## Contents

Preface	xix
Acknowledgments	xxi
CHAPTER 1	
Introduction	1
Section 1. Debate of the Philosophers	2
Big Thinkers: René Descartes	2
René Descartes, Letter of November 23, 1646, to Marquess of	
Newcastle	2
Big Thinkers: Voltaire, Animals in Philosophical Dictionary	3
Voltaire, A Response to Descartes	3
QUESTIONS AND NOTES	4
Section 2. Pain and Suffering	5
QUESTIONS AND NOTES	6
Section 3. Two Welfare Perspectives	6
Gieri Bolliger, Animal Dignity Protection in Swiss Law	6
Section 4. The American View	7
Speech of Senator Byrd	7
Senator Robert C. Byrd, Speaking Up for Animals	7
QUESTIONS AND NOTES	12
Section 5. The Human Spectrum	12
An Innocent Inquiry into a Very Difficult Topic	13
Section 6. Which Meat to Eat?	14
A Few Chicken Facts	.14
QUESTIONS AND NOTES	15
A Few Horse Facts	15
QUESTIONS AND NOTES	16
A Few Primate Facts	16
QUESTIONS AND NOTES	17
Section 7. Are Animals Within Our Ethical World?	17
David Favre, Respecting Animals	17
Section 8. Two Cases: Welfare and Rights	20
People v. Tinsdale	21
Tommy v. Lavery	24
Section 9. The Limitations of Law	26
Fact Pattern #1	26
QUESTIONS AND NOTES	27

Fact Pattern #2	27
QUESTIONS AND NOTES	28
CHARTER	
CHAPTER 2 Animal Ownership	29
Section 1. What Is Ownership?	29
David Favre, "Equitable Self-Ownership for Animals"	29
QUESTIONS AND NOTES	31
Dogs as Property—A Special Case Animal Law and Dog Behavior	32
Unintended Ownership	34
QUESTIONS AND NOTES	35
Section 2. Obtaining and Losing Ownership Status	35
Domestic Animals: Title by Birth	35
Obtaining Private Ownership of Wildlife	36
Finding a Domestic Animal—Common Law	36
Morgan v. Kroupa	38
QUESTIONS AND NOTES	42
Section 3. Transferring Title	43
Sales	43
QUESTIONS AND NOTES	45
Roberts v. Melendez	46
QUESTIONS AND NOTES	49
Adoption	51
QUESTIONS AND NOTES	51
Section 4. When Owners Go Away	53
Divorce of the Humans	53
Desanctis v. Pritchard	54
QUESTIONS AND NOTES	55
Houseman v. Dare	55
QUESTIONS AND NOTES	58
Pets in Trust and Wills	58
In re: Capers Estate	58
QUESTIONS AND NOTES	60
QUESTIONS AND NOTES	62
Section 5. Bailments	62
Section 6. Obligations of Ownership	65
Civil Responsibility for Harm by an Animal	65
Civil Liability	66
Sligar v. Odell	66
QUESTIONS AND NOTES	70
Criminal Responsibility for Actions of an Animal	70

CHAPTER 3	
The Jurisprudence of Animals as Property	73
Section 1. Humans on the Property Line	75
Montgomery v. Stephan	75
QUESTIONS AND NOTES	78
Section 2. Wildlife	79
Montana v. Fertterer	79
QUESTIONS AND NOTES	80
Section 3. Property Status or Not	81
Gary L. Francione, "Animal Rights Theory and Utilitarianism"	81
David S. Favre, Respecting Animals	82
QUESTIONS AND NOTES	82
Section 4. The Extra Property Status of Genetic Ownership	83
Section 5. The Property Status of Companion Animals	84
Mitchell v. Snider	84
QUESTIONS AND NOTES	87
Protection of Anti-Cruelty Laws	87
Oregon v. Crow	87
Restrictions on Rights of Owners to Sell their Property	89
Park Pet Shop, Inc. v. City of Chicago	90
QUESTIONS AND NOTES	90
Joining the Family for a Dinner Night Out	91
Protecting Companion Animals from Death in Cars	91
Procedural Rights: Dangerous Dogs	92
Helmers v. City of Des Moines	93
Recognition in Divorces and Protective Orders	95
QUESTIONS AND NOTES	96
Legal Representation	97
QUESTIONS AND NOTES	97
Section 6. Living Property	98
Section 7. Top-Down Changes in Europe	99
Marita Giménez-Candela, "The De-Objectification of Animals	
in the Spanish Civil Code"	99
Gieri Bolliger, from Animal Dignity Protection in Swiss Law	103
QUESTIONS AND NOTES	105
Tomasz Pietrzykowski, "The Hopes and Failures of Animal	
Dereification"	106
Section 8. A New Status for Domestic Animals	108
David Favre, "Equitable Self-Ownership for Animals"	108
CHAPTER 4	
Damages for Harm to Pets	111
Section 1. Overview	111
Section 2. The Traditional Calculation—Harm to Property	113

Dillon v. O'Connor	113
QUESTIONS AND NOTES	115
Section 3. Consequential Damages—Additional Categories	116
Burgess v. Shampooch Pet Industries, Inc.	116
QUESTIONS AND NOTES	119
Section 4. Negligent Infliction of Emotional Distress	120
Rabideau v. City of Racine	121
QUESTIONS AND NOTES	125
Section 5. Rejection of New Cause of Action	126
Section 6. A Little Science	127
Favre and Dickinson, "Animal Consortium"	128
QUESTIONS AND NOTES	131
Section 7. Intentional Infliction of Emotional Distress and	
Punitive Damages	132
Rabideau v. City of Racine	132
QUESTIONS AND NOTES	134
Section 8. Veterinarian Malpractice	135
Malpractice Generally	137
Determining the Standard of Treatment	137
Ruden v. Hansen	138
QUESTIONS AND NOTES	142
Section 9. Violation of Constitutional Rights	145
Section 10. Animal Consortium	147
Favre and Dickinson, "Animal Consortium"	147
QUESTIONS AND NOTES	151
Section 11. Statutory Damages	151
QUESTIONS AND NOTES	153
State Regulation of Ownership	155
Section 1. The Police Power Generally	155
Exercise of Police Power by State and Local Government	156
Section 2. Limitations on Police Power—Constitutional Rights	157
Toledo v. Tellings	158
QUESTIONS AND NOTES	163
Peoples Program for Endangered Species v. Sexton	166
Phillips v. San Luis Obispo County	169
QUESTIONS AND NOTES	171
Section 3. Dangerous Dogs	172
Mansour v. King County	177
QUESTIONS AND NOTES	181
Section 4. Local Government—Nuisance and Zoning	181
Commonwealth v. Ebaugh	182

QUESTIONS AND NOTES	184
Section 5. Actions of State Agents	185
Brown v. Muhlenberg Township	185
QUESTIONS AND NOTES	189
231	
CHAPTER 6	
Anti-Cruelty Laws—History and Intentional Acts	191
Section 1. Historical Perspective	192
Early American Legislation	192
The Bergh Era Begins	195
New Legislation	196
QUESTIONS AND NOTES	198
Grise v. State	198
QUESTIONS AND NOTES	203
Section 2. Intentional Acts	203
Who Is Liable? Which Humans?	203
Which Animals Are Protected?	203
QUESTIONS AND NOTES	204
What Is Cruel?	205
Horton v. State	206
QUESTIONS AND NOTES	207
Torture, Torment, or Injury	208
State v. Avery	211
Section 3. Constitutional Issues	216
People v. Voelker	217
United States v. Stevens	221
QUESTIONS AND NOTES	226
Section 4. Defenses and Exemptions	227
State v. Wrobel	228
QUESTIONS AND NOTES	230
Abandonment	230
Exemptions to Cruel Acts	231
QUESTIONS AND NOTES	232
Section 5. Animal Fighting	234
T. J. v. State of Indiana	235
People of the State of Michigan v. Norfleet	237
QUESTIONS AND NOTES	240
Cockfighting	241
908	
CHAPTER 7	
Anti-Cruelty Laws—Duty to Provide Care	243
Section 1. Which Animals? Which People?	244
State v. Jackson	245

QUESTIONS AND NOTES	248
Section 2. Scope of the Duty of Care	249
Jordan v. U.S.	249
QUESTIONS AND NOTES	251
State v. Dresbach	251
Section 3. Special Case—Puppy Mills	253
Burkholder v. Department of Agriculture	254
QUESTIONS AND NOTES	256
Section 4. Duty to Provide Veterinary Care	257
People v. Arroyo	257
QUESTIONS AND NOTES	262
Martinez v. State	263
QUESTIONS AND NOTES	265
Section 5. Special Case—Hoarders	266
State v. McDonald	266
QUESTIONS AND NOTES	269
State v. Mauer	269
CHAPTER 8	
Agricultural Animals	277
Section 1. About the Animals	278
Voiceless, From Paddocks to Prisons: Pigs in New South	
Wales, Current Practices, Future Directions	278
Veronica Hirsch, Biological Facts on the Domestic Chicken	281
Lori Marino, "Thinking Chickens: A Review of Cognition,	
Emotion, and Behavior in the Domestic Chicken"	284
Section 2. Lack of Law	285
State Criminal Anti-Cruelty Laws	285
QUESTIONS AND NOTES	286
The Federal Animal Welfare Act	286
Commercial Slaughter of Animals	287
New Jersey Society for the Prevention of Cruelty to Animals	
v. New Jersey Department of Agriculture	288
QUESTIONS AND NOTES	295
Association Des Éleveurs De Canards Et D'Oies Du Québec	
v. Becerra	295
QUESTIONS AND NOTES	297
International Legal Context	298
Section 3. What Is Acceptable Welfare?	300
The Consumer Problem	301
British Royal Society for the Prevention of Cruelty to Animals	3,
The Five Freedoms	302

	David Fraser, "Assessing Animal Well-Being: Common Sense,	000
	Uncommon Science"	303
	ence	305
	J. M. Engel, T. M. Widowski, A. J. Tilbrook, K. L. Butler, and	
	P. H. Hemsworth, "The Effects of Floor Space and Nest Box	005
	Access on The Physiology and Behavior of Caged Laying Hens" OUESTIONS AND NOTES	305 306
	Pew Commission on Industrial Farm Animal Production, Final	
	Report: Putting Meat on The Table: Industrial Farm Animal	
	Production in America	307
	Yvonne Vizzier Thaxton, et al., "Symposium: Animal Welfare	
	Challenges for Today and Tomorrow"	308
	QUESTIONS AND NOTES	309
	Animal Legal Defense Fund v. Reynolds	311
	Western Watersheds Project v. Michael	312
	QUESTIONS AND NOTES	314
Sectio	n 4. Paths Forward	315
	izen Legislature-Ballot Initiatives	315
	QUESTIONS AND NOTES	317
	Animal Welfare Institute, "A Consumer's Guide to Food Labels	
dar	and Animal Welfare"	317
Co	rporations	321
CHAPT		
The A	Animal Welfare Act	325
Sectio	n 1. Introduction	325
87 His	storical Development of the AWA	327
	QUESTIONS AND NOTES	330
Sectio	n 2. Class A and B Dealers	331
Th	e Source of the Dogs and Cats—Illegal, Stolen Animals	331
Th	e Source of the Dogs and Cats—Legal, Random Source	333
18 Th	e Use of Dogs and Cats	333
Cla	ass A and B Dealers	336
	QUESTIONS AND NOTES	337
Inh	nerent Limitations of Regulatory Inspections	338
	In re: Marilyn Shepherd	339
	In re: Judie Hansen	341
	QUESTIONS AND NOTES	343
Sectio	n 3. Class C Exhibitors	343
	U.S. Dept. of Agriculture, In re: Karl Mitchell, and Big Cat	
	Encounters	344
	QUESTIONS AND NOTES	349

Public Safety	350
U.S. Dept of Agriculture, In re: Great Cats of Indiana, Inc.	350
QUESTIONS AND NOTES	355
IPPL News, Chimpanzee Dealer Fined \$1,000	356
Possessors of Exotic Animals	356
Section 4. Enforcement	358
USDA Office of Inspector General, "Audit Report: APHIS	
Animal Care Program Inspection and Enforcement Activities"	358
QUESTIONS AND NOTES	360
Section 5. Animals Used by Science	360
CHAPTER 10	
Animal Rights—The Jurisprudence	363
Section 1. Introduction	363
Section 2. Philosophy and Religion—Ethical Perspectives	366
Religion	366
The Bible, Genesis 1:20–31	366
QUESTIONS AND NOTES	367
Philosophy	368
Jeremy Bentham, The Principles of Morals and Legislation	368
QUESTIONS AND NOTES	369
Denise L. Herzing and Thomas I. White, "Ethics and Animals"	370
QUESTIONS AND NOTES	371
Animal Rights: A Debate between Peter Singer and	
Richard Posner	372
Mary Midgley, "Persons and Nonpersons"	375
QUESTIONS AND NOTES	378
Section 3. Jurisprudence—What Is a Legal Right? An Interest?	379
Karen Bradshaw, "Animal Property Rights"	379
Iredell Jenkins, "The Concept of Rights and the	
Competence of Courts"	380
Stephen I. Burr, "Toward Legal Rights for Animals"	381
Roscoe Pound, "Interest"	383
QUESTIONS AND NOTES	386
Section 4. Present Legal Status	386
David. S. Favre, "Present Legal Presence"	388
QUESTIONS AND NOTES	389
Judicial Two-Step	390
Chimpanzee Cases	390
Nonhuman Rights Project, Inc., on Behalf of Tommy v. Lavery	391
Section 5. Access and Standing	394
An Introduction	395
Sierra Club v. Morton	398

QUESTIONS AND NOTES	401
Harm to Individual Domestic Animals	402
Breakthrough Standing for AWA Issues	403
Animal Legal Defense Fund v. Glickman	405
QUESTIONS AND NOTES	410
American Society for Prevention of Cruelty to Animals v. Feld	
Entertainment, Inc.	411
QUESTIONS AND NOTES	413
In re: The Florida Chimpanzee Care Trust	415
U.S. v. Approximately 53 Pit Bull Dogs	416
The Curious Case of the Ninth Circuit	417
The Cetacean Community v. Bush	417
QUESTIONS AND NOTES	419
Naruto, a Crested Macaque, by and through his Next Friends,	
People for the Ethical Treatment of Animals, Inc. v. Slater	420
QUESTIONS AND NOTES	424
Section 6. Future Possibilities	425
Matter of Nonhuman Rights Project, Inc. v. Lavery	425
QUESTIONS AND NOTES	428
Karen Bradshaw, "Animal Property Rights"	429
What Are the Possible Pathways for the Greater Legal Recognition	
of Protection of Animal Interests?	430
Table of Cases	433
Index	435