

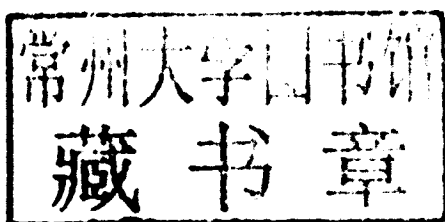


Susan J. Pearson

The Rights of the
Defenseless

Protecting Animals and Children
in Gilded Age America

THE RIGHTS OF THE DEFENSELESS



THE RIGHTS OF THE DEFENSELESS

Protecting Animals and Children
in Gilded Age America

SUSAN J. PEARSON

THE UNIVERSITY OF CHICAGO PRESS
CHICAGO AND LONDON

SUSAN J. PEARSON is assistant professor of history at Northwestern University.

The University of Chicago Press, Chicago 60637

The University of Chicago Press, Ltd., London

© 2011 by The University of Chicago

All rights reserved. Published 2011

Printed in the United States of America

20 19 18 17 16 15 14 13 12 11 10 9 8 7 6 5

ISBN-13: 978-0-226-65201-6 (cloth)

ISBN-10: 0-226-65201-7 (cloth)

Library of Congress Cataloging-in-Publication Data

Pearson, Susan J.

The rights of the defenseless : protecting animals and children in gilded age
America / Susan J. Pearson.

p. cm.

Includes bibliographical references and index.

ISBN-13: 978-0-226-65201-6

ISBN-10: 0-226-65201-7

1. Child welfare—United States—History. 2. Animal rights—United States—
History. I. Title.

HV74I .P437 2011

362.70973'09034—dc22

2010042774

Ⓢ The paper used in this publication meets the minimum requirements of the
American National Standard for Information Sciences—Permanence of Paper for
Printed Library Materials, ANSI Z39.48-1992.

CONTENTS

Acknowledgments	<i>vii</i>
Introduction: The Legend of Mary Ellen Wilson	<i>1</i>
1. "The Child Is an Animal": Domesticity, Discipline, and the Logic of Joint Protection	<i>21</i>
2. "A Relic of Barbarism": Cruelty, Civilization, and Social Order	<i>57</i>
3. "The Rights of Whatever Can Suffer": Reconciling Liberalism and Dependence	<i>98</i>
4. "The Dove Has Claws": Sympathy and State Power	<i>137</i>
Conclusion: From Cruelty to Child Welfare	<i>185</i>
Notes	<i>201</i>
Index	<i>249</i>

ACKNOWLEDGMENTS

Everyone who has ever written a book knows that, for the lucky among us, the hours we spend alone in the library and in front of the computer are augmented by the support of family, friends, and colleagues both near and far. Members of my own family—Mary Alyce and David Pearson, Kenneth Kramer, the late Judith Kramer, Matthew Pearson, and Marjorie Jolles—all helped me immensely. Whether by providing quiet confidence, funny jokes, excellent vintage clothing, crossword puzzle help, free lodging for an itinerant researcher, or simple companionship, each has helped to overcome the isolation and doubt that can come with scholarship.

This project first took shape at the University of North Carolina and I must thank many of my fellow Tar Heels for advice and friendship. Charles Capper, Peter Filene, Jacquelyn Hall, and Timothy Marr all read an earlier version of this manuscript with great care. John Kasson especially deserves praise for many years of faith, careful reading, encouragement and many, many letters of recommendation. The members of my writing group—Matthew Brown, Joshua Guthman, Ethan Kytle, and David Voelker—were amiable comrades and astute readers. Philip Gura, Robert Cantwell, and Joel Williamson all ably responded to early portions of this project. Jan Paris helped me craft one of my first successful grant applications. Becoming friends with Eve Duffy was one of the greatest gifts of my time in North Carolina; I thank Eve not only for responding to my chapter drafts and rambles, but also for her companionship, intellectual and otherwise. And for the runs, the bike rides, and the introduction to the Olive Men and their father.

Along the way I received much-needed financial support for research from Mellon Foundation grants distributed by the Pennsylvania Historical Society and the Library Company of Philadelphia, as well as the Council

for Library and Information Resources. The History Department and the graduate school at the University of North Carolina also supported me with teaching assistantships and writing fellowships. I was also fortunate to receive a fellowship from the American Academy of Arts and Sciences. Though a new baby prevented me from accepting the award, I am grateful for the academy's expression of support for my project.

The History Department at Northwestern University has been a supportive and collegial place to be a scholar and teacher. The university provided generous financial support for research and conference travel and, just as important, a fair parental leave policy. At Northwestern I was lucky enough to almost immediately begin a fruitful collaboration with Mary Weismantel. We have since written, taught, and walked dogs together. Mary has always made me feel as though my scholarly interest in crossing the species divide was adventurous rather than idiosyncratic; I am thankful for that.

For assisting me with research and access to materials, it is a pleasure to acknowledge the help of librarians at the New-York Historical Society, the New York Public Library, the Boston Public Library, the Massachusetts Historical Society, the special collections section of the Frances Countway Medical Library at Harvard University, the Pennsylvania Historical Society, the Library Company of Philadelphia, the Bancroft Library at the University of California, Berkeley, the Minnesota Historical Society, the Chicago History Museum, the special collections library at the University of Illinois at Chicago, and the Wyoming Historical Society. At Northwestern, the Interlibrary Loan Office has helped me track down countless primary and secondary sources and the staff of Digital Media Services skillfully helped to prepare the illustrations. I am grateful to the Pennsylvania Historical Society and the Chicago History Museum for permission to reproduce materials in their collections. Ed Vermue of the special collections department at Oberlin College library deserves special thanks for helping this panicked author track down the source for an illustration just in the nick of time.

For reading some version of this manuscript in its entirety and offering insightful comments, I owe a debt to Michael Grossberg, Kate Masur, Sarah Pearsall, Carl Smith, Amy Dru Stanley, and Daniel Wickberg. Francesca Morgan provided sage advice on the introduction. For particularly detailed comments on presentations, I thank Timothy Gilfoyle, Daniel Wickberg, and Sarah Gordon. My editor at the University of Chicago Press, Robert Devens, was relaxed, helpful, and reassuring throughout this

process. All of these good people have tried to save me from errors—any that remain are wholly my responsibility.

Michael Kramer deserves something more than mere thanks. He has read the entire manuscript, more than once, and countless drafts of other things—journal articles, book reviews, conference papers, syllabi. He put up with me while I wrote a dissertation, got a job, and shaped this book, all while trying to get his own work done. He calmed my worries, did dishes, cooked emergency dinners, took out trash and recycling, walked the dogs, changed diapers, and otherwise shared with me the inexhaustible, exhausting joys of parenthood. Our son, Tobias, did absolutely nothing to assist with this book. But that is as it should be.

INTRODUCTION

The Legend of Mary Ellen Wilson

S ometime during the winter of 1873, Mrs. Etta Wheeler, a volunteer for St. Luke's Methodist Mission in New York City, received troubling news. As Wheeler told the story some forty years later, she had been making her usual rounds through the tenements of the Hell's Kitchen neighborhood tending to the souls of the poor and the sick when a "quiet, reserved Scotch woman, truthful and careful of her words," told her that for more than two years she had lived next door to a family that held its only child, a girl, as a prisoner. Locked in the apartment's darkened rooms day and night, the girl was never allowed out, but her cries, which "gave evidence of her unhappy life," trespassed the apartment walls. All the neighbors knew that the child was being terribly beaten, but their appeals to the landlord had fallen on deaf ears. Recently, the family had removed itself to a new apartment down the street.¹ No one knew what to do.

Wheeler went to the family's new apartment house to investigate. She knocked first at a neighbor's door, and entered to find an elderly woman who affirmed that a child did live next door. Like the family's former neighbors, she too had heard it crying frequently. Emboldened by this information, Wheeler knocked on the door of an adjacent apartment and was greeted by a "woman's sharp voice" and an open door. "Being an unbidden guest," Wheeler reported she did not stay long, but she managed to "see the child and gain my own impression of her condition." The child was pale, thin, clothed in a tattered rag of a dress, laboring to wash "a frying pan as heavy as herself." Though Wheeler saw a "brutal whip" lying on a nearby table and glimpsed "many marks of its use" on the child's arms and legs, she claimed that the saddest part of the girl's plight was "written on her face in its look of suppression and misery, the face of a child unloved."²

After her brief visual inventory of the girl's sufferings, Wheeler left

determined, "with the help of a kind Providence to rescue her from her miserable life." She continued to visit the girl's sick neighbor, learned more of the girl's misery, and consulted with the priest at St. Luke's, with local charities, and with the police about what could be done to help the girl. The charities told Wheeler that they could care for children legally brought to them, but could do nothing to remove a child from her home. The police informed her that they would need evidence, not hearsay, to make an arrest. "No one could tell what to do," she despaired, "there seemed no place of appeal." Finally, at the suggestion of her niece, Wheeler contacted an organization that she felt sure was truly concerned with the plight of the helpless and oppressed: the American Society for the Prevention of Cruelty to Animals (ASPCA). "Why not go to Mr. Bergh," the niece urged, "for she is a little animal, surely." The founder and president of the ASPCA, Mr. Henry Bergh, expressed interest in the case and set his organization's investigative and prosecutorial services to work. According to Jacob Riis, who was then a reporter for the *New York Herald*, Bergh echoed the sentiments of Wheeler's niece, declaring that "the child is an animal. If there is no justice for it as a human being, it shall at least have the rights of the cur in the street."³

After Wheeler supplied written testimony of the girl's abuse, the ASPCA's lawyer, Elbridge Gerry, secured a writ to remove her from her home, and on April 9, 1874, one of the organization's agents ceremoniously carried the small girl, Mary Ellen Wilson, out of her home, wrapped her in a blanket, and (after stopping to buy her a lollipop) brought her in his arms to the chambers of the New York Supreme Court's Judge Lawrence.⁴ Mary Ellen's abuser was revealed as Mrs. Mary Connolly, who together with her husband had secured the girl from the city's Blackwell Island asylum on a term of indenture when she was just two years old. Mrs. Connolly was convicted of felonious assault and battery, and sent to prison for one year.⁵ Several months after the trial, Henry Bergh and Elbridge Gerry called a public meeting to establish a separate organization, the New York Society for the Prevention of Cruelty to Children (NY-SPCC), the first of its kind in the world.⁶

The link that Wheeler saw between animals and children as helpless, oppressed sufferers worthy of legal intervention would prove quite popular in the aftermath of Mary Ellen's rescue. Efforts to protect children and animals from abuse and neglect spread rapidly. The first animal protection society in the United States had begun in 1866; by 1908, there were 354 active anticruelty organizations in the United States. Of these, the plurality, 185 of them, were humane, or dual, societies; 104 were exclusively

animal societies; and 45 were dedicated solely to child protection.⁷ The decision of Bergh and Gerry to form two separate societies—one for animals and one for children—turned out to be atypical. Most of the “dual” organizations—those that protected both animals and children—called themselves Humane Societies rather than either SPCAs or SPCCs. In 1877, the American Humane Association was formed as the national organization for both animal and child protection. The logic of joining protection for animals and children proved durable into the twentieth century. “The old link that bound the dumb brute with the helpless child in a common bond of humane sympathy,” wrote Jacob Riis, “has never been broken.”⁸ This book investigates the formation of that bond and its institutional, cultural, legal, and political significance.

For the remainder of the nineteenth century, humane organizations divided their time between lobbying for new legislation, public education campaigns, and investigating individual cases of cruelty. Much of their animal protection effort was concentrated on agriculture and industry: the transportation of livestock, the treatment of horses on city rail lines, and methods of slaughter. Later in the century, they began to assume the animal control functions with which they are today associated, taking in strays and running animal shelters. With respect to children, humane organizations concentrated on abuse and neglect but also addressed eliminating child labor in live entertainment and the street trades, and later in the century many child protectionists joined widespread efforts to combat juvenile delinquency, truancy, and children’s access to what they believed were immoral or corrupting influences.⁹

In most states, anticruelty organizations were delegated police powers to engage in law enforcement activity. In matters related to animals and children, they were empowered to make arrests and bring cases before magistrates. Though these organizations have been characterized as entirely typical examples of the harsh and punitive scientific charity movement of the Gilded Age, their police powers made them fundamentally different from other contemporary reform and charity groups. They wielded not just philanthropy but state power; they distributed arrest warrants rather than alms.¹⁰ Those they prosecuted could face fines, jail time, and, most severely, the removal of either animal or child from their possession.

In what follows, I examine how anticruelty organizations expanded state power through private means during the Gilded Age. I argue that the linkage of animals with children formed part of an ideology of sentimental liberalism, a rhetoric forged by animal and child protectionists that reconciled dependence with rights and pledged the use of state power

to protect the helpless. While SPCAs and SPCCs were in many respects singular, in other ways their story is typical of the last third of the nineteenth century. In the years after the collapse of Reconstruction, during a period of retreat from dreams of equal citizenship, "protection" became a keyword for many reformers and a means of incorporating new functions into the state. Claiming nothing more than sympathy with the suffering of animals and children and a desire to protect their rights, anticruelty reformers made "cruelty" into a social problem, stretched governmental powers, and expanded the state in a typically American way: through private associations.

Mary Ellen's rescue generated more than just a new type of humane organization. It generated powerful rhetoric and compelling narratives of sympathy, progress, and freedom. The effort to make meaning out of Mary Ellen's life began immediately: from the moment she entered the courtroom, her anonymous life of privation ended. As news of her rescue hit the city's newspapers, it was rapidly transformed from a private tragedy into an object lesson. The drama of Mary Ellen's life and rescue were a cause célèbre and the story fast became the founding myth of the child protection movement—a story that is repeatedly told down to this day. In telling and retelling Mary Ellen's story, Americans told themselves other stories about childhood, family, and nation; about the nature of sympathy, Christianity, and cruelty; about the redemptive powers of reform and the possibility for personal and collective transformation.

For nineteenth-century animal welfare reformers, Mary Ellen's story proved the urgency of their mission—to eradicate the sin of cruelty from the human heart. To the leaders of the ASPCA and the New York SPCC, Mary Ellen's case was an historical pivot point, an eruption of progress (of which they were the agents) that began to change children's status from that of mere chattel. "The case of Mary Ellen," claimed one of the New York SPCC's founding members in 1874, "awakened an interest in the heart of every human being to rescue the little waif from the hands of cruelty and oppression."¹¹ SPCC officials subsequently argued that Mary Ellen's story transformed and redeemed the world by bringing childhood's sufferings into the public sphere and by spawning the first organization dedicated solely to child protection. As the Illinois Humane Society's *Humane Journal* summarized the story less than ten years later, "a helpless, wretched waif in the great city, through her very helplessness and misery, stirred up a social revolution whose waves beat literally upon the farthest shores."¹² At annual meeting after annual meeting, New York

SPCC leaders like Elbridge Gerry, John Wright, and John Lindsay ritually invoked Mary Ellen's case to illustrate both the necessity for the organization and the progress it had accomplished. In one such speech, John Lindsay, SPCC president beginning in 1903, drew a vivid picture of children's lives before Mary Ellen and the SPCC. There was, he claimed, little legislation to protect children, and no one to enforce it. "Public officials were slow to interfere between parent and child," he went on, such that abuse and neglect were given license; children's "exposure to evil conditions and influences, converted them into criminals at an early age, and made them easy victims of depraved adults." By contrast, the SPCC had managed in its short life to nearly eliminate "the worst forms of child-suffering in our community."¹³

Mary Ellen's significance as a pivot point is still repeated in contemporary social work literature. At the end of a litany recounting the historical mistreatment of children (not unlike Lindsay's own), modern authors position Mary Ellen's rescue as "the first step accomplished in establishing the rights of children in the United States."¹⁴ And while nineteenth-century humanitarians saw the link between protecting animals and children as entirely natural, in our own time child welfare professionals find it "a sad commentary that it took a society for the prevention of cruelty to animals to protect the first recorded case of a maltreated child."¹⁵ In addition to being a beacon of light for the future, for many modern child protectionists Mary Ellen's rescue by the ASPCA also sheds a penetrating light on the past, showing how animals received greater legal protection than children. Many social work texts assert (erroneously) that in 1874 there were no laws protecting children, and thus that Mary Ellen was rescued under laws protecting animals.¹⁶ From this illogical ordering of protective priorities, modern child welfare advocates often conclude that "children have been an expendable commodity for thousands of years."¹⁷ Though Mary Ellen's rescue is still invoked as the singular beginning of the movement to end child abuse, for moderns it is tinged with the irony that animal protection preceded child protection, a fact that proves their contemporary efforts all the more necessary and difficult, poised as they are against the accumulated weight of history.

While organizational and social work histories fold Mary Ellen's rescue into a story of progress—inevitable if strangely delayed—SPCAs and SPCCs in general have figured in a quite different story. Written by professional historians, this story's plot revolves around elite and middle-class reformers trying to exercise social control over the working class. Though there are to date no histories of the combined effort to protect animals

and children, scholars who study SPCAs or SPCCs nonetheless emphasize similar themes. Although humane organizations claimed to care only for the sufferings of innocent and defenseless animals and children, these historians argue that in reality such groups used “cruelty” as a trope to stand in for other anxieties—about the unruly and indecorous behavior of the working class, about immigrants, about industrialization.¹⁸ By this interpretation, it was less the suffering of the abused that upset reformers than the passions and behaviors it represented on the part of the perpetrators. Rowdy entertainments like cock fights and insufficiently middle-class methods of childrearing sparked anxieties about an insouciant working class of immigrants and the about the challenge of creating a shared culture (with established elites intact). SPCCs are, in the words of social welfare historian Michael Katz, the exemplars of the “aggressive style of Gilded Age reform”: intrusive, controlling, and intolerant of working-class family life. Protests against animal and child abuse, according to such historians, mark not the eruptive, revolutionary establishment of rights for either group, but the effort of reformers to impose bourgeois standards of decorous behavior on the huddled masses.¹⁹

In recent years, however, the “social control” interpretation of SPCCs and SPCAs has become more nuanced. Linda Gordon, Sheri Broder, and Stephen Robertson have all shown that the populations who came into contact with SPCCs were not simply the victims of meddling society agents. Case records make it clear that SPCCs launched many of their investigations at the behest of families, neighbors, and even children themselves. Poor communities often saw the SPCC, or “the Cruelty” as some called it, as one means of helping them perform traditional functions of behavioral regulation. In some instances, community complaints forced SPCCs to take on problems—such as sexual abuse—that they had originally not located under the rubric of “cruelty.” In addition to initiating many of the SPCCs investigations and helping to define the society’s agenda, clients and communities also exercised agency in their negotiations with society staff. Neighbors might thwart investigations they felt were unjust by refusing to supply information, and women who used the SPCC to shape up erring or intoxicated husbands might suddenly refuse continued cooperation with agents if they saw improvement in their spouses. While SPCCs certainly used their power to shape behavior and to define the limits of acceptable family life, they did not simply impose a middle-class vision of domesticity on poor and immigrant populations.²⁰

Not only is “social control” an incomplete description of how anti-cruelty organizations functioned on the ground, but also, as other recent