical, and social clash between the proponents of the pound and animal anti-cruelty advocates. While the SPCA's victory in this struggle led to the professionalization of animal control, politics and patronage lay at the heart of this struggle. New York politicians recognized that collecting stray dogs was a lucrative business for immigrant New Yorkers, and they were reluctant to let professionals deprive them of an easy means of winning political support.

This article should be of interest to social and cultural historians curious about the birth of an important local institution as well as legal scholars, lawyers, and philosophers interested in the roots of the more radical animal rights movement of the twentieth century.

Introduction

ON JUNE 26, 1857, THE NEW YORK TIMES RECOUNTED THE TALE OF SULLIVAN, WHO PURCHASED DOGS from boys for twenty-five cents. After accumulating one hundred animals, he took them to the pound to collect the fifty-cent reward for bringing in loose dogs. "He was the greatest enemy the dogs ever had, for he always had 30 to 40 boys in his service, hunting after them," the paper explained. "But there is ever a retributive justice. A mad dog bit SULLIVAN, and he died of hydrophobia."¹ Whatever the truth of this parable, dogcatchers like Sullivan achieved well-deserved notoriety in nineteenth-century New York. The regime to control loose dogs came to infuse popular culture. In one Harper's Bazaar cartoon, a boy peering over a fence at the masked catcher of a baseball game asked his father, "Papa, would they take that man to the pound if he wasn't muzzled?"² Dogcatchers became synonymous with incompetent officials: he "could not be elected keeper of a dog pound."³

The influence of the pound extended to Hollywood, too. Along with efforts to flee the truant officer — a sign of new laws requiring children to attend schools⁴ — the Little Rascals had to rescue Petey from the dogcatcher's clutches.⁵

The social changes that made the pound and the dogcatcher such unmistakable types of American culture left their mark on municipal law and politics. The pound embodied law at its most local, and the city relied on the efforts of individual citizens to keep loose dogs off the streets. The concerns and complaints of these citizens in turn shaped the pound's evolution. To borrow Lawrence Friedman's famous metaphor, "Law is a mirror of society. Perhaps it is a distorted mirror. Perhaps in some regards society mirrors law. Surely law and society interact. But the central point remains: Law is the product of social forces,

working in society.”⁶ In sum, the law and politics of the dog pound can help us to understand nineteenth-century New York society.

In his groundbreaking article “Pigs and Positivism,” Hendrik Hartog revolutionized legal history by studying loose pigs in New York City. He first performed a traditional legal analysis and showed that caselaw established the illegality of pigs on New York City’s streets. He then looked to very different sorts of sources (especially travel accounts and city council records) to show that the pigs remained in New York. Hartog sought to explain this discrepancy. Though lacking firm evidence, he suggested that many ordinary New Yorkers would have believed that they possessed a right to keep pigs, even after “the law” said otherwise. In other words, the law as traditionally understood reflected elite New Yorkers’ dream of a pig-free city. But theirs was not the only view, and it was only by looking beyond legal opinions to other sources that Hartog was able to give voice to competing understandings.⁷

Like pigs, loose dogs in New York City revealed a similar split between elite and ordinary New Yorkers. For many immigrant New Yorkers, bringing loose dogs to the pound was an important source of income—income to which they felt they had a right.⁸ They also found support from local politicians who used dog-pound patronage in order to solidify electoral support. Elite New Yorkers, however, saw the matter differently. Just as Hartog’s elite New Yorkers wanted a clean city free of pigs, they longed for a city free of loose dogs. But, influenced by Henry Bergh and his new Society for the Prevention of Cruelty to Animals (SPCA), they were increasingly embarrassed by the cruelty of the immigrants who cleared dogs from the streets and the inhumanity with which these animals were killed. The result was a decades-long struggle for control of the New York City pound. Would ordinary New Yorkers continue to have the “right” to manage loose dogs on the street, or would professionals take over animal control services?⁹

The SPCA and its supporters ultimately won this struggle, winning control of the pound and the dogcatching operation that supplied it.¹⁰ While it is tempting to view this contest as an ideological battle between progressive stalwarts of animal rights and stubborn defenders of animal cruelty and indifference, a more complicated process was at work. The battle for control of the pound was a struggle between supporters of the political patronage that defined Tammany Hall New York and reformers advocating government by experts. It is a story of professionalism supplanting more informal relationships of mutual benefit and influence. Concerns about animal welfare and rights were sincere and important, but dogs also served as useful pawns in a wider struggle to shape the future of New York politics.¹¹

This paper examines these themes by exploring the New York City dog pound and the legal regime surrounding it in the second half of the nineteenth century. Part II examines the rise of the pound. Part III considers New Yorkers’ evolving relationship with animals and the rise of animal cruelty laws sponsored by the SPCA. And Part IV looks at the legal, political, ethical, and social clash between the proponents of the pound and animal anti-cruelty advocates.

The Rise of the Pound

THE POUND’S ORIGINS ARE SOMEWHAT MURKY.¹² AT LEAST AS EARLY AS THE 1830S, NEW YORK CITY LAW required owners to muzzle their dogs, although this requirement failed to stop a rising tide of unmuzzled canines.¹³ In 1845, the New York city council debated a new ordinance establishing a dog pound. Under the proposed ordinance, loose dogs brought to the pound could be redeemed for three dollars. A pound-master would retain a registry of the number of dogs impounded, and unredeemed dogs were to be sold at auction. The racial segregation of the time is evident in joke by Alderman Benson, who complained that the law “made no provision, no distinction between the little dog and the big dog, the black dog or the white dog, the yellow dog or the red dog, the spaniel dog or the cur dog.”¹⁴ By a 10-3 vote, the city council officially established a dog pound in early July. The pound would exist “at the pleasure of the mayor” for “[a]ll dogs found in the streets.”¹⁵

It seems this pound was never effectively established.¹⁶ Instead, each spring the mayor would issue a proclamation reminding New Yorkers to muzzle their dogs and authorizing the destruction of unmuzzled canines. The proclamation typically occurred on June 1, although sometimes earlier as the situation warranted.¹⁷ This regime was expanded in the summer of 1848. The city council passed a resolution giving the mayor power to authorize anyone to kill loose dogs, within certain parts of the city, for a reward of fifty cents.¹⁸ The mayor quickly gave effect to the resolution, and citizens could bring carcasses to the police station for payment.¹⁹

Not surprisingly, paying people to kill dogs was a misguided idea. The *New York Herald* described the “Great Dog War” that ensued. Bands of boys gathered and killed dogs to collect the reward. They made no distinction among the animals, treating valuable and worthless dogs the same. One group

even bought some meat from a butcher, only to use it to lure the butcher's dog to its death. "By the end of another week, it is probable there will not be found a dog in the streets, muzzled or otherwise," the paper reported, "for they can very easily remove the muzzle, and doubtless many would do it for the sake of the fee for killing."²⁰

By 1851, however, New York established a pound as a substitute for this slaughter on the streets.²¹ The *New York Times* ostensibly extolled its benefits, finding it "an institution worthy of our pride." As the paper explained, the pound "gives employment to ragged boys, and furnishes spending money to those who are skillful in the seductive art of tolling dogs out of their masters' yards." Captured dogs were resold, raising revenue. Yet the praise was somewhat sarcastic, for the city had not yet found a suitable way to deal with the perverse incentives the system inspired: "[Dogs] are generally then re-stolen and re-sold the next night, and so the good work goes on. Beside this, poor boys have made quite a speculation by rearing cheap pups in Jersey City for the pound."²²

The magazine *Spirit of the Times* provided a detailed account of the "melancholy spectacle" of the pound. The pound was housed in a "low wooden" building "portioned off into stalls" filled with "an array of dogs, of all sizes and colors; . . . all secured with ropes or chains, and most of them awaiting execution on the approaching evening." An African-American employee used a whip to discipline misbehaving dogs, and the worst were clubbed to death immediately and carted off at dusk. Expensive dogs received an entirely different treatment; they were set aside and fed fresh meat. In humanizing the poor dogs in a "state of bondage," however, the article contained an unwitting irony. Within a decade, a different sort of bondage would cast the nation into civil war.²³

In fact, opponents of animal cruelty would draw on the abolition movement to argue for animal rights in the wake of the Civil War.²⁴ As Susan Pearson has explained, the anti-slavery movement grounded rights in sentience in a way that would prove useful for anti-cruelty advocates.²⁵ "Many animal welfare reformers," she writes, "saw themselves as the inheritors of the abolitionist cause, claiming that the Civil War had awakened the nation's conscience to the 'rights of the defenseless,' and that rescuing the 'lower races' of animals was simply the logical outcome of the battles that had so recently torn the country in two."²⁶ Poor white immigrants, however, often lacked this sympathy for the plight of slaves. "Sadly but understandably," notes Daniel Walker Howe, "poor Catholic immigrants, especially the Irish, treasured the whiteness of their skin as their one badge of privilege over the free Negroes who competed with them for jobs as laborers."²⁷ The perceived parallels between dogs and slaves thus heightened the class divisions fueling the conflict over the pound.

While talk of dog "manumission" linked the pound to slavery,²⁸ the pound also impacted the politics of nativism. Throughout the latter half of the nineteenth century, immigrants played an important role in the life of the pound. Newspapers often recounted heavily-accented Germans seeking dogs at the pound,²⁹ for example, and efforts to expand animal control to cats led one newspaper to invoke California's handling of the Chinese.³⁰ As immigrants continued to pour into New York, however, elites began to draw on their support, creating new political coalitions.³¹ As a result, members of some immigrant ethnic groups began to have a role in administering the pound, and many used it as a source of livelihood. For instance, one German immigrant who could not find her dog lambasted "that Dutchman Havemeyer, and dose rashkel Irish Aldermen."³² Despite their role in running the pound, Irish immigrants remained targets of nativist sentiment. In one colorful episode from the 1850s, William McKellar, the chief of police's clerk, was accused of mishandling funds from the pound during an investigation into the presence of unnaturalized foreigners in the police force. The police chief himself was accused of being British. The *New York Times* criticized this witch-hunting of small officials, comparing the alderman leading the investigation to Nero fiddling as Rome burned.³³

In addition to its small role in wider political battles of historical consequence, the pound itself generally played a prosaic—yet vibrant—role in New York life. The pound was seasonal and generally opened in June upon notice from the mayor, when warm weather brought the dog days when the threat of rabies was thought to be particularly acute.³⁴ The pound remained open until September.³⁵ Finding a suitable location for the pound was difficult since no one wanted to live near it, and the pound frequently moved. In 1851, it was located at the head of Bowery, but it moved to 35th Street and Second Avenue as a result of resident complaints. In 1852, it moved to Mangin and Rivington Streets; in 1853 and 1854, it was at First Avenue and 31st Streets; in 1855, at First Avenue and 36th Street; and in 1856, it went back to First Avenue and 31st Street.³⁶ By 1860, like other emerging institutions such as jails and insane asylums, the pound had become an accepted institution.³⁷

Designed to address public fears about rabies,³⁸ the pound was in fact a profitable racket. As the *New York Times* explained, a person bringing a (generally stolen) dog to the pound received money, the city

benefited from the redemption fee if the owner reclaimed the dog, and the hardware store benefited when owners bought muzzles for their rescued animals. One entrepreneur even opened up a “Half-way House” in New Jersey where dogs could roam unmuzzled during the summer months, free from the thieves would lure them to the pound for profit.³⁹ Individuals bringing dogs to the pound received a check, which could be redeemed for money at the chief of police’s office: The dogs left at the pound were not so lucky. They were packed into a twenty-square-foot tank and drowned: “There is a confusion of howls, a gulping, bubbling, choking sound, or conglomeration of sounds, and when the water is drawn off there are fifty dog-corpses ready to be turned into empire animal fertilizer on Barren Island,” the *New York Times* explained.⁴⁰ This watery end was ironic, the paper noted, for it was fear of hydrophobia that had produced the pound in the first place.⁴¹

Not surprisingly, many New Yorkers opposed the combination of greed, cruelty, and moral corruption this regime generated. As one newspaper opined in 1859:

The whole effect of this business is hardening upon the hearts of the young, and demoralizing to all engaged in it. Falsehood is often practiced, duplicity is constantly used, and open theft frequently is the resort to secure a dog and get the half-dollar. The Police say more than one man keeps himself in grog the week through by the curs he secures. Many a boy will leave honest industry, with its slow gains, to catch a dog, and inhumanely drag him by the neck to the pound, that he may gain the poor reward. The necessity of this summer check upon dogs is most obvious, but its effect upon the morals of the young, and that familiarity with inhumanity it inculcates, is greatly to be deplored.⁴²

The *New York Herald* carried a letter deploring this “disgrace to a civilized and Christian community.”⁴⁴

New Yorkers had turned to local government for a solution to the threat of rabies, and they now looked to it to stop the abuses plaguing the pound. The price paid per dog brought to the pound was reduced from fifty cents to a quarter in an effort to stop boys from bringing in dogs from New Jersey.⁴⁵ The reform had its desired effect, as the *New York Times* reported that fewer dogs were captured than in years past. Moreover, the old pound was dismantled for firewood and a new floating pound was erected on a barge on the North River at the foot of 26th Street.⁴⁶ Further regulations prevented boys from bringing dogs to the pound, and as a result youth hoping to earn a profit gave captured dogs to “dog-brokers.” These men kept and resold the more expensive dogs instead of turning them over to the pound, where their owners might reclaim them. Problems continued and out-of-town dogs continued to be brought to the pound solely so their capturers could make money.⁴⁷

The Society for the Prevention of Cruelty to Animals

THE AFTERMATH OF THE CIVIL WAR PROVIDED AN OPPORTUNITY FOR THE CITY TO IMPLEMENT A MORE humane system, a task that would become the life’s work of Henry Bergh. Born to a wealthy shipbuilder, Bergh commenced a leisurely life of travel after failing as writer. His experiences abroad made him aware of the plight of animals and laid the foundation for his subsequent activism.⁴⁸ Bergh’s friendship with Secretary of State William Seward led to an appointment as an American diplomat in Russia. The extreme abuse he saw there provided the ultimate impetus for a new career as an anti-cruelty crusader. He discussed his concerns with officials of England’s preexisting Royal Society for the Prevention of Cruelty to Animals, and drew upon this model upon his return to the United States.⁴⁹ Enlisting a wide range of supporters from New York’s elite, including such famous figures as Horace Greeley, Mayor John Hoffman, George Bancroft, and Henry Bellows, Bergh overcame the initial opposition of many of New York state legislators to an American anti-cruelty society.⁵⁰ Just as Hartog’s New York City elite envisioned a pig, free city, they imagined a city free of repugnant inhumanity. In 1866, the New York legislature chartered the Society for the Prevention of Cruelty to Animals, and Bergh was elected its first president.⁵¹

In addition to the incorporation of the SPCA, the legislature implemented new animal anti-cruelty laws. As early as 1829, New York had a law regulating cruelty to animals. This law made it a misdemeanor to “kill, maim or wound any horse, ox or other cattle, or any sheep, belonging to another” or to “maliciously and cruelly beat or torture any such animals, whether belonging to himself or another.”⁵² Under Bergh’s impetus, the New York legislature amended this law in 1866 so that it read as follows: “Every person who shall, by his act or neglect, maliciously kill, maim, wound, injure, torture, or cruelly beat any horse, mule, ox, cattle, sheep, or other animal, belonging to himself or another, shall, upon conviction,

be adjudged guilty of a misdemeanor.”⁵³ As David Favre and Vivien Tsang point out, this new law was an important achievement: it now applied regardless of ownership and included negligent acts as well as intentional ones. But the achievement had limits, for it continued to protect only commercially valuable animals.⁵⁴

The new SPCA and the stronger laws had important implications for dogs, but the SPCA’s initial efforts were directed at beasts of burdens. The new anti-cruelty law, for instance, was first applied to a butcher who had piled calves in a cart. A member of the SPCA arrested him, and a judge fined the butcher \$10.⁵⁵ While it is impossible to know how the butcher reacted to his arrest, it is easy to imagine him going right back to piling calves in a cart the next day, just as Hartog’s New Yorkers continued to keep their pigs on New York City streets. As a man whose livelihood depended upon the grisly process of killing animals, the city’s solicitude for a group of calves must have seemed puzzling as he labored to support himself.

The SPCA had an important enforcement role that buttressed its political efforts. In fact, because his role as President of the SPCA made him an assistant prosecutor, Bergh would come to have an important place in New York’s legal establishment.⁵⁶ While the SPCA often won the admiration of the public, it also faced a high degree of skepticism and even ridicule.⁵⁷ When members of the society appeared overly aggressive in their efforts to protect animals, for instance, the *New York Times* urged the society to exercise restraint.⁵⁸ Nevertheless, the SPCA often exploited the negative publicity in an effort to draw attention to its efforts.⁵⁹ Over the course of his career, Bergh would masterfully use the press to boost his anti-cruelty campaign,⁶⁰ and he would also become an important champion of the humane treatment of children.⁶¹

Meanwhile, the dog pound continued as usual.⁶² It continued to move around town, and enterprising boys continued to turn a profit. Rumor had it that one boy had locked eighteen dogs in his cellar, ready to be brought to the pound as soon as it opened for the season.⁶³ Others used the pound to raise money for Fourth of July celebrations, supposedly earning as much as \$300 through the pound.⁶⁴ Nevertheless, the abuses at the pound again generated opposition. The *Newport Mercury* carried a story about a dog being brought to the pound which supposedly leapt into the river to save a drowning boy; as a result the dog was itself spared from drowning.⁶⁵ Harper’s cover contained a cartoon depicting a boy rescuing his dog from the pound. “[I]t is difficult to say which is the most rejoiced, the preserved or the preserver,” the magazine declared. ⁶⁶ Such sympathetic stories and dogs’ status as man’s best friend help explain the momentum behind efforts to curtail the pound. Moreover, questions began to arise about the pound’s scientific basis. Critics pointed out that hydrophobia was in fact no more likely to occur in summer than in winter; the supposed dog days were an illusion.⁶⁷

Amid growing opposition to the pound’s cruelty, the SPCA turned its attention to the institution.⁶⁸ As the *New York Times* reported, Bergh’s efforts led to a reduced reward and an age restriction for those bringing dogs to the pound.⁶⁹ Touting the success of this campaign, Bergh urged that the pound be abolished: “It results, therefore, from the foregoing experience, that the indiscriminate slaughter of these harmless and confiding friends of mankind, hitherto practiced by the order of the City authorities, may be dispensed with without detriment to the physical, moral, or pecuniary interest of the public.”⁷⁰ Further changes in the law buttressed these efforts. In 1867, the New York Legislature expanded the anti-cruelty law. It now applied “to any living creature.” Remarkably, fines for abuse would be turned over to the society rather than the government. In addition, the list of prohibited acts was expanded, those keeping animals were required to feed them, and dogs were required to be registered.⁷¹ The law would continue to evolve in succeeding years.⁷²

While New Yorkers supported many of these reforms, they also continued to worry about the problems posed by loose dogs.⁷³ It is often hard to tell just how seriously to take these concerns, which sometimes brimmed with sarcasm. As the *New York Times* opined: “In case the dog-pound shall be abolished, as [Bergh] suggests, we can think of no more effective way of mitigating the consequences at which we have hinted than by imposing a heavy tax upon dog-owners, and shipping the remainder which are unclaimed to China, where the usual Celestial fate of the canine race in that country would end them.”⁷⁴ Others complained that the reforms championed by Bergh had not gone far enough: “Since the abolition of slavery and the establishment of a society for the ‘Prevention of Cruelty to Animals,’ the call for the further extension of human sympathy seems practically to have ceased. . . . There has been much writing and speaking and some legislation upon man’s rights, women’s rights, and cattle’s rights, but children seem not to be included in any of the programmes of these movements of progress.”⁷⁵ In any case, the SPCA spread around the nation, and by 1873 twenty-four states and two territories had similar organizations.⁷⁶

By the late 1860s, the problems surrounding the pound led the mayor to claim that he lacked authority to open it when the dog season arrived.⁷⁷ It is not clear exactly what transpired, but the old pound was abolished. In 1874, however, the New York city council passed a comprehensive new dog ordinance.

The ordinance's first section made it unlawful for dogs to roam the streets, and its second section authorized the mayor to take all necessary measures to enforce this rule. He could create a dog pound, which would pay fifty cents for loose dogs and charge two dollars for owners to redeem them. Dogs would be killed after two days. Other provisions of the ordinance required the poundmaster to make periodic reports to the mayor, stipulated that money raised would belong to the city, and mandated fines of ten dollars for anyone bringing dogs to the pound from outside New York. Alderman Morris, who sponsored the ordinance, had wanted to turn enforcement over to Bergh. He refused because he favored the continued abolition of the institution. Some aldermen objected to Morris' law on grounds of cruelty to animals, but those who trumpeted the danger to humans won the day, and the ordinance passed 12-3.⁷⁸

When the new pound opened at 37th Street, between Tenth and Eleventh Avenues,⁷⁹ the old chaotic routine resumed.⁸⁰ The *New York Times* described the dogs' sorry fate, observing that the animals seemed to have an instinct that death was coming. The paper decried the pound's terrible odor and its presence near a school, and it predicted that family pets would soon be stolen so that "knaves and loafers" could earn a profit.⁸¹ A new innovation foretold that opposition to the pound would continue. Instead of drowning, dogs were killed with carbonic acid in an airtight tank.⁸² A leak in the tank meant that the acid took four minutes to kill the dogs, a span longer than expected.⁸³ As the *New York Times* put it, "to cease in a close tank, to die in fact of suffumigation is but a sorry fate even for a dog."⁸⁴

Bergh and the SPCA led the opposition to these practices. "With a bribe of fifty cents, the idle youths of this City have been, in many instances, for the first time seduced into the temptation of stealing and betraying their friendly companions, the dogs," Bergh complained.⁸⁵ He accused the pound of violating 1870 and 1874 anti-cruelty laws, and a grand jury was convened. The city council had passed the new dog ordinance in opposition to the SPCA and the Board of Health, allegedly without proper legal basis. The grand jury was to investigate whether it violated the state anti-cruelty laws and constituted a public nuisance.⁸⁶ Continuing problems with carbonic acid meant that dogs took too long to die,⁸⁷ and Bergh's agents watched the pound day and night.⁸⁸ The grand jury even paid it a visit.⁸⁹ The rest of the United States was kept abreast of this drama. The *Chicago Tribune* called Bergh a hero, and it noted that even the hostile *New York Herald* thought that the City of New York had no legal basis to destroy private property, dogs included.⁹⁰

In the summer of 1874, Bergh arrested John Marriott, the poundmaster, and brought him to court, where he was charged with using unnecessary cruelty and being criminally careless in the killing of the pound's dogs. Bergh acted as prosecutor, and officers of the SPCA testified that the carbonic acid was leaking from the tank and that it took thirty minutes to kill the dogs. Police officers, corroborated by a reporter, testified in the poundmaster's defense that the dogs were in fact dead in five minutes. Marriott took the stand on his own behalf, touting the humanity with which he approached his work. But he refused to respond to Bergh's insinuation that he had worked as a professional dogfighter for ten years, and Bergh concluded the proceedings by urging the judge to send the case to trial.⁹¹

Threatening the pound's administrators with individual liability seemed like a promising strategy. The next day, the pound adopted a new method of putting the carbonic acid into the tank ahead of the dogs, a policy which purportedly killed them more quickly and humanely.⁹² Unfortunately, this strategy did not work, and the pound's "bungling" meant that the execution featured "horrible scenes and subsequent mutilation and butchery that beggars [sic] description." After an hour, the dogs in the tank remained alive. Officials injected more gas into the tank, to no avail. A frantic Marriott appealed to the SPCA official on the scene, who suggested clubbing the animals. Instead, officials began to drown them. The scene was grisly. One dog was impaled, and bit at the stick trying to force it down. Dogs escaped, and they were clubbed and shot. One wounded mastiff did not die from the gunshots and had to be clubbed to death.⁹³ The debacle was attributed to an open hatch on the tank, and Marriott promised to avoid "inflicting any more pain than is absolutely necessary" in the future.⁹⁴

As a result, the pound reverted to its old method of putting dogs in before the gas, which was now supplied offsite. As the *Times* noted, the dogs were killed in twenty minutes "in a more expeditious manner than on any former occasion since the opening of the pound," but one that left "plenty of room for improvement."⁹⁵ The "execution" time continued to drop, to twelve minutes,⁹⁶ and then to five as the tank was lined with zinc to prevent seeping gas from escaping.⁹⁷ Moreover, the dog pound ordinance was amended to appoint special dogcatchers, who would receive the fifty cents previously paid to anyone who brought in a dog.⁹⁸ Opinion on the pound continued to split. The *New York Times* argued that the dog law, not rabies, was responsible for New York's dog-related deaths.⁹⁸ By contrast, a piece in Harper's *Bazaar* cited a rabies epidemic and lavished praise on New York's measures to deal with loose dogs. Most dogs, it observed, were mere worthless mongrels that were not redeemed anyway.¹⁰⁰

The return of the dog pound had provided a compelling target for the SPCA's crusade on behalf of animals. Along with complaints over dogs stolen and brought to the pound by greedy and unscrupulous immigrants or corrupted youth, the carbonic acid disaster highlighted the pound's unsavory nature. The rising pro-animal sentiment bears similarities with today's animal rights movement, but there are important differences.¹⁰¹ For one thing, anti-cruelty efforts often masked new forms of cruelty and exploitation.¹⁰² As mentioned, the New York Herald's opposition to the destruction of dogs rested on their status as human property, not on their rights as sentient creatures.¹⁰³ But the social change that removed many urban elites from direct dependence on animals had produced a real shift in thinking.¹⁰⁴ In addition to urbanization, growing middle-class pet ownership paralleled the rise of societies such as the SPCA.¹⁰⁵ Victorian morality also played a role. During the Victorian era, dogs began to be seen as "virtuous actors" and even "morally superior" to human beings given their embodiment of admirable qualities such as loyalty and courage.¹⁰⁶

The combination of social and intellectual change is evident in many of the newspaper accounts of the dog pound related above. For instance, the story of the dog who rescued a drowning boy outside the pound reflects the belief in dogs' unwavering righteousness. Despite the cruel treatment to which the mongrel was subjected, the animal did not hesitate to jump into the water to save the boy. Unlike the dog, which acted automatically, the men at the pound spared the canine only in response to its heroism. Indeed, the actual truth of the fable pales in comparison to its moral: a person being led to prison, unlike a dog on the way to the pound, would think twice about jumping into the water to save the boy.¹⁰⁷ More generally, the daily details in the newspaper put a mirror to human conduct heretofore taken for granted. The pound centralized the diverse acts of cruelty to dogs that might otherwise pass unnoticed across the city, and therefore exposed them to the city's evolving conscience.

Marriott, the poundmaster, was caught in the middle of these shifts. In addition to the duty of running the pound efficiently, he felt new pressure to do so humanely. His efforts to do so,¹⁰⁸ however, would not satisfy his critics. In part, this was because the systematic killing of dogs with carbonic acid was highly ineffective, and it would be problematic no matter how quickly and painlessly it was done. For opponents of the pound, an amateur like Marriott had no business running the pound at all. The grisly failures of the carbonic acid embodied his incompetence. Instead, many began to argue, canines deserved the SPCA's expertise and its special concern for animals.

Patronage and the Pound

BELIEVING THAT ITS PROFESSIONALISM SET IT APART FROM INCOMPETENT CITY OFFICIALS, THE SPCA BEGAN a struggle to close the city pound and take on responsibility for dog control. This effort occurred in a notorious political climate. As Oliver E. Allen has explained, Tammany Hall was a defining political force in nineteenth-century New York. Founded in the 1780s,¹⁰⁹ New York's Tammany Society originally began as a social and fraternal organization.¹¹⁰ Early in its history, the society developed into a partisan force, especially as events such as the French Revolution and the Whiskey Rebellion turned it into an anti-Federalist organization.¹¹¹ Eventually, in a period of expanding suffrage, Tammany abandoned its early nativism and drew on the massive influx of immigrants to solidify its power.¹¹² Tammany Hall came to be confusingly intertwined with New York's Democratic Party,¹¹³ and before long, it became the country's most infamous political machine.¹¹⁴

Tammany Hall's fortunes rose and fell, but the machine proved resilient.¹¹⁵ While Tammany Hall provided valuable services, including "parceling out jobs, helping newcomers cope with the mysterious requirements of the [city] bureaucracy, even functioning as a kind of private welfare service,"¹¹⁶ it became mired in corruption and "wholesale thievery."¹¹⁷ Patronage defined New York government, and party bosses profited handsomely from shares of the benefits of jobs dispensed to supporters.¹¹⁸ Machine politics generated opposition, but it was never enough to destroy Tammany's influence. As Raymond A. Mohl has explained, "[A]lthough reformers were periodically swept into office on a wave of revulsion against corruption and the machine, the bosses were just as regularly put back into power by a constituency fed up with efficiency experts, moral preaching, the merit system, reduced social programs, and rigorous law enforcement in the immigrant neighborhoods."¹¹⁹ In other words, nineteenth-century New York witnessed a battle between "middle-class reformers" and "the bosses and the machines for control of urban government."¹²⁰

This wider battle affected the dog pound, too. Evidence about Tammany Hall influence over dogcatching is often subtle, but frustration with the machine's role in the pound is evident in newspaper stories. To begin, Tammany Hall politics shaped basic decisions about the pound. Needing a suitable location for a new pound, for example, the city decided to use the Eighteenth Ward Market, a building constructed by the "Tammany Ring" at 17th Street near the East River. The building would contain a pond, and

a crane would lower dogs into the water to drown them. This fancy new pound reflected Bergh's efforts to make dogcatching more humane, but the *New York Times* complained that it was actually another example of Tammany Hall's waste.¹²¹

Not surprisingly, the move to the new location did not end the troubles at the pound. Dogcatchers brought in young puppies, generating scuffles when the poundmaster refused to accept animals that were too young.¹²² One man was even arrested for cruelly handling captured dogs. Although not an official dogcatcher, he had been deputized by the authorized dogcatcher who paid him a commission.¹²³ The move to the new location on the East River increased the number valuable dogs brought to the pound.¹²⁴ But there were also reports that dogcatchers kept valuable dogs and sold them for profit rather than bringing them to the pound where they could be reclaimed by their owners.¹²⁵

According to Poundmaster Marriott, this latter phenomenon led to the city council's decision to repeal the dog ordinance and close the pound in October, 1874.¹²⁶ There is evidence that this was only part of the story, however. In commenting on the pound's closing, the *New York Times* again tied the pound to Tammany Hall. When the pound closed, the paper quipped, dogcatchers were forced to take up jobs "electioneering for Tammany." When one Democratic councilmember, fed up with the mess the pound had caused, broke ranks and voted for the pound's closure, the pound's chief sponsor "looked upon him with astonishment and made a special note of his unexpected action."¹²⁷

Though New Yorkers were increasingly frustrated with the corruption and patronage that had come to imbue the pound, the problem of controlling loose dogs remained. Bergh stepped in to address this issue and suggested that the SPCA assume responsibility for controlling loose dogs. If the city would fund a pound and cover expenses, the society would operate it without charge. Society members would use humane scoop nets to capture dogs, and the society would also take in stray cats. The aldermen with whom Bergh met augmented these ideas with suggestions of license and tax requirements, badges for dogcatchers, and punishment for dogcatchers who disobeyed the law.¹²⁸ Not surprisingly, however, the old system was resilient, and it would take two decades for Bergh's proposal to be implemented.

In the meantime, while New York City retained control of the pound, the city council incorporated some of the ideas from its meeting with Bergh. Pound officials now wore tin badges (with a picture of a dog's head on them), and residents could lodge complaints if licensed dogcatchers stole their pets.¹²⁹ The city also implemented a licensing requirement for dogs.¹³⁰ While newspapers touted the humane nature of this system, the pound in effect resumed operation as usual.¹³¹

In fairness, working as a dogcatcher was a difficult business. Dogcatchers were paid thirty cents per dog, and making a decent living at this rate all but required them to steal animals. Since valuable dogs could be sold for far more than thirty cents, dogcatchers had strong incentives to put the animals on the market.¹³² Dogcatchers caught doing this faced legal sanction. A deputy dogcatcher employed by one dogcatcher was caught stealing a muzzled dog with a collar displaying its license just as a police officer came by. He was taken into custody and charged with larceny.¹³³ A dogcatcher named Terrence McQuade shot and killed a 14-year-old boy during an altercation over a dog at 116th Street and Fifth Avenue, in a neighborhood filled with Irish laborers. The laborers kept unlicensed dogs, making the area a prime target for dogcatchers. McQuade had recently drawn his gun on the neighborhood residents. On this occasion, he had taken a boy's dog and a crowd gathered, gathering rocks to throw, whereupon he shot James Doyle.¹³⁴

As a result of such incidents, it is not surprising the public had such a negative perception of the pound and the men who administered it. "He is more commonly known as the dog-catcher, and is found only in the larger towns and cities," explained an article in *Forest and Stream*. "Here in New York he travels about with a wagon in which is a large cage to contain the prey, and an assistant. There was once a dog-catcher who was honest, but he died many years ago and left no descendants." According to the article, the police and public sanctioned the use of force to protect animals from these unsavory characters. The dogcatcher was merely a "licensed dog thief," and these "legalized robbers" obtained their position only through their political connections.¹³⁵ From 1877 to 1878, the number of dogcatchers dropped from twenty-five to fifteen, producing a corresponding decline in the number of dogs brought to the pound.¹³⁶ Harper's Bazaar featured a humorous cartoon in which dancing dogs rejoiced at a rumor of the pound's closing.¹³⁷

In 1879, the reopened pound stood next to a hospital for contagious diseases at the foot of East 16th Street, near the East River.¹³⁸ The location testifies to the low regard New Yorkers had for the pound. The "prison for dogs," as the *New York Times* labeled it, now featured two compartments, one for valuable dogs and one for worthless curs.¹³⁹ The original method of drowning excess dogs now replaced the newer carbonic acid approach. In fact, drowning was favored by the SPCA as the most humane method of destroying dogs, and the society threatened to intervene if other methods were used.¹⁴⁰ An iron cage attached to a huge crane lowered the doomed dogs into the river.¹⁴¹

That summer, the SPCA superintendent served a letter from Bergh on Poundmaster John MacMahon alleging that inhumane conditions at the pound violated New York anticruelty laws. According to Bergh, the pound's flaws were many. It fed dogs "putrid tripe" instead of biscuits or other suitable food; crowded dogs into a single pen even when other pens were available; lacked proper ventilation and proper tin pans for water; failed to destroy sick dogs as soon as they arrived; and needed disinfectants.¹⁴² A few days later, the press noted the pound's cleaner condition; biscuits replaced tripe and dogs drank from new pans. Officials even planned to open a hole in the roof for better ventilation.¹⁴³ An SPCA agent was also on hand to monitor dog killings.¹⁴⁴

As New York became a world-class city, however, the pound's relative importance in city life diminished. Occasionally, a dogcatcher was arrested for cruelty.¹⁴⁵ The pound's location remained a problem. The Board of Health asked the mayor to move the pound away from the hospital at the foot of East 16th Street, as the barking and stench disrupted patient care.¹⁴⁶ Eventually, the pound moved to East 102nd Street.¹⁴⁷ On the whole, however, debates about the pound quieted during the 1880s, and newspaper coverage of the pound lacked the colorful intensity of earlier years.

Nevertheless, two important developments underscore the pound's small but revealing role in New York City politics. First, in the mid-1880s, the city finally responded to complaints about patronage. Politics still played an important role in who obtained the much-despised job of dogcatcher, but applicants now had to pass a modified civil service exam. Meanwhile, work as a dogcatcher continued to provide only modest compensation. New dogcatchers now earned forty cents per dog—in lieu of the fifty cents they requested—and the poundmaster and clerk earned seventy-five dollars a month.¹⁴⁸

Bergh did not live to see the second, more momentous change. He died on March 12, 1888,¹⁴⁹ and John P. Haines became President of the SPCA.¹⁵⁰ But the city finally ceded control of the pound to the SPCA in 1894 after Haines went over the heads of city government leaders and appealed to Albany. The governor signed a law abolishing the pound and the dogcatchers who supplied it. The law applied only to cities with more than 1.2 million people (that is, New York City) and set up a comprehensive regulatory scheme for dogs and cats in the city. They were required to wear collars, and dogs had to be licensed. Care of homeless animals was entrusted to the SPCA, and dogs without a license could be seized by the society and disposed of after forty-eight hours. The society pledged to build a shelter uptown, where it would cost three dollars to redeem an animal, and its dogcatchers would be salaried and uniformed, thereby avoiding the perverse incentives of the previous commission system.¹⁵¹

The long struggle between the SPCA and the city appeared over, with the cruel pound giving way to a humane shelter. As the *New York Times* put it, "The pound has been divorced from politics, and all the barbarous methods that have heretofore prevailed in dealing with friendless and unlicensed canines will be changed."¹⁵² The society's dogcatchers now patrolled the streets, wearing uniforms of brown Bedford cord and a badge with the society's initials, the wearer's number, and the words "Shelter for Animals."¹⁵³ The new shelter was built at 102nd Street across from Randall's Island,¹⁵⁴ and it was compared to London's famous Battersea Home for Dogs, which was built in 1860 and still operates today.¹⁵⁵ The SPCA also gained control of the Brooklyn pound.¹⁵⁶

Conclusion

TOGETHER WITH ITS MANY OTHER ENDEAVORS, THE SPCA'S BATTLE WITH CITY OFFICIALS OVER NEW YORK'S treatment of dogs anticipated the later rise of the animal rights movement in the twentieth century. As Diane Beers explains, "For all its limitations and problems, the early animal advocacy movement laid the foundation for the more radical activism of the post-1975 period."¹⁵⁷ Later animal rights activists, for example, would draw on Bergh's method of using negative publicity to attract attention to their cause.¹⁵⁸ For instance, in addition, the shift in New York from city-administered pound to society-run shelter presaged the system of animal shelters familiar to us today.¹⁵⁹ The euthanasia commonly practiced in the nineteenth century even by pro-animal groups such as the SPCA has now given way to an emphasis on adoption.¹⁶⁰

In a broader sense, however, the pound served a wider function in a debate over the nature of government, one not easily appreciated if the SPCA's critique of the pound is simply approached as a precursor to today's animal rights movement. While the length of the struggle for control of the pound perhaps obscures its intensity, the SPCA forced the city to cede control of an easy source of patronage only by appealing to Albany. The desire for professionalism in city government at the heart of the SPCA's efforts is not always obvious, especially since Bergh at times rejected the city's requests for help in running the pound because of concerns over the difficulty of the operation.¹⁶¹ Indeed, a dichotomy between patronage and professionalism risks oversimplification. But from 1866 until it took over the pound in 1894, the

SPCA touted its professionalism as an antidote to the clumsy dogcatching racket defined by the theft of and cruelty toward countless animals.

While Tammany Hall provided the backdrop in New York, similar processes played out in other cities. After the SPCA took over the pound in New York, for example, proponents of a similar shelter in Chicago similarly worried that city leaders would oppose it because of the loss of patronage. Success, it was thought, would only come through the state legislature.¹⁶² Moreover, New York was in fact a relative newcomer. Philadelphia's anti-cruelty advocates took control of that city's pound in the early 1880s. Philadelphia transferred control of the pound to the Women's Branch of the Pennsylvania SPCA, giving it \$3,000 and a piece of land for a "dog shelter."¹⁶³ Created by women, Philadelphia's shelter system is a testament to the influential role they played in the humane movement at a time when women lacked the right to vote. In fact, Caroline Earle White founded Philadelphia's Women's Branch in 1869 after she was excluded from an official position in the city's regular SPCA.¹⁶⁴

Back in New York, however, the SPCA's victory in its struggle with the city over the pound was short-lived. Even a professionally-administered shelter operated under the SPCA's high standards could not be divorced from politics, and the twentieth century renewed the debates that had raged in the years following the Civil War. First, as Bergh had realized, running a shelter was not easy. His successor Haines recommended society-run shelters only for the largest cities because licensing fees brought in only limited revenue to cover expenses. New York's society required four ambulances, two wagons, eight horses, and twenty-two employees to administer the city's shelter system.¹⁶⁵ Ending animal cruelty was expensive—it is no wonder that poor New Yorkers were unwilling to bear the additional costs of dealing with dogs humanely, especially when the existing system had functioned as a form of welfare. Affluence and animal rights were linked.¹⁶⁶

Neighborhood associations began to complain about growing numbers of dogs and cats on the loose, as well as accompanying problems such as fleas and rabies.¹⁶⁷ Now that it was officially responsible for controlling loose animals, the SPCA could not always adhere to its high standards. In a letter to the editor of the *New York Times*, Haines acknowledged fears of rabies but argued that a current law requiring leashes would satisfactorily address the problem. He expressed unease with a more stringent muzzle requirement, except in times of "extreme necessity." Ultimately, however, he pledged to enforce whatever ordinance the city passed.¹⁶⁸ Bergh, by contrast, had at one point refused control of the pound precisely because he did not want to compromise in this manner.¹⁶⁹

Complaints mounted. "My contention has been all along that the Society for the Prevention of Cruelty to Animals is entirely inefficient and utterly unable to enforce the present city ordinances relative to the subject matter," wrote one New Yorker.¹⁷⁰ Amid growing opposition to the SPCA, New Yorkers began to question the propriety of private corporations like the SPCA enforcing state laws. These complaints prompted Charles S. Andrews to defend the arrangement. The society's work allowed the police to focus on more important matters, he argued. Underscoring the desire for professionalism at the heart of the conflict between the society and the city, Andrews emphasized the benefits of relying on private corporations: "One of the axioms of modern life is that this is a day of specialists. . . . The agent or detective of the private society, [unlike that of the police department], confines his energies to one distinct class of criminals." He did oppose allowing private corporations to keep fines, which blurred the distinction between law enforcement and fundraising.¹⁷¹

An SPCA Reform Association arose demanding itemized accounting of the society's use of funds. If the SPCA received public money from licensing procedures, it had a duty to account for its uses, the association reasoned.¹⁷² Reform Association member Josephine Redding declared "open warfare."¹⁷³ New York City Health Commissioner Thomas Darlington appeared before the New York Assembly Cities Committee to advocate giving licensing fees to the Board of Health instead of the "incompetent" SPCA. Adopting language that could have applied to the Tammany regime the SPCA supplanted, he labeled the society's receipt of public funds to be "graft." As Darlington argued, "I want to say the dog is in politics, and that there is a whole lot more politics in that society than there is in the Health Department."¹⁷⁴

In fact, the society's dogcatchers were accused of many of the same abuses as those who obtained their jobs through patronage under the old system. One New Yorker complained that a society member stole a license-less dog from a little girl. "If I remember rightly," he wrote, "formerly the society would obtain the name and address of the dog's owner and then warn said owner to pay the license fee. As ours was not a stray dog roaming the streets, do you think the society was justified in virtually tearing a child's playmate from her arms without previous warning?"¹⁷⁵ On another occasion, the gas used to asphyxiate dogs exploded, injuring five people and allowing 150 dogs to escape.¹⁷⁶

Brooklyn Borough President Bird S. Coler alleged that the society's agents had trespassed and

taken his dog without a warrant.¹⁷⁷ His lawsuit against the SPCA compounded fears generated by a rabies scare in 1908.¹⁷⁸ After weeks of wrangling over the fate of Coler's dog, a Brooklyn Court ruled that the dog licensing law was unconstitutional, opening the door for other owners not to pay the fee.¹⁷⁹ The judge in the case reasoned that a dog bite was a dog bite, whether from a licensed or an unlicensed dog, and that the license did not serve the legislature's goal of protecting the public. Moreover, he argued that these powers were too great for a private corporation, and that the public health should be protected by the state.¹⁸⁰ Feeling that its authority was on the line, the SPCA continued to hold Coler's captured dog pending appeal, although this decision seemed unlikely to win the society needed favor.¹⁸¹

In the public's eye, the SPCA's unprecedented power to enforce the law governing dogs and cats—and the money it collected to do so—had corrupted its mission. New Yorkers frowned upon the society's fancy new building, which seemed to detract from its duty of protecting animals.¹⁸² The SPCA retained much of the authority it had gained, but New York City refused to allow it to operate at arm's length.¹⁸³ For instance, the Board of Health supposedly ordered police to shoot stray dogs over SPCA opposition, although it was not clear just how far city officials were willing to go in implementing this tough talk.¹⁸⁴

Nevertheless, the SPCA served a useful, if unpopular, function. While city leaders had reason to make life difficult for SPCA officials in order to appease public outrage, they had little cause to reassert complete control over the shelter and risk redirecting public frustration back against the city government. As a result, the society, the legislature, and the courts would slowly rebuild the system of private law enforcement disrupted in the first decade of the twentieth century. After the New York legislature amended the law to ensure its constitutionality, a New York court acknowledged the legislature's power to employ and compensate private associations like the SPCA.¹⁸⁵ And while the day-to-day operation of New York's dog control regime represented law at its most local, even the United States Supreme Court offered an opinion in *Nicchia v. People of State of New York*.

And when the state in the reasonable conduct of its own affairs chooses to entrust the work incident to such licenses and collection of fees to a corporation created by it for the express purpose of aiding in law enforcement, and in good faith appropriates the funds so collected for payment of expenses fairly incurred and just compensation for the valuable services rendered, there is no infringement of any [federal constitutional] right . . .¹⁸⁶

With its legal foundation secure, the SPCA could continue its efforts to build a humane system for homeless dogs and cats and to regain the public's confidence in the worthiness and attainability of this pursuit.

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11. Cf. Kenneth Finegold, *Experts and Politicians: Reform Challenges to Machine Politics in New York, Cleveland, and Chicago* (Princeton: Princeton UP, 1995), 3.
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16. See "Law Intelligence," *New York Times*, June 19, 1855, 2. This court opinion notes that the 1845 ordinance had required the muzzling of loose dogs on the streets and authorized the killing of unmuzzled dogs. "No provision had been made for impounding them, and the Mayor, it would seem, in the absence of any regulation on the subject, had established a Dog-Pound, and entrusted the charge of it to the Police Department." Nevertheless, an 1857 overview of the pound claimed that it opened in 1851. "City Dogs," *New York Times*, June 26, 1857, 8., 1845, 2.
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36. E.g., "New-York City," *New York Times*, May 25, 1855, 8.
37. See "Protection to the Japanese," *New York Times*, May 19, 1960, 4. See generally Friedman, 150-51, 219-22, 372.
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73. "Concerning Dogs," *New York Times*, Sept. 27, 1868, 4.
74. *Ibid.*
75. X.Y.Z., "Department of Our Social Relations," *The Phrenological Journal of Science and Health*, Sept. 1871, 180.
76. "A Good Fight for Seven Years," *New York Evangelist*, July 31, 1873, 7.
77. "Enforcement of the Dog Law," *New York Times*, June 20, 1869, 6.
78. "The Board of Aldermen," *New York Times*, Apr. 10, 1874, 2. Bergh's opposition may also have been motivated by his awareness of the difficulties of running such a complicated operation. See Beers, 95.
79. "The New Dog Ordinance," *New York Times*, June 10, 1874, 2.
80. "Opening of the Dog Pound," *New York Times*, June 12, 1874, 8.
81. "The Dog Pound," *New York Times*, June 14, 1874, 12.
82. "Opening of the Dog Pound," *New York Times*, June 12, 1874, 8.
83. "The Dog Pound," *New York Times*, June 14, 1874, 12.
84. *Ibid.*
85. Bergh letter in "Local Miscellany," *New York Times*, June 17, 1874, 8.
86. *Ibid.*
87. "The Dog Morgue and Slaughterhouse," *New York Times*, June 18, 1874, 2.
88. "The Dog Pound," *New York Times*, June 19, 1874, 2.
89. *Ibid.*
90. "A Word for the Dogs," *Chicago Tribune*, June 21, 1874, 8.
91. "The Dog Pound," *New York Times*, June 25, 1874.
92. "Executions at the Dog Pound," *New York Times*, June 26, 1874, 8.
93. "A Disgusting Butchery," *New York Times*, June 28, 1874, 7.
94. "The Dog Pound," *New York Times*, July 1, 1874, 5.
95. "The Dog Pound," *New York Times*, July 2, 1874, 2.
96. "Local Miscellany," *New York Times*, July 9, 1874, 8. "The Dog Pound," *New York Times*, July 17, 1874, 2.
97. "The Dog Pound," *New York Times*, July 17, 1874, 2.
98. *Ibid.*
99. "A Plea for a Friend," *New York Times*, July 5, 1874, 4.
100. "Redeemed from the Pound," *Harper's Bazaar*, July 18, 1874, 469.
101. Comparing and contrasting today's animal rights movement with anti-cruelty efforts in the nineteenth century is not necessarily as easy as some have made it out to be. See Pearson, 1-3; see also Beers, 8.

102. See Roy Porter, "Man, Animals and Nature," review of *Man and the Natural World: Changing Attitudes in England, 1500-1800*, by Keith Thomas, and *Reckoning with the Beast: Animals, Pain and Humanity in the Victorian Mind*, by James Turner, *Historical Journal* 28, no. 1 (Mar. 1985): 228.
103. See "A Word for the Dogs," *Chicago Tribune*, June 21, 1874, 8.
104. Porter, 227; Brian Harrison, "Animals and the State in Nineteenth Century England," *English Historical Review* 88, no. 349 (Oct. 1973): 786. For this reason, Pearson identifies strong similarities between today's animal rights movement and the nineteenth-century anti-cruelty campaign. "The failures of extant anticruelty legislation should not, however, obscure important continuities between the allegedly distinct animal welfare and animal rights movements," she argues. "For the historical animal welfare movement had intentions far more complex and far more radical than contemporary critics allow." In particular, she finds that both movements rely heavily on sentence as a basis for rights. Pearson, 13.
105. See Kennan Ferguson, "I My Dog," *Political Theory* 32, no. 3, (June 2004): 377.
106. *Ibid.*, 376.
107. *Newport Mercury*, July 14, 1866, 2; cf. Ferguson, 376-77.
108. "A Disgusting Butchery," *New York Times*, June 28, 1874, 7.
109. Allen, 5.
110. *Ibid.*
111. *Ibid.*, 9-11.
112. *Ibid.*, x-xi, 8, 26.
113. *Ibid.*, 1, 58.
114. *Ibid.*, xi, 80
115. *Ibid.*, 144.
116. *Ibid.*, xi.
117. *Ibid.*, xi, 81.
118. *Ibid.*, 98.
119. Raymond A. Mohl, ed., *The Making of Urban America*, 2nd ed. (Wilmington: Scholarly Resources, 1997), 99.
120. Raymond A. Mohl, ed., *The Making of Urban America*, 2nd ed. (Wilmington: Scholarly Resources, 1997), 99.
121. "The End of a Ring Building," *New York Times*, July 24, 1874, 8; "The Dog-Pound," *New York Times*, July 28, 1874, 8.
122. "The Dog-Pound," *New York Times*, July 30, 1874, 8.
123. "The Dog-Pound," *New York Times*, Aug. 6, 1874, 8.
124. *Ibid.*
125. "The Dog-Pound," *New York Times*, Aug. 7, 1874, 8.
126. "End of the Dog Pound," *New York Times*, Oct. 7, 1874, 3; "Scenes in the New York Dog Pound," *Inter Ocean*, Oct. 31, 1874, 7.
127. "End of the Dog Pound," *New York Times*, Oct. 7, 1874, 3.
128. "End of the Dog Pound," *New York Times*, Oct. 7, 1874, 3.
129. "Impounding Stray Dogs," *New York Times*, July 4, 1877, 8.
130. "The Dog-Pound Opened for the Season," *New York Times*, June 18, 1878, 8.
131. "New York," *Chicago Tribune*, July 15, 1877, 11.
132. "Extirpation of the Dogs," *New York Times*, July 7, 1878, 12.
133. "Extirpation of the Dogs," *New York Times*, July 7, 1878, 12.
134. "A Day of Many Crimes," *New York Times*, Aug. 11, 1882, 1.
135. "A Public Enemy," *Forest and Stream*, June 26, 1884, 421.
136. "Extirpation of the Dogs," *New York Times*, July 7, 1878, 12.
137. "Hooray!" *Harper's Bazaar*, Oct. 12, 1878, 664.
138. "Opening the Dog Pound," *New York Times*, June 24, 1879, 3.
139. *Ibid.*
140. "Extirpation of the Dogs," *New York Times*, July 7, 1878, 12; "How to Deal with Brooklyn Dogs," *New York Times*, July 17, 1878, 8. On the SPCA's efforts to find a humane method of killing dogs and the beginning of the no-kill shelter, see Beers, 73-75.
141. "In the New York Dog Pound," *Forest and Stream*, Sept. 19, 1878, 134.
142. "The Doomed Dogs," *New York Times*, June 26, 1879, 8.
143. "The Slaughter of the Dogs," *New York Times*, June 27, 1879, 8.
144. "Drowning Day at the Dog Pound," *New York Times*, Aug. 16, 1879, 2.

145. "A Cruel Dog Catcher Held," *New York Times*, Aug. 2, 1887, 8.
146. "A Cruel Dog Catcher Held," *New York Times*, Aug. 2, 1887, 8.
147. "Death Penalty for Dogs," *New York Times*, Oct. 21, 1888, 10.
148. "In and About the City," *New York Times*, June 3, 1884, 8.
149. "Personal," *Phrenological Journal of Science of Health*, Apr. 1888, 232.
150. "To Catch Dogs Politely," *New York Times*, Mar. 11, 1894, 3.
151. *Ibid.* Members of the Henry Bergh Chapter of the Union of the King's Daughters and Sons had already opened "a sort of cat and dog pound or refuge" on Eighth Avenue, using chloroform to kill unwanted animals. "Rally of Salvationists," *New York Times*, Nov. 22, 1892, 2.
152. "A Week's Chicago Gossip," *New York Times*, June 25, 1899, 13.
153. "The New Dog Law," *New York Times*, Apr. 29, 1894, 4.
154. "New York's Dog Shelter," *Forest and Stream*, July 14, 1894, 33.
155. "The S.P.C.A.," *Forest and Stream*, Apr. 20, 1895, 312.
156. "Important Whisky Trust Move," *New York Times*, May 22, 1895, 2. Battersea's website contains a timeline detailing its history at http://www.battersea.org.uk/about_us/our_history/index.html.
157. Beers, 16; see also Pearson, 1-3.
158. I am grateful to an anonymous reviewer for encouraging me to emphasize this point.
159. Beers, 73-75, 95-96.
160. *Ibid.*
161. See Beers, 95.
162. "A Humane Law," *Chicago Tribune*, May 6, 1894, 36. Indeed, Albany's ability to outmaneuver local government led Boss Tweed to run for state office. Allen, 100.
163. "The Philadelphia Dog Pound," *Forest and Stream*, June 23, 1881, 412. According to the magazine, the shelter had a spacious yard with troughs of water and plants for shade. The shelter employed a superintendent, an assistant, and three dogcatchers. The dogcatchers used nets and operated under police supervision, as well as under the watchful eye of the superintendent. Wagons separated large dogs from small ones. Owners were given a week to reclaim lost dogs, and the poor were not made to pay the full two dollar for redemption. The money from redeemed dogs was turned over to the city. And in lieu of carbonic acid or drowning, Philadelphia used carbonous oxide, which was more humane. *Ibid.* Philadelphia's efforts to implement a humane method of controlling loose dogs encapsulates a broader shift, from the pound system of the nineteenth century to the dog shelter system more recognizable to us today. In truth, however, this gentler system was only in its infancy. *Forest and Stream's* account undoubtedly whitewashed unsavory aspects of the city's dog control regime. Abuses were inevitable in the business of collecting and killing loose dogs. Indeed, a year earlier, the same magazine praised the New York pound: "The sanitary arrangements are almost perfect, and the whole place is scrupulously clean and free from odor." "The New York Dog Pound," *Forest and Stream*, July 15, 1880, 474. The magazine's coverage of the pound seemed to oscillate from extreme negativity to glowing praise.
164. Beers, 9, 53-58, 73. As Beers notes, women were especially likely to support the SPCA's goals, although women rarely had the opportunity to take on leadership roles. Caroline Earle White, the founder of the Pennsylvania SPCA, was some thing of an exception.
165. "The S.P.C.A.," *Forest and Stream*, Apr. 20, 1895, 312; see also Beers, 94-95.
166. Cp. Daniel Horowitz, *The Anxieties of Affluence: Critiques of American Consumer Culture, 1939-1979* (Amherst: University of Massachusetts Press, 2004), 252.
167. "Against Dogs and Cats," *New York Times*, May 8, 1900, 2.
168. John P. Haines, "Rabies and Hydrophobia," Letter to the Editor, *New York Times*, Apr. 6, 1903, 8.
169. The Board of Aldermen," *New York Times*, Apr. 10, 1874, 2.
170. Louis A. Cuvillier, "Cat and Dog Licenses," Letter to the Editor, *New York Times*, Mar. 20, 1904, 6.
171. Charles S. Andrews, "Private Societies and the Enforcement of the Criminal Law, Forum, Oct. 1904, 280.
172. "Ask President Haines for S.P.C.A. Accounting," *New York Times*, Jan. 12, 1906, 1; "S.P.C.A. Reform Party Wants More Publicity," *New York Times*, Jan. 22, 1906, 12; "The New York Dog Tax," *Forest and Stream*, Mar. 23, 1907, 447.
173. "Reform Association and S.P.C.A. at War," *New York Times*, May 18, 1906, 3.
174. "Attacks. S.P.C.A. Methods," *New York Times*, Feb. 28, 1906, 5.

175. Gilbert C. Rich, "The Ways of Dog Catchers," Letter to the Editor, *New York Times*, Jan. 8, 1907, 8.
176. "Five Hurt at Dog Pound," *New York Times*, Nov. 13, 1903, 2.
177. "The Tale of a Dog as Told by Coler," *New York Times*, Feb. 1, 1908, 3; "Coler Dares S.P.C.A. to Retake His Dog," *New York Times*, Feb. 2, 1908, 12.
178. "The Hydrophobia Scare," *New York Times*, May 23, 1908, 8; "Kills 77,067 Dogs and Homeless Cats," *New York Times*, July 6, 1908, 5.
179. "Dog License Knocked Out," *New York Times*, Oct. 16, 1908, 12.
180. "S.P.C.A. and Dog Licenses," *Forest and Stream*, Oct. 24, 1908, 653; *Coler v. American Society for Prevention of Cruelty to Animals*, 122 N.Y.S. 549 (N.Y. Supreme Court, Kings County, Special Term, Oct. 15, 1908); cf. *Fox v. Mohawk and Hudson River Humane Society*, 165 N.Y. 517 (1901).
181. "Hasn't Got His Dog Despite Injunction," *New York Times*, Oct. 17, 1908, 16; "Coler's Dog Not to Die," *New York Times*, Nov. 10, 1908, 13.
182. "The New York Dog Tax," *Forest and Stream*, Mar. 23, 1907, 447.
183. "Not Enforcing Dog Law," *New York Times*, June 30, 1911, 18; "No Rabid 'Dog Days,'" *New York Times*, July 1, 1911, 10.
184. "Dog Slaughter Stirs S.P.C.A. Protest," *New York Times*, July 31, 1908, 12; "Protest to Health Board," *New York Times*, Aug. 4, 1908, 8; "Health Board Ready to Smile at Decree," *New York Times*, Aug. 14, 1908, 4.
185. *People ex rel. Westbay v. Delaney*, 130 N.Y.S. 833 (N.Y. Supreme Court, N.Y. County, Special Term, July 18, 1911).
186. *Nicchia v. People of State of New York*, 254 U.S. 228 (1920). See generally "Power to Exact License Fees or Impose a Penalty for the Benefit of Private Individual or Corporation," 13 A.L.R. 828 (1921)