

enjoyed by animals in the world. I will try to make a few suggestions for how a legal system might go about doing that.

My simplest suggestion is that private citizens should be given the right to bring suit to prevent animals from being treated in a way that violates current law. I offer a recommendation that is theoretically modest but that should do a lot of practical good: Laws designed to protect animals against cruelty and abuse should be amended or interpreted to give a private cause of action against those who violate them, so as to allow private people to supplement the efforts of public prosecutors. Somewhat more broadly, I will suggest that **animals should be permitted to bring suit, with human beings as their representatives,** to prevent violations of current law.

ANIMAL RIGHTS IN ACTION

Without much fanfare or advance foresight, U.S. law has come to recognize a wide array of protections for animals. Indeed, it would not be a gross exaggeration to say that federal and state laws now guarantee a robust set of animal rights. A major problem is that the relevant laws are rarely enforced. They exist, but for too many animals, they are worth little more than the paper on which they are written.

STATE LAW: CRUELTY, EXPANSIVELY CONSTRUED

The first animal protection law of the West apparently came from the Puritans of the Massachusetts Bay Colony, who enacted a "Body of Liberties" that prohibited "any Tirranny or Crueltie towards any brute Creature which are usuallie kept for man's use." The common law has of course been superseded by state statutes, and every state now purports to provide significant safeguards against cruelty or mistreatment of animals. Hence it is now said, in many jurisdictions, that "animals have rights, which, like those of human beings, are to be protected."²

What is perhaps most striking is that the relevant statutes go well beyond prohibiting beating, injuring, and the like, and impose affirmative duties on people with animals in their care. Omissions may count as cruelty; so too for overworking or underfeeding animals, or for depriving them of adequate protection. Owners must offer adequate sustenance and shelter. Defenses and excuses are quite limited. Protection of life or property is a defense against a charge of unlawful killing of an animal, but there must be a reasonable proportion between the danger presented and the action taken; and anger, intoxication, and impulse provide neither defense nor excuse.

New York contains an illustrative representative set of provisions. Anyone who has impounded or confined an animal is obliged to provide good air, water, shelter, and food. Criminal penalties are imposed on anyone who