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# Power, Knowledge, Animals

Lisa Johnson  
*Portland State University*

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Power, Knowledge, Animals

by

Lisa Johnson

A dissertation submitted in partial fulfillment of the  
requirements for the degree of

Doctor of Philosophy  
in  
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Dissertation Committee:  
Craig L. Carr, Chair  
Birol Yesilada  
David Kinsella  
Christopher Shortell  
Michael Flower

Portland State University  
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## Abstract

Although Foucault did not address the question of the animal, he asserted the assessment of whether a new politics of truth can be constituted as “the essential political problem” (1980, p. 134). Though the “essential political problem” may be considered as it relates to the politics of truth about animals, a Foucaultian perspective does not allow a prediction in response, other than the recognition that change may occur. What is understood to be “true” about animals may change if the relationships between events that exist at a given time (“conditions”) require the emergence of a different way of knowing. This Foucaultian critique of thought about animals examines “truth” about animals as an historical contingency, variable according to the conditions that have allowed its production.

This project contributes to the development of a theoretical context of the politics of truth about animals. The politics of truth about animals is understood to be the push and pull of knowledge generated and perpetuated about them, together with concurrent power apparatuses in support of that knowledge as well as the ever present resistance to that power. By applying and extending Foucault’s theory of power –that is, that knowledge is a carrier of power, power is a perpetuator of knowledge, and all power relations have resistances – this work employs Foucault’s archaeological method to uncover dominant and subjugated discourses about animals and to describe power-knowledge associated with statements about animals that are understood to convey true things. This project describes the changeable nature of “truth” about animals and,

necessarily, the politics of it, since the politics of truth is understood to be propelled by whichever knowledge and associated power are then dominant. Statements in “error” are also examined as resistance to power-knowledge about animals.

The project describes subjugated discourses about animals that have been understood in various times and places to have truth-telling powers or, at least, to have been understood as “error,” which provided points of resistance to the dominant discourse. It describes the partial derivation of discourse about animals by examining dominant discourses (e.g., the discourse of law and the discourse of lines) and subjugated discourses (e.g., animals are not personal property, karmic discourse, transmigration of souls discourse, rational animal discourse). Additionally, it describes like disperse statements among different referents (i.e., slave, animal, woman) that comprise various discursive formations that have been understood at various times to have truth-telling power about different referents. Subjugated discourse sometimes emerges as new “truth,” though no such prediction can be made. To illustrate the point, the project describes the emergence of the new academic field related to the question of the animal, which resurrects or draws from some subjugated discourse (e.g., animals are not personal property).

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## Chapter 1 The Essential Political Problem

Lawless beasts once roamed Europe. In 1396 at Falaise, a sow was convicted of murder most grim. The pig had eaten the face and arm of an infant boy in his cradle. After being convicted at trial, the sow was sentenced to public torture and execution for the crime, including an “eye for an eye” brand of justice – mutilation of her foreleg and face prior to the execution itself (Galeron, Brébisson & Desnoyers, 1826, p. 83). The task was carried out by the public executioner – no garden-variety livestock slaughterer – at the expense of the state (Langevin, 1814, p. 146). The executioner himself was afforded a new glove to perform his duty (D’Addosio, 1892, pp. 279; Evans, 1906, p. 140).<sup>1</sup> The affair was presided over by the Viscount of Falaise, who would have projected a commanding presence in a plumed hat, on his horse, with his fist at his side,<sup>2</sup> which we can only imagine was raised righteously. The sow herself was attired in men's clothing,

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<sup>1</sup> “Quittance originale du 9, janvier 1386, passée devant Guiot de Montfort, tabellion a Falaise, et donnée par le bourreau de cette ville de la somme de dix sols et dix deniers tournois pour sa peine et salaire d’avoir traîne, puis pendu a la justice de Falaise une truie de l’âge de 3 ans ou environ, qui avoit mange le visage de l’enfant de Jonnet le Maux, qui était au bers et avoit trios mois et environ, tellement que ledit enfant en mourut, et de dix sols tournois pour un gant neuf quand le bourreau fit la dite exécution; cette quittance est donne a Regnaud Rigault, vicomte de Falaise; le bourreau y déclaré qu’il se tient pour bien contest des dites sommes, et qu’il en tient quitte le roy et ledit vicomte” (D’Addosio, pp. 279, Documento II ; *see also* Blondeau De Charnage, C.F., *Dictionnaire des Titres Originaux*. Tome II. (1764). p. 72-73. Paris)

<sup>2</sup> “[L]’execution se fit sur la place publique, en présence tout la peuple, le vicomte-juge y presidait « a cheval, un plumet sur chapeau et le poing sur la côté » Pour comble de horreur, le père de la victime fut tenu d’assister a cette exécution; on voulait le punir dit l’historien de ce fait, pour n’avoir pas surveillé son enfant ” (Galeron, Brébisson & Desnoyers, p. 83).

including a vest, breeches, stockings and gloves.<sup>3</sup> No record exists as to why she did not wear garments more fitting for a female.

The event was memorialized by a publicly displayed painting - a fresco nonetheless – upon a wall of the ancient Church of the Holy Trinity near the public square, which had been the site of the execution. This mural – a residue of the execution – publicized the knowledge of what once befell a murderous pig in Falaise. Indeed, the knowledge of what would come to pass for other pigs that acted upon murderous impulses was there to consider – perhaps as a warning – or, perhaps, simply as a display of the mighty power of law. Consider Holland, for example, where public executions of convicted animals occurred as a deterrence to other animals against criminal behavior. In 1595, the mayor and the jury of Leiden signed acts attesting that a dog, having confessed without torture to biting a child, would be executed publically “in order to deter all other dogs and to set an example for each” (“tot afschrik van alle andere honden, en elk tot een exempel”) (Dinzelbacher, p. 410). Indeed, corpses of the convicted and executed animals were often placed on display as a deterrent to others of their species to avoid the path of crime (Srivastava, p. 135).

This knowledge – whether a warning, display of power, or simply art – was broadcast to all comers. It was broadcast, that is, until it was hidden. The fresco was

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<sup>3</sup> “Quand animal fut amené sur le lieu du supplice, il avait des vêtements d’homme, une veste, des hauts-de-chausses et des gants. On lui avait appliqué sur la tête une masque représentant une figure humaine” (Galeron, Brébisson & Desnoyers, p. 83).

whitewashed in approximately 1820.<sup>4</sup> Only a few scattered words to describe its one time existence remain. Words written by the l'Abbe Pierre-Gilles Langevin in 1814 record its existence and, subsequently, mark its obliteration in approximately 1820 (Evans, p. 141). The blotting out of this *once-knowledge* is particularly illustrative of the focus of the present project, because it is an example of subjugated knowledge about animals. *Once-knowledge* is subjugated discourse that was once understood to convey truths about a subject but have since been suppressed by other discourse that make different truth claims. Subjugated discourse or knowledge is hidden.

Before we incline our thoughts to believe that the event in Falaise was an isolated curiosity – perhaps, if so, reason enough to memorialize it – it behooves us to know that records of great numbers of similar happenings exist (*see e.g.* compilations from original texts by D'Addosio, 1892 and, separately, Evans, 1906). The accounts of felonious animals from France alone are numerous. Records of prosecutions of pigs occurred at least in Fontenay-aux-Roses near Paris, Caen, Falaise, Mortaing, Meulan, Rouvre, Pont-de-l'Arche, Abbeville, Labergement-le-Duc, Torchères, Bourgogne, Savigny-sur-Etang, Corbeil, Clermon-les-Moncornet, Charonne, Seves, Dunois, Dijon, Arcenaux, Saint-Quintin, Moyen-Montier, Montoiron, and Viroflay. Similar criminal proceedings were carried out in Italy, Switzerland, Germany, Spain, Tyrol, the Netherlands, the Slavic lands, the United States, Canada, Russia, Switzerland, and Brazil (Dinzelbacher, p. 406; Srivastava, p. 128).

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<sup>4</sup> “Cet événement parut si remarquable dan le temps, qu'on en conserva le souvenir par un peinture a fresque qui se voyait encore, il y a six ans, dans l'église Ste. Trinité” (Galeron, Brébisson & Desnoyers, p. 83).

These events unfolded as legal processes, both by governments against individual animals charged with having committed criminal offenses and by church authorities in ecclesiastical courts against groups of animals charged with committing various atrocities (e.g., damaging crops). If farcical, the records are utterly silent as to explaining the complicit behavior of the judges, attorneys, jurors, witnesses, church officials, owners of the accused animals, executioners, public torturers, and observers to the proceedings, not to mention the use of the public funds doled out for the trials, incarcerations, and the executions.

Accounts of criminally indicted, tried, convicted, and sentenced animals were recorded by people of some importance. Of course, the fact that important people said things about animals does not render the statements as objectively true. Rather, the relevance of important people saying things about animals lies in the legitimization of “truth” within a particular way of knowing. Statements emanating from powerful people created what was understood to be knowledge. Here, that knowledge was that animals were appropriate subjects about which to discuss the applications of criminal law. For example, in 1379, Duke Philip the Bold of Burgundy – son of one king, brother to two others – issued a pardon for the convicted but least guilty members of two herds of swine. He declined to pardon three other individual members of those herds that were the guiltiest, and they were executed per the judgment of the secular court (D’Addosio, pp. 277-278; *see also*, Evans, 1906, p. 342 - 343).<sup>5</sup> This letter of pardon from a member of

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<sup>5</sup>“Phelippe, filz du Roi de France, due de Bourgoingue, au bailli de noz terres au conté de Bourgoingue, salut. Oye la supplication de frère Humbert de Poutiers, prieur de la prieurté de la ville de Sainte-Marcel-lez-Jussey, contenant que comme le Ve jour de ce

the French royal family – as do all records concerning criminal animals – contain vestiges of a way of knowing about animals that have since been suppressed by the emergence of other stories.

It is the blotting out of the fresco and other once-knowledge that principally attracts our attention here. That, and the manifestations of power – such as letters of pardon for pigs – represent artifacts of subjugated discourse – discourse that conveyed concepts understood to be true or not true within particular ways of knowing. Of course, once-knowledge that has been absolutely suppressed is unknowable, just as an ancient skeleton shattered to dust is at once unexcavable and unknowable. While absolute suppression of once-knowledge most certainly has occurred, it lies outside of our reach. However, not all subjugated knowledge has sunk so completely into the mire.

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present mois de septembre, Perrinot, fils Jehan Muet, dit *le Hochebet*, pourchier commun de ladite ville, gardant les pors des habitans d'icelle, ville ou finaige d'icelle, et au cry de l'un d'iceulx pors, trios truyes estans entre lesdits pors ayent couru sus audit Perrenot, l'ayent abattu et mis par terre entre eulx, ainsi comme par Jehan Benoit de Norry qu'il gardoit les pourceautlx dudit suppliant, et par le pere dudit Perrenot a este trouve blessier a mort par lesdites truyes, et si comme icelle Perrenot la confesse en la présence de son dit père e dudit Jehan Benoit, et assez tost après il soit eu mort. Et pour ce que ledit suppliant auquel appartient la justice de ladite ville ne fust repris de negligiance son maire arresta tous lesdits porcs pour en faire raison et justice en la manière qu'il appartient, et encore les detient prisonniers tant ceux de ladite ville comme partie de ceulx dudit suppliant, pour ce que dit ledit Jehan Benoit ils furent trouvez ensemble avec lesdites truyes, quand ledit Perrenot fut ainsi blessie. Et ledit prieur nous ait supplie que il nois plaise consentir que en faisant justice de trios ou quartes desdits porcs le demeurant soit délivré. Nous inclinans a sa requeste, avons de grâce especiale octroyé et consent, et par ces présents ouctroyons et consentons que en faisant justice et exécution desdites trios truyes et de l'ung des porceaulx dudit prier, que le demeurant desdits pourceaulx soit mis a dilvre, nonobstant qu'ils aient este a la mort dudit pourchier. Si vois mandons que de notre présente grâce vois faictes et laissez joyr et user ledit prieur et autres au Il appartiendra, sans les empeshcer au grâce. Donne a Montbar, le XXIIe jour de septembre de l'an de grâce mil CC L XX IX. Ainsi signe. Par monseigneur le duc: J. Potie” (D'Addosio, pp. 277-278, Documento I).

Indeed, to linger a bit longer on the example of the once-knowledge that animals were an appropriate subject about which to discuss the applications of criminal law – the procedural records for criminal animals are quite complete in certain cases. For example, in SAVINGY, nearly eighty years after Duke Philip the Bold’s pardoning of swine, the records indicate that a sow was indicted for the murder of a five year old boy, along with six of her piglets who were suspected as accomplices. The sow had been caught red-handed, so to speak (*en flagrant délit*).<sup>6</sup> The mother pig was convicted of murder and sentenced to be hanged by her back legs until dead (Evans, pp. 347- 348).<sup>7</sup> Though circumstantial evidence existed that implicated the piglets as well – specifically, the blood smeared on their bodies – the prosecutor lacked positive proof in their participation of the crime (Evans, p. 153). However, they were brought before the court again three weeks later, at which time they suffered a dual setback: more evidence had surfaced regarding their complicity and their owner declined to attest to their future good conduct (Evans, pp. 153 – 154).

Lest we begin to look askance at the French intellect – an inclination surely fatal to the present project – let us bear in mind that the criminal prosecution of animals was not a rarity in Europe and elsewhere. These proceedings occurred as rather commonplace

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<sup>6</sup> “[U]ne truie, et six coichons ses suignens, que sont présentement prisonniers de ladite dame, comme ce qu’ils été prins en flagrant délit, on commis et perpète mesmement ladicte truie murte et homicide en la personne de Jehan Martin en aige de cinq ans” (Evans, pp. 346 - 347, Appendix M).

<sup>7</sup> « »[P]our [...] justice et au dernier supplice, et estre pendus par les pieds derriers a ung arbre esproné” (Evans, pp. 347 - 348, Appendix M)

for centuries. The suspected animals were arrested, incarcerated, tried, and, if convicted, the animal was punished according to law.

Criminal punishment of animals is something quite different than disciplining an animal that behaves badly. In the contemporary West, we do not understand animals to be moral agents, or beings capable of understanding right from wrong. Today, if a dog behaves inappropriately, obedience training may be in store. However, in other places and at other times, a dog behaving badly might be considered to be a criminal and punished accordingly. Consider the 1906 case from Switzerland, in which a felony murder occurred during the course of a robbery. The crime was perpetrated by two men and a dog. All three were tried and convicted, and though the human criminals received life sentences, the dog was found to be the chief culprit and condemned to death (Evans, p. 334, n. 1). That animals were thought to be capable of understanding right from wrong is also apparent in a 1466 German case, where a horse was described as a murderer of a man (“*enen morder des mannes*”) (Dinzelbacher, 2002, p. 407). In both cases, let us bear in mind that murder is homicide with malice. Homicide is the killing of a human being by a human’s act. Malice is the requisite mental state for murder. Both elements of murder are required for murder to exist. For a horse or a dog to be understood as a murderer, then, the tribunals must have believed them capable of understanding that the killing was a wrongful killing. That is, they must have believed the horse and the dog capable of possessing the requisite mental states for murder.

### **A suggested perspective**

What can we make of accounts of animals that appear to convey meaning utterly at odds with our understanding, experience, and knowledge of them? The temptation may be to convince ourselves that our predecessors suffered from some mass-inflicted cognitive defect or group delusion ruled by magical thinking and fantastical imaginings. Or, we may believe that they had not yet recognized their powers of reason, that very thing that today we place our faith in, as a passkey to truth.

The present work suggests an alternative. Records exist that reflect different ways of knowing – different realities – about animals. The proposal here is that we attempt to understand those records on their face, viz., as a particular way of knowing about animals, without attempting to topple those ways of knowing from our present seat of reason. These different ways of knowing can be observed without trying to explain them away. We can observe them without forcing them to dovetail with our current understanding of animals.

Were an attempt made to explain away or to force a fit, a history of *ideas* might be offered. That would involve constructing a narrative to explain how we have finally arrived at our present way of understanding from our former, erroneous way of looking at the world. Such a history would seek continuity, even if on a winding course. In such histories about animals – and certainly many have already been written – stories about the development of religion, the evolution of laws, and even great awakenings as to the immorality of subjugation of various other beings would be developed to explain how things are and how they have been. Within those stories, lineages of thinkers are

observed, passing along knowledge, one to the next. A history of ideas, according to its nature, reviews the influence that certain thinkers had upon other thinkers, to see how ideas themselves progressed or regressed linearly throughout time.

Here, however, no stable linkages from thinker to thinker are sought, nor are such linkages presumed to exist. No explanation is constructed concerning how we used to think about animals or how we have arrived at our present understanding about them. No predictions are offered as to how we might come to think of them in the future. This work holds today's "truth" about animals – that is, our particular way of knowing about animals – at arm's length, to observe it, while at the same time, recognizing that it is but one way of knowing. This recognition is effectuated by resuscitating once-knowledge about animals – in many of its incarnations – together with the power engendered by their existences, and having a look at them on their own terms. This is done without any concurrent movement to explain them away or to form them into stepping stones that lead to our present locale.

This project excavates subjugated knowledge, which skulks about the periphery of our consciousness, and brings it to light. By applying and extending Michel Foucault's theory of power, this work examines the emergence of a particular understanding about animals – today's understanding – vis-à-vis other possible understandings, ones that have been subjugated. It examines the power-knowledge associated with stories understood to be "true" vis-à-vis those once-knowledges that came to be understood as "not true." The red thread of continuity that would imply progress towards something is not sought. Indeed, the idea of continuity that implies progress towards something is rejected. There

is no presumption that because animals might have been thought of as rational at one point but non-rational at a later point, that the latter point in time represents some “truer” position than the former. Explanatory stories that support such positions are viewed with great scrutiny and skepticism, rather than deference.

In short, this work has excavated understandings about animals that were once thought to be “true” within particular ways of knowing. Our present “truth” about animals indicates that change has happened. Change may or may not happen, but if and when they do happen, those changes need not happen as a matter of logic. Our present way of knowing, like any way of knowing, is but an historical contingency. What we understand to be “true” today is not a consequence of or a change that occurred as a matter of logic. What we understand to be “true” is merely contingent upon the historical variability from which that “truth” arose. Conditions merely exist, and those conditions require the understanding of things as they are understood, though those conditions may not be entirely identifiable.

### **Introduction to Foucaultian methodology and theory**

The assertion that the present human experience of the animal other is but one possible understanding that might exist about animals can only be elevated from conjecture to acceptance as knowledge *within a particular way of knowing* by employing methods recognized as legitimate or valid within our present way of knowing, and by applying bodies of work understood to be knowledge to the consideration of the assertion. No knowledge claim is being made relating to the truth of the subject under

discussion. However, within a particular way of knowing, statements recognized as “true” within that particular way of knowing must emerge in a manner that renders them consistent with truth claims within that way of knowing. This is a Foucaultian concept, of course. In order to assert something that will be understood as true, rather than as error, one must do so within the confines of space of thought that exists, following the rules within a discourse – here, an academic discipline – that allow things to be said and to be understood as “true.” Errors, quite simply, are statements understood to be not true within a particular way of knowing.

The mechanisms and existing bodies of knowledge referred to, of course, are those indispensable siblings – theory and methodology – by which such a thesis might be put forward and considered. Queries into the conditions that have allowed particular ways of knowing to emerge and that have rendered those knowings as knowledge – including the present way of knowing – require an intellectual foothold – a theoretical orientation – to make sense of what has been found. Before making sense of what has been found, of course, the finding has to occur.

The concept of knowledge, however, presents a conundrum. The French have at least two words that translate into English as knowledge, *savoir* and *connaître*. Like Foucault’s work, this project is focused on *savoir*, which, as Foucault used it, referred to the underlying conditions that allowed specific types of relative knowledge (e.g., disciplinary knowledge) to exist. *Connaissance* is also knowledge, but that word refers to a body of knowledge, such as a discipline (Foucault, p. 15, ft 2). So the assertion here that knowledge (*savoir*) requires an intellectual foothold (*connaissance*) in order to be

understood as knowledge (*savoir*) is a paradox, since specific *connaissance* cannot exist without *savoir*.

Notwithstanding concerns about the paradoxical nature of knowledge, things that are understood to be knowledge must pass muster by emerging from accepted methods and by showing consistency with accepted theory. Therefore, this work uses the theory and methods of Foucault to consider the question of the animal.

So, as noted above, the finding of different ways of knowing must occur. The sifting through linguistic rubble requires a method by which to proceed, and so a Foucaultian archaeology has been employed. As illustrated by the story of the public execution of the sow in Falaise, subjugated knowledge about animals can be directly uncovered by finding the bits and scraps of words and depictions, leftovers of bygone times and places, which have since been blotted out – figuratively or literally. Finding the existence of such forgotten knowledge is a straightforward matter of research. Of interest to the present discussion, rather than a description of the perfunctoriness that is library research, is how those scraps of collected knowledge are here regarded, so that a history of thought about animals might emerge.

Like Foucault's works, this project studies writings about animals, not for the truth that they assert, but for the fact that they happened at all (Foucault, 1972, p. 28). Archaeology excavates once-knowledge, which allows the tracking of discourse about a subject, both the words culled and the words permitted to prosper. The collecting of words – these remnants of subjugated knowledge about animals – requires such things as the shaking off of unquestioned allegiances to related “bodies of work” or other unities

(except to identify associated rules), describing the writings, identifying the authority of the statement and theory advanced, identifying the rules by which statements are adjudged true or not true, and describing interdependencies between writings (Foucault, 1972, pp. 13, 40 – 70, 138 – 140, 147). Moreover, the rules governing the discursive formation are examined. A *discursive formation* simply refers to *disperse statements* in which a regularity can be found, though a unity (including period of time) is not relevant to whether a discursive formation can be said to exist or not (Foucault, 1972, p. 38). Indeed, those from whom the disperse statements emanate may not be aware of the discursive formation that their statements relate to. The rules governing the discursive formation relate to such things as social norms, authorities that limit certain types of knowledge to a particular domain, limitations concerning which persons have the right to make statements, and institutional authority (Foucault, 1972, p. 42). This process allows us to delimit the structure of conceptual space that is – or has been – our understanding of animals. This process is described in detail in chapter three, where buried discourses appear and similarities between different ways of knowing are observed.

A history of thought quite necessarily requires consideration of not just things past, but also the present. This is why we must also have a means to discern the “here” – the spot at which we presently stand. The next chapter sketches two powerful contemporary discourses about animals so that an understanding of how we conceptualize animals can begin to emerge. It is useful to keep in mind that “here,” wherever and whenever “here” may be, at some point, subjugated by new knowledge

which arises. That is to say, new knowledge can arise to subjugate old knowledge. The corrigible nature of the “here” can be most difficult to see.

Of course, it is one thing to recognize that “here” is where we are. It is quite another thing altogether to say that somewhere else is where we could have been. This project asserts that very thing with respect to our knowledge about animals. However, this assertion is not intended as a normative statement about better tomorrows or a lamentation about missed opportunities. Were such tendencies indulged the most expedient and accepted medium – within our present way of knowing – would be to employ reason to explain and to predict cause and effect events that would lead to one thing or another with respect to our understanding about animals. Of course, many of today’s thinkers work within the confines of our present way of knowing – this domain of reason – regarding the question of the animal, in hopes of a better tomorrow. This project does not propose a plan for getting there, wherever there may be. Of course, we may recognize that here is where we are, and within this particular way of knowing, things might be different for animals. Such an observation is neither hostile to reason nor to a Foucaultian perspective.

The search for subjugated knowledge is a search for once-knowledge, which surfaced and crawled ashore to sun for a time on the rock of Truth – or, perhaps, even then, to be labeled not as true but as error – before slinking back into the brackish sludge of possibilities. It is a recognition that conditions must have existed for claims of truth to

be made and to be understood as true. The method is a sluice box of sorts. Words containing *véridictive* power – that is, truth telling power – might rise into view while the accreted debris that clings to unities of thought are rinsed away at the same time. Those with truth-telling power will invariably have power associated with them, because knowledge and power are always present together. Moreover, to understand the present way of knowing we do not pan rubble. Instead, the shining monuments of Truth are studied to uncover the claims labeled as truth about animals within our present way of knowing. And, behind those monuments, just as with once-knowledge, we need to study the present truth-telling powers - the *véridictions* – which are erective of those monuments that we think of as containing knowledge. To do that requires us to recognize that conditions must exist to render the telling of a thing as truthful. And that requires us to recognize that conditions have led to the telling being labeled as truth, that those “conditions of truth” delimit and make possible what can be expressed as discourse, and they change over time, from episteme to episteme (Foucault, 1970b). Truth conditions are always housed in fields of knowledge, produce “truths,” and signpost the forces of power that let them exist and were (or are), in fact, their guardians (Foucault, 1977, p. 28; 1970b).

The relevant nature of the “truth” within any field of knowledge by a “knower” is not an idea that we tend to hold foremost in our minds. From fields of knowledge, understandings emerge about the objects of discourse within that field. And so we have certain understandings about animals that have emerged from the discourses springing from various fields of knowledge. That a certain understanding about animals has

emerged would be so, even without any awareness that the emergence was but a mere possibility. The present understanding always exists in the present, whether we can peel back the layers of possibilities or not. Perceptions of the present are something that we tend to take at face value, without probing the why's of the thing or questioning its changeable nature.

### **Power**

A review of Foucault's theory of power is useful at this point. Knowledge is, itself, imbued with power. So, for example, if we "know" (within our particular way of knowing) that animals are personal property – and this concept is discussed in the next chapter – then the power apparatus associated with that knowledge is also present.

The notion of power relates to the generation and perpetuation of what is understood to be knowledge about a particular subject, and the manner in which that knowledge embeds itself into social consciousness, which allows, compels, or proscribes behaviors or actions that are thought to be consistent or inconsistent with that knowledge. Power is driven by forces beyond human control. So, as we shall see in the course of this project, how we think about animals – viz., as personal property first, as *living* second, and as *beings* in a dim and distant third – is a critical and integral piece of power as it relates to our knowledge about animals. Indeed, the understanding about animals created by power/knowledge is the episteme itself. As Foucault's theory of power has it, knowledge is a carrier of power, which is itself a perpetuator of knowledge.

Conditions are recognized to exist that require the understanding of things as they are understood, though those conditions may not be entirely identifiable. This is because power-resistance is everywhere (Foucault, 1980, p. 142), and the conditions that tip the scale so that error weighs now as truth are not found in a single variable. Indeed, they are not found in a modelable multi-variable scenario.

All power relations have resistances. However, it is important to keep in mind that this does not imply that anyone is “outside” of power and resisting it from that point. Rather, resistance is everywhere in the network of power (Foucault, 1978, p. 95). Resistance is mobile, the irreducible opposite of power, and pervasive, just as is power (Foucault, 1978, p. 96).

Foucault’s synopsis of his understanding of power appeared in *The History of Sexuality I*. Power is not something acquired or shared; it is exercised from many points; it is mobile; dynamic; power comes from below, rather than in opposition (or a binary structure of dominated versus dominator); it is exercised with aims and objectives; and resistance will be found where there is power (Foucault, 1978, pp. 94 – 96). This description is very similar to the one offered in *Power/Knowledge*, though Foucault seems to have added an explicit notion against it being acquired (though that is implicit in the earlier description that he offered.) Moreover, power is enmeshed in the social body, pervasive, and everywhere (Foucault, 1978, p. 119). It is something that serves, because it is capable of being used in strategies, and as something that always has resistances (Foucault, 1980, p. 142).

The “automatic functioning of power” and its individualization (Foucault, 1975, p. 201, 202), together with various other mechanisms that assure docile bodies resulting from hierarchical observation, the normalizing gaze, and examination (Foucault, 1975b), have produced man as he conceives of himself today (Taylor, 1984, p. 157, *citing* Foucault). We can see the instruments of this control today in our institutions (schools, factories, armies, prisons, hospitals), which continue to produce bodies that are the *effect* of power and the *vehicle* of power (Foucault, 1980, p. 98; 1972, p. 125). Power exerted on people (control of the body) and power exerted on the economic system (control of the population) are two important foci (Foucault, 1972). Power is conditioning and conditioned. That is, power networks condition those upon whom they act, and they are conditioned by those whom they act upon. Power is not a superstructure, but it does form forces of production (Foucault, 1972, p. 159). With respect to our knowledge about animals, human beings’ actions related to animals are produced by power-knowledge associated with animals, and they perpetuate that power-knowledge as vehicles of it.

Foucault’s understanding of power allows us to view power not as a solely negative thing, but to recognize that power’s strength lies in its ability to create knowledge that creates desire (Foucault, 1980, p. 59). In the present project, we see that power rooted in desires. For example, some human beings desire to eat meat, to be entertained by animals, and to wear furs and leathers. It is in the positive effects of power that we see its most intoxicating and thoroughgoing effects. Indeed, the creation of demand for desired things leads to behaviors that allow us to both conceive of animals in a particular way (knowledge) and to undertake activities (by empowering ourselves to do

so) that will allow us to satisfy our desires. The generation and perpetuation of power from vastly numerous points of concurrent knowledge leads to desire that ultimately controls human bodies. That is the *effect* of power. One way that human bodies become docile is through the creation of desire through power, which requires the bodies to undertake certain activities so that they can acquire or meet those desires.

Power is imbued with knowledge. Knowledge is made possible by the conditions that give rise to the power that authenticates the labeling of statements as true or not true.

The forces of power include the creation of conditions that give rise to statements being labeled as true or not true about animals. These labels create knowledge about animals, and that knowledge creates an understanding about animals backed by authority (power) and cloaked in the mantle of truth (knowledge). The labels themselves are knowledge.

Knowledge and power are intertwined concepts that co-exist at the same points (Paras, 2006, p. 113, *citing* M. Foucault, Lecture, March 28, 1973), and they work on persons by bounding our understandings about things.

Foucault's work does not explicitly allow an assertion that animals are objects upon which the forces of power work. Knowledge-power works on persons, rather than objects. Animals themselves are a feature of human knowledge and power. Language labels applied to animals have given rise to bodies of knowledge – known by various disciplinary names (e.g., science, law, ideologies) – and those bodies of knowledge beget power, which in turn, begets knowledge about animals. For the purposes of this project, we need go no further, since the focus is upon human understanding about animals.

However, the chasm between Foucault's assertion that knowledge-power works on persons to the idea that knowledge-power works upon objects can be leaped. Objects are subject to interactions by human beings. Human beings follow rules (or not). Following rules (or not) relating to interactions with objects is a form of behavior or social activity. The behavior can either be permitted or proscribed. Regardless, the existence of the rules allows human beings to interact with those objects (or not), and those rules are a form of power. Knowledge associated with those rules creates, buffers, and bolsters, just as it would in any other case. And so we have specific manifestations of power – that of rules – that allow (or not) persons to interact with animals, which are a particular type of object.

Of course, as the opening of this chapter suggests, animals may have been viewed as subjects at one time, though they have come to be viewed as objects within our particular way of knowing. Within language, distinctions occur, which provide opportunities for resistance as well as power.

Power-knowledge relations are analyzed not from the angle of one who is oppressed (here, for example, not from the position of one who utters words that disrupt or interfere with the property ownership rights of others to their animals), but rather by identifying the *effects* of that power/knowledge, which are found by identifying the “knowers” of the knowledge, the objects of that knowledge (animals), and the streams of knowledge about the objects themselves (unities of knowledge about animals). These are the determining forces of what we might possibly know about animals (Foucault, 1977, p. 28). As Foucault noted:

Power produces knowledge [...] power and knowledge directly imply one another; [...] there is no power relation without the correlative constitution of a field of knowledge, nor any knowledge that does not presuppose and constitute at the same time power relations. These ‘power-knowledge relations’ are to be analysed, therefore, not on the basis of a subject of knowledge who is or is not free in relation to the power system, but, on the contrary, the subject who knows, the objects to be known and the modalities of knowledge must be regarded as so many effects of these fundamental implications of power-knowledge and their historical transformation. In short, it is not the activity of the subject of knowledge that produces a corpus of knowledge, useful or resistant to power, but power knowledge, the processes and struggles that traverse it and of which it is made up, that determines the forms and possible domains of knowledge (Foucault, 1977, pp. 27-28).

In dominant discourse of the day, animals are objects of certain fields of knowledge. This objectification of animals is an *effect* of power-knowledge relations. For example, a particular body of knowledge about animals rests in the field of agriscience. The field of knowledge known as agriscience is a unity of knowledge about animals (among other things). This unity is also an *effect* of the power-knowledge apparatus. Within that field of knowledge known as agriscience, certain claims are accepted as true, while some are rejected as not true. These *truth boundaries* are power constraints in discourse, and they filter statements that are understood to be true and false through rules and endorsements (Foucault, 1972c, p. 131). For example, a student who engages in

discourse about animals as food production systems in a manner consistent with accepted knowledge in the field of agriscience will likely be rewarded with passing grades in agriscience classes.

This will encourage that student to pursue more advanced courses in agriscience and possibly settle on a career in the field, where the student will then serve as gatekeeper for up-and-comers. There, the student turned professional will label others' statements as true or not true, encouraging or discouraging them as the case may be. The gatekeeper becomes the face of power, camouflaged as science (Taylor, 1984, p. 152), which deflects other ways of knowing. The "knower" is also an *effect* of power-knowledge relations. A student who makes statements that are inconsistent with the scientific discourse of agriscience is unlikely to be encouraged in his or her endeavors in that field. This discouragement is a power constraint that filters statements that are understood to be false within the regime of truth represented by the field of knowledge known as agriscience. An error-utterer will be excluded from an "office of authority to speak," thereby unable (or unrecognized) as a possessor of power to label statements about animals as true or not true. Truth is relative to the discourse within the field of knowledge.

Of course, no title of "office of authority to speak" exists, but this is an appropriate designation, because it is a necessary endorsement for any message to be accepted for initial scrutiny, rather than immediately discounted at its appearance. Such a bestowment is a customary way to include new voices that have run the appropriate gauntlet for inclusion, whatever that may be. The act of inclusion of the messenger with

the words to be spoken enshrouds the words emanating from the speaker with the mantle of authority, even if the words are subsequently labeled as error. This bestowment of “office of authority to speak” is a vetting, an example of which was just described in the form of the agriscience student. Moreover, the process of discounting the message uttered by such a person at once becomes more complicated and more dangerous, because the words that discount the message of one speaking from an “office of authority to speak” carries a risk that the discounter’s “office of authority to speak” may itself be subject to greater scrutiny by others who have an interest in delegitimizing the messenger’s message or the messenger.

Note that gaining an “office of authority to speak” is an example of a positive effect of power. Power’s strength lies in its ability to create knowledge that creates desire. Mastering words understood to be true within a particular discourse, like agriscience, results in the mastery of “knowledge” about agriscience. This knowledge generates desire to be recognized as someone who knows true things and who says true things. If such recognition is given, ample economic and personal rewards certainly follow (e.g., employability, stability, desirability, etc.) Being recognized as one who says true things is desirable, because rewards are associated with that recognition.

Compare this example to consequences that befall utterers of statements understood to be false, such as “animals are not personal property.” If those statements interfere or disrupt animal enterprises, the utterers may lose their liberty and eventually be labeled as federal felons, along with all of the negative experiences that go along with that. This illustration is taken up in detail in chapter three.

Of course, the assertion that “animals are not personal property” is understood to be true within particular subjugated bodies of knowledge, though the power associated with that knowledge is proportional. So, a person who says “animals are not personal property” may be recognized as someone who says true things within a particular way of knowing and be rewarded as such within that particular way of knowing.

To sum up the example, in order to be understood as someone who says true things, a person must engage in certain discourse. And, for the present discussion, to study power-knowledge relations related to discourse about the animal requires identification of the animal *as object*, fields of knowledge within which the animal is object, the “knowers” in those fields of knowledge, and what exactly it is that they are discussing as object.

### **The “essential political problem”**

Examination of once-knowledge and attendant power apparatuses on their own terms brings today’s understanding about animals into sharper focus for what it is – just another story. Not the first. Not the last. Not the “truer” by virtue of its present place on the timeline.

Finding an ideological truth is not the goal of this project. Instead, the work provides a theoretical context from which dominant and recessive discourses about animals can be described. But to what end? We shall remember Foucault’s general framing; viz., the important inquiry is not, What is *true*? Rather, the question is, *What is the politics of truth* that allow truth claims to be made and authenticated (Foucault, 1980,

p. 132, 133)? Words about animals are examined as evidence – not for their objective truthfulness but, instead, for the fact that they appeared at all, much like the ne'er to be seen again Falaise fresco.

Examination of divergent discourses about animals provides a portal into the *politics of animals*. The politics of animals is the push and pull of knowledge generated and perpetuated about them, together with concurrent power apparatuses in support of that knowledge and the ever-present resistance to that power. The focus of this project then is not on ascertaining what is true about animals. Instead, it is on providing a theoretical context to the politics of truth about them. Assessment of whether a new politics of truth can be constituted is, of course, what Foucault saw as “the essential political problem for the intellectual” (1980, p. 134).

Since the only things that humans can know are themselves, then an understanding of any referent – including animals – reflects human self-conceptualizations. This assertion is grounded the Nietzschean rejection of human ability to recognize (or to seek) a reality that is not ourselves (Vincent, p. 236). So the observation that a particular way of knowing about animals became knowledge or was once-knowledge is an observation about ourselves, viz. how we understand (or understood) ourselves in relationship to concepts that we create about other things. What pushes and pulls of “truths” and concurrent lures and penalties of power have shaped our understandings? Have shaped our politics? These are the things that we go to the mat for. And yet. And yet. Concepts change; realities change. The discourse about animals changes, and these changes reflect and create new realities.

To get at the politics of truth then, an inventory of what has passed for knowledge is useful for ascertaining whether a new politics of truth might be constituted. This is because knowledge is always imbued with power, power lies in every minute detail of knowledge, and resistance exists at every point of power resistance (Foucault, 1980, p. 133; 1978, p. 95). Recognition of the inevitability of resistance is itself a form of power. Identifying and describing power/knowledge/resistance as it relates or has related to animals is the labor of this project and contributes to the “essential political problem” relating to the animal.

### **Organization of the project**

This chapter sets out the necessary groundwork for this contribution to the “essential political problem.” It addresses choice of the subject of the animal as the focus for this work, and it discusses the use of Foucault’s work as theoretical and methodological models. It addresses the relationship between language and reality and why that matters in a project concerned with dominant and subjugated discourses. It also defines key terms.

Chapter two addresses two particularly powerful contemporary discourses about animals – those emanating from law and from lines. As discussed there, the discourse of law holds that animals are personal property. Error statements about animals, or statements that are not considered to convey “truth” about animals, are discussed to illustrate how they are explained within the discourse of law so that they cohere with that particular way of knowing, thus smoothing down seeming inconsistencies or creating

outright paradoxical “truths.” However, remaining true to Foucault requires questioning such explanations. Specifically, those errors are viewed as resistance to the power inherent within knowledge. That is, in fact, the way that error statements are viewed in this project. The discourse of lines is another discourse that illustrates how language works to shape the form of our knowledge about things. Specifically, the discourse of lines requires us to see parts, rather than wholes.

Chapter three discusses the corrigible nature our knowledge about animals by examining the power apparatuses associated with our present way of knowing vis-à-vis points of resistance and buried once-knowledges. It describes the buried knowledge of animals as “living beings” in trade to an understanding of them as “personal property.” It introduces the idea of conceptual blindness to animal *being*, which is addressed in chapter four, and shows that this blindness is a present limitation on our understanding of the animal. This chapter also describes the emergence of an academic discourse about animals as an insurrection of subjugated knowledge, which may delegitimize the “Truth” of the dominant discourse, including the discourse of law and the discourse of lines. Of course, no prediction is offered on the point. Change in knowledge occurs, but it may not be a function of logic. “Delegitimization of discourse” simply refers to a recognition that other, competitor discourses exist, which may be considered as “true” within other ways of knowing and which provide resistance.

Chapter four examines the concept of conceptual blindness to *being* present in modern times. It also addresses disperse statements and discursive formations, to examine the concept of conceptual limitations on the possibilities of knowledge.

Chapter five examines parallel discourses – discourses that are now dominant about animals and that were once dominant about other beings, including slaves and women. Stories that were once-knowledge about non-animals no longer have truth-telling power, though they still exist as recessive discourse – something considered error today. Chapter five does not provide an evolution of conceptualizations about beings, and it should not be read that way. Its purpose is to illustrate the changeable nature of knowledge by highlighting the discursive formations that exist independently of the referents. When these discursive formations are dominant, they are thought to convey knowledge. This knowledge is corrigible. What may be thought true today may be thought error tomorrow. This observation suggests that what we think we know about animals may change, if the relationships between events that exist at a given time require the burbling up of a new way of knowing about them or a recessive discourse about them. Indeed, this is what has happened with other referents that were once the object of parallel stories now told about animals. When considering the essential political problem regarding whether a new politics of truth can be constituted about the question of the animal, an understanding of the corrigible nature of knowledge can prove useful. Quite simply, it indicates that change itself occurs, and this change is consequent to the conditions that give rise to its occurrence. From a Foucaultian perspective these changes are not predictable, though they may be retroactively traceable.

### **The animal as a subject**

What happens to animals at the hands of humans has not been much of a going concern, particularly in politics, or among policymakers, lawmakers, or government

officials. But that may be changing, given the rise in discourse about animals in modern academic circles. Contemporary thinkers in moral philosophy, political theory, and law have recently addressed the question of the animal. For example, Nussbaum (2006) argues that animals should be permitted to flourish within each species' capabilities, without negative interference from humans. Regan (1983, 2001) and Sunstein (2002) argue that animals have rights that should be recognized. Singer argues that the suffering of animals should be taken into account when making decisions about whether or not to use them for food or other human interests (2002). Francione (1995, 1996, and 2000) and Wise (2000) argue that the legal status of animals should change, so that they are no longer considered as property, and until such a change is made, animals will continue to be exploited. Steiner (2005) argues that the moral status of animals is on par with humans. Derrida (2008) and Agamben (2003) question whether the distinction between humans and animals is sound. Ackerman & Heinzerling (2002) and Batie (2008) criticize the use of traditional rational choice policy tools as inapplicable to questions concerning animal protection. Calarco (2008) argues that the animal issue should be a prominent point of focus among philosophers. DeGrazia (2006) argues that animals should be included in the moral community. Garner (2002) argues that animals should not be treated inconsistently in law, if animal protection is the goal, though he argues that the status of animals as property need not be abolished (2005). Stone (1972) suggests that animals could be given legal standing.

Like Foucault's subjects – the mad, the ill, criminals – animals exist at the margins of the main. It is precisely because animals are marginalized and politically

disenfranchised living beings in our society that they constitute an appropriate focus of study. They are marginalized because what happens to them has been, at best, an issue at the fringe. Though thinkers have contemplated the question of the animal throughout western history, it rarely appears in the foreground of public concern. Animals are politically disenfranchised because they have no (or extremely limited) recognized legal interests. They are living beings that social forces work upon, affected by rules that they neither created nor can participate in. They are without a representative voice of their own. Advocates for animals exist, of course. But advocates use human voices. The point here is that animals themselves do not have a voice that can convey language that can be unambiguously understood by humans. (Of course, humans also do not possess a language that can be unambiguously understood.) Notwithstanding that parenthetical fact, animals do not have human language, which appears to be a threshold requirement to participate in political discourse. Consequently, animal interests are generally ignored or not understood.

### **A Foucaultian perspective**

This work uses Foucaultian methods, and it relies upon Foucault's concept of power. Foucault's projects are mined for the methods by which he analyzed his subjects and for his theoretical contributions, developed and demonstrated through his own analyses, which ultimately revealed a unique understanding of those subjects. Foucault himself left no record of having considered the question of the animal within the context of his *oeuvre*. Then again, suspension of a concept of what may or may not constitute

Foucault's *oeuvre* as a self-contained unity of his works is itself a Foucaultian concept *par excellence*. This is because, as Foucault argued, an author's *oeuvre* cannot be conceived as a unity represented by only his published works, since it must also include determinative forces that worked upon the author himself, as well as things like the author's unconscious thought, imagination, unpublished scribbles and verbalizations of all sorts (Foucault, 1972, pp. 23 - 24). So, in short, we cannot really know whether Foucault considered the question of the animal within the context of his theories – unconsciously or consciously, verbally or in unpublished scribbles – though we do know that he left no published writings directly on the point.

Of course, other theoretical orientations could have been used to examine our knowledge about the animal. Doing so, however, would require a different project altogether. For example, if historical determinism were the lens through which an examination of our knowledge about the animal commenced, much greater stock would need to be placed in histories of *ideas* about them, because history would be seen as an unfolding but predetermined story. Such a commitment would require ignoring or explaining away the once-knowledge about animals inconsistent with that story.

But ignoring a body of knowledge brings us no closer to any truth than explaining it away by a story. Only by suspending the idea that history holds meaning may we examine once-knowledge on its own terms. Such a suspension, however, is at odds with historical determinism. To ascribe to historical determinism for the present project, we would have to accept that history itself has meaning, and that to be at any point on that historical timeline is to accept that we are moving linearly and in a predictable fashion to

the next point – presumably somewhere better (e.g., a classless class-less society or wherever our powers of reason shall lead us), according to the economic and political forces that placed us in that spot to begin with.

Additionally, historical determination would require a different understanding of power. For example, Marxism contemplates power as ideology (Foucault, 1980, p. 58). However, such an understanding of power as the thing that represses, oppresses, and punishes – as a negative force that controls – is a different conceptualization of power altogether than what power is understood to be from a Foucaultian perspective.

Foucault's understanding of power provides a finer-grained pixelation, in that it allows us to view power not as a solely negative thing that must lead to revolution by the oppressed on their journey towards emancipation. It allows us to understand power not as a predominant reigning ideology handed down to be overcome by those struggling against it. Rather, as discussed above, from a Foucaultian perspective, power's strength lies in its ability to create knowledge that creates desire (Foucault, 1980, p. 59).

Moreover, other theoretical perspectives may not be fruitful for examining knowledge about the animal. In a Marxian scheme, for example, animals are commodities owned by another as objects of trade or wealth. Historical determinism does not provide us with an alternative way to view them within the struggle. This is because they cannot be a class unto themselves since they do not participate (other than as commodities) in the economic system. Marx himself distinguished man from animal at a fundamental level. For Marx, animals and their life activities are synonymous (Marx, 1844). This is a key point because, for Marx, animals do not become alienated from the

things that they produce. The indistinguishable nature of animals from their life activities, and the Marxian conception of lack of consciousness and free will in animals, requires an understanding of animals that they engage in activities for free. Animals produce things according to their species and for their immediate consumption. In contrast, for human beings, human life activities and the human species itself are objects of human consciousness, and they are a means to existence rather than the existence itself (Marx, 1844). For Marx, human life activity and human beings themselves are objects of will, which is quite unlike animals.

To examine knowledge about the animal from a Marxian perspective would require great machinations to view animals as a class of beings struggling against oppression and on the road to predestined revolution. Marx's own remarks that animals do not become alienated from self through loss of the things they produce would have to be ignored.

However, a Foucaultian perspective can be applied to the Marxian perspective to illustrate how Foucault allows us to step outside of boundaries of knowledge to consider the question anew. For example, from a Foucaultian perspective, we may question whether a Marxian observation that animals lack consciousness or that they work in a manner that does not alienate them from their produced goods is simply a parroting of what is considered knowledge (Marxian knowledge). Competing discourse has it that animals understand property rights (See e.g. Bradford, 1946). However, if we understand animals to behave without a will toward knowledge, such phenomenon will be explained in a manner consistent with those beliefs.

### **Language and reality**

The concern here is with the identification and descriptions of dominant and subjugated discourses about animals – together with their claims to truth, related power apparatuses, and resistant discourses. As a preliminary matter then, it is necessary to set forth the meaning of terms related to language, such as *discourse*, *statements*, *truth*, and *regime of truth* as they are used in this project. This is because we are primarily interested in power/knowledge/resistance as those things manifest or have manifested in various dominant and subjugated discourses about animals. Let us begin with a few definitions related to language.

A *discourse* is an application of language; it is a language event. So, for example, to understand what passes for or has passed for “truth,” we must understand what is meant by “truth” and how such “truth” has been conveyed. We must also recognize that resistance to “truth” may not be absolute error, but quite possibly the eruption of a subjugated discourse that once was understood to be the “truth.”

A discourse is comprised of *statements* that occur in relationship to other statements, which are weighed and measured for their veracity and substance by how they fit within the “truth regime” (Foucault, 1972, pp. 80, 86). Foucault did not identify “regime of truth” in this passage. However, he described it.

The statement is [...] a function of existence that properly belongs to signs and on the basis of which one may then decide, through analysis or intuition, whether or not they ‘make sense’, according to what rule they follow one another or are

juxtaposed, of what they are the sign, and what sort of act is carried out by their formulation (oral or written). [A statement] [...] is not therefore a unit, but a function that cuts across a domain of structures and possible unities, and which reveals them, with concrete contents, in time and place (pp. 86 – 87).

Foucault described '*régime*' of *truth* this way: “‘Truth’ is linked in a circular relation with the systems of power which produce and sustain it, and to effects of power which it induces and which extend it” (1980, p. 133). As for *truth*, Foucault noted that it “is to be understood as a system of ordered procedures for the production, regulation, distribution, circulation and operation of statements” (1980, p. 133).

So, we can see quite plainly that for Foucault – and for this project – “truth” is a thing intertwined with power, and it needs power to maintain its position as “truth,” or its regime of truth. When change occurs, it occurs within language. A discourse or simply a statement may appear that is not “truth,” but utterly disunified from the regime of truth in a particular way of knowing. Such a discourse or statement might likely be considered as *error* within that particular way of knowing. It most certainly is a resistance to the dominant way of knowing if it is a claim of truth.

“Error” refers to truth claims that are labeled as not true within the discourse of any particular field of knowledge. Error is knowledge, and it is a point of resistance. Words that assert that animals are not personal property are examples of error, because they are points of resistance to power inherent within the knowledge carried by words within our particular way of knowing. Resistance exists at every point of power (Foucault, 1978, p. 95).

Though this project does not address language philosophy, it is nevertheless useful to briefly discuss the relationship between language and reality, because discourse is an application of language. The purpose for this section then is to set forth the nature of language vis-à-vis reality, because it is through language that we understand animals (or anything), and it is through language that human beings have conceptualized them in ways that seem alien to us now. It is through language that changes in reality occur.

Any given reality about animals is created by human language. Reality either does not reflect an objective truth about them or, if an objective truth was reflected by our language, the fact of its objective truthfulness would not be discernable. These claims, once exposed, can help us discern the changeable nature of our knowledge about animals with a less fervent eye than what might exist from a position naïve about other realities.

The first claim is that human language creates reality. Leaving aside the word “human” for a moment, the assertion that language creates reality, of course, is not a novel argument. It is simply a rejection of a correspondence theory of truth, which basically holds that there is a direct correspondence between what is out in the world and what is said about it. Since the premise “language creates reality” is the embodiment of the rejection of the correspondence theory of truth, it is useful to note that – as used here, this statement represents a consistency with a coherence theory of truth. Specifically, whether something is true or not true is related to other statements. This project is not an exposition in a coherence theory of truth, but to the extent that it is based upon that perspective – viz., that any truth understood to be present or not with any utterance or writing is merely an understanding about how those utterances or writings cohere with

other utterances or writings that have already been so cast (true or not true) – the project generally embodies a coherence theory of truth.

Language is something that works through us, extracting meanings from things (Foucault, 1970a, p. 228). If language extracts meanings, then concepts – and concept *is* meaning – are not formed by human will. Additionally, as Foucault pointed out, this requires us to recognize that our will to truth (or knowledge) is a type of exclusion that governs discourse. Our will to truth or to knowledge is a manifestation of power (1970a, p. 216, 219, 229). This is because the assertion of “truth” excludes or demarcates people (Foucault, 1980, p. 132, 133; Foucault 1954 – 1984, p. 443). Our will to knowledge has nothing to do with discovering true things. Instead, it has to do with establishing what people can say about things. And, of course, what Foucault himself was interested in was discovering the conditions that governed language – how they emerged, what the price for that emergence was, and their effects on reality (Foucault, 1984, p. 460). Rather than being formed by human will, concepts or meanings are formed by language, combine to provide understandings, and those understandings constitute our reality. In short, language creates our reality.

As used here, *reality* is human understanding about a thing or about a concept. The claim that human language creates reality is not an assertion that the act of human audible enunciation creates physical objects. The existence of physical objects is independent of language but these “objects” lack meaning outside of language, because language constitutes the meanings of those things. The “brute facts” that make up the tangible world are understood to exist (Davis, 2005, p. 45), though they are inarticulable,

unknowable, and meaningless without human language. Language itself is contextual vis-à-vis other words and the culture in which it arises. Language precedes concepts, carries connotations from prior uses, and cannot fully capture meaning.

So, in short, tangible physical objects are understood to exist without human language, though without language they would be meaningless. Likewise, intangible laws of physics, such as the law of gravity, are also understood to exist independently from human language. However, unlike the intangible laws of physics, intangible concepts such as equity, justice, cruelty, and fairness – exist entirely through language, without which those concepts would not constitute any part of reality. For an intangible concept to constitute part of reality there must be a human understanding about it. For there to be human understanding about it, language must give it form.

So, reality is a consequence of language; that is to say, language is antecedent to reality. Language itself embodies culture. Since language embodies culture, reality is therefore understood to be culture bound and contextually dependent within the language that is used (see e.g. Davis). Moreover, what is understood as knowledge in any given reality is dependent upon and relative to the rules that allow a statement to be understood as true. Rules of language create context, and context creates rules for labeling statements as true or not true. Truth, therefore, is created. What seems rational today may seem irrational tomorrow, and what passes for knowledge today might be rejected tomorrow (Gutting, 2005, p. 78).

The second claim made in this section is that any given reality about animals does not reflect an objective truth about them, or if a given reality about animals reflected an objective truth about them, we would not be able to ascertain whether we had attained that Truth. Let's also revisit the word *human*, which comprises part of the first claim ("*human* language creates reality"), but was momentarily set aside at the outset of the discussion in this section.

The word "human" makes explicit an assumption. When the unmodified assertion is discussed ("language creates reality"), by implication we mean that *human* language creates reality. Those beings that cannot contribute to or participate in *human* language – no matter how passively – are still enmeshed in *reality* created by human language. This reality is expressed by and through the will to knowledge, which, as might be recalled, is a manifestation of power. Moreover, when considering texts, it is useful to remember that an omniscient knower of objective truth had no hand in their creation. Indeed, writings about animals have been created – that is, set down – by the uniquely human perspective, imbued with individual humans' interpretations about things that can only be understood within the context of language and the rules that allow things to be said and understood as true or not true.

Animals are objects in the human experience of reality. Once labeled by human language, they become something. They may be pets, commodities, gods, beasts, brutes, or something else entirely or even nothing at all. But even to say that they are "nothing" in the conscious sense of the word – in the *knowing* that they are there – that is still a

statement about their affirmative place in reality, e.g., they exist as nothing. If they are labeled by humans, then they are there, even if they are labeled as nothing. The labeling by human language creates a reality about them that reflects a particular way of knowing, or knowledge, about them. If we hear scratching in the walls of our home, we might say, “Oh, that’s nothing.” But that *nothing* will gnaw at our thoughts until we are forced to label it with something more substantive. Rat. Mouse. ‘Possum. And, of course, substantive labels place the animal in our reality in the same way that an ethereal label of *nothing* does.

Animal language – their language – and certainly enough evidence supports the assertion that animals have language peculiar to their own species – may or may not create a reality about humans from an animal perspective. Indeed, we cannot know with certainty what object humans have become, if any at all, in any animal reality, which may or may not exist or be created by their language. We may think we know something, but we are always discussing concepts within the confines of other concepts. For example, prairie dog language has been seemingly been decoded. Their language allows prairie dogs to make distinctions between specific human beings related to height and shirt color (Abumrad & Krulwich, 2011). To make such an assertion is to recognize that statements are permitted to be made within the language of science, because the scientists undertaking this experiment have followed certain rules that have allowed their statements to be adjudged true. So, we can say, “Prairie dog language allows prairie dogs to make distinctions between specific human beings.” But we do not really know what *object* humans have become to prairie dogs, if anything at all. Perhaps we are gods,

beasts, brutes or something else entirely. Of course, the concepts of god, beast, and brute are all human concepts.

Though human language has captured other beings in reality by labeling them, humans remain oblivious to the effects of any animal reality created about humans through animal languages. While all of this may indicate that there is something fundamentally influential about human language in the creation of reality or that there is something fundamentally inferior about animal language, what it certainly indicates is that humans can only perceive the reality created by human language. That is to say that they can only understand reality that they themselves have created through human language, generated from a human perspective. Therefore, any knowledge about animals can only be known from a human perspective, because it is from this perspective that human language assigns labels to objects and thereby attaches meanings to things.<sup>8</sup>

However, human perspective does not represent objective truths. Reality is perceived through the human perspective, which is the only perspective from which we can know anything. Human perspective and objective perspective do not mean the same thing. Human perspectives may well differ from person to person and from culture to culture. Perspectives may differ between any one and a number of other persons. Human perspectives are diverse, but they all have one commonality: they emanate from human beings. An objective perspective would be one that distills absolute objectivity from any perspective. It may capture absolute "Truth." This would, of course, reflect a correspondence theory of truth.

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<sup>8</sup> The work does not explore Wittgenstein's comments about animals, language, and reality.

Whether or not there is something outside of language that is an objective reality is unknowable. If an objective truth about animals or anything at all does exist, it would not be recognizable as objective truth, because we have no standard against which to measure it outside of human perspective. Such a truth, if it exists, may be perpetually elusive, and there would be no way to ascertain whether we attained it. Moreover, the issue here is not *whether* objective truth exists.

Instead, identification of subjugated and dominant discourses that have passed for “truth” and knowledge about animals, and recognition of the inevitability of resistance – which is itself a type of power – allows us to reach the essential political question regarding the politics of truth about animals. That is, can a new politics of truth about animals be constituted? It would seem so. This is not a prediction, but merely an observation of the potential for change to occur, regarding what we perceive to be “true.” Language creates reality. Language changes; reality changes. Knowledge about animals is relative to language, culture, and rules. And resistance is ever present. Whether or not a new politics of truth can be constituted may be a question of whether new “truths” about animals can emerge and be adopted as a discourse. Excavation of competing discourses and recognition of the changeable nature of the “truth” about animals today provides a theoretical context by which we can consider the question.

### **What the term “animal” refers to in this work**

The term *animal* is defined so that we can understand, to the greatest extent possible, what it is that is being discussed in this project. Specifically, it is necessary to

identify what referents the word animal labels, and what is meant by the word animal when it is used. So there are two different issues that must be addressed. First, what does the term *animal* refer to? Second, what meaning (or concept) does the term *animal* convey? The first question is taken up here. The second is addressed in the next chapter, in its description of the meaning of animal in the context of law and the discourse of lines, both of which are powerful contemporary discourses.

As Derrida (2008) observed, the term *animal* encompasses all animated life that humans do not recognize as themselves (p. 34). The word itself obliterates the many differences between nonhuman species on every level – physical, mental, and social. When humans apply the label *animal* to the other who is *not human*, all differences between those many different types of beings vanish, with but a word. To say, “Look! There’s an animal!” is to convey little about the referent besides its *otherness*. And this dissolutive understanding of *animal* foreshadows complete conceptual absenteeism of the referent itself at many points in each person’s day – such as mealtime and dressing time – thereby parlaying the bits and pieces of corpses absolutely into abstractions (*e.g.* Adams, 1990).

For now, however, let us simply focus on what the term animal means in the most concrete sense. The term animal refers to members of the kingdom *Animalia* that are not human beings, including mammals, fish, reptiles, and birds. No attempt is made here to delineate all members included in the term animal. More importantly for this project, a description is offered concerning what is meant by identifying the broadly defined term and then excluding those not included within the term. The phrase “members of the

kingdom *Animalia*” refers to the taxonomic rank in biology known by the designation *Animalia*, which includes multicellular organisms that are not bacteria, algae, fungi or other plant life. In common parlance, of course, the term animal includes biological animated organisms that are not human beings. In certain disciplinary language, like biology, animal includes human beings. As used in this work, the term animal refers to any living being that is not plant matter and that is not a human being.

To be a *being* is simply to be animated. To be animated is to possess or be possessed by life, spirit, or the function of repetitious expiration of breath. Whether beings can reason, experience the sensation of pain, fear, or frustration of confinement, form social attachments, or plan for the future is not relevant to this work. This point is underscored, because many of the contemporary debates about animals center upon the likeness or unlikeness of animals to human beings, in order to demarcate the line of inclusion or exclusion in various moral theories. Whether viruses, mites, and aphids meet the criteria for inclusion in someone’s theory of rights is not a relevant question for this work. Though insects, shrimp, snakes and certain other members of the kingdom *Animalia* might not arouse sympathy in a majority or significant minority of humans, the arousal of sympathy is not relevant to the present work. The term *animal* in this work includes both charismatic species, such as elephants and polar bears, and non-charismatic species, such as those just mentioned. The term “charismatic species” is a term used in conservationist and preservationist writings and refers to animals or plants that people like, because they are beautiful, perceived as cuddly, or create some other positive emotion within the person viewing or thinking about them. The animal has charismatic

appeal because it is attractive in some way. So, taken altogether and stated quite simply, the term *animal* here refers to *beings* that are *not being human*.

Before leaving the idea of animal as the Derridaian *other*, a useful comparison can be made between the flatness in meaning conveyed by the word animal with the rich attributions of meaning associated with the term human being. The label human being carries meaning beyond that of mere biological description. Of course, the label human being conveys an understanding that the being is human in the biological sense, and not nonhuman or other. But human being also conveys a manner of being, viz., of being human. And this manner of being, of being human, conveys an understanding of a being imbued with meanings (concepts) such as rights, duties, dignity, and individual potential. When a being loses that state of being human or never attains it at all, we might believe or become convinced that he, she or it is not rightfully attached to those concepts or, more correctly stated, that those concepts are not attached to it. To illustrate, consider the case of a being that has once been a human being, but has then become an animal – even momentarily – such as in cases of cannibalistic serial murderers or child killers. We might say that such a human being became an animal, and should therefore not be entitled to rights. Indeed, without a rule of law that protects “rights” in such cases, such a human being might not enjoy rights at the hands of society or his victim’s family. Outside of our society, we might not recognize such a person as a human being at all or, conversely, we might recognize the person as doing something within the range of activities that human beings engage in.

But, let us leave the question aside of a human being becoming an animal, because such a referent carries residual notions of being human and all that attaches to it. Our rule of law trumps the inclination to dismiss rights of a human who has become animal-like. However, for this immediate discussion, we need not set aside the concept of a being that has never been a human, though potentially could become a human. We could, for example, discuss the concept of the American savage, later understood to be an Indian or a noble savage, who was later understood to be a Native American. However, the present history has formed around Native American human beings to such an extent now, that to consider those beings as not being human seems strained, fictional, and almost too abstract for useful illustration – though the existence of an interesting – though yet unuttered – critical history of thought on the point perhaps beckons.

But consider the case of a fetus, which is a being who has not yet been but could become a *being* being human. A fetus may or may not be imbued with concepts such as rights, depending upon our understanding of its status as being a human being. If the fetus has not yet been human and is not being human, then the concept that it is something not imbued with human rights is understood to be true. However, if the fetus is understood to be a human being, or a being who is very nearly a being who is being human, then the concepts associated with the label *human being* fully attach. For example, a third trimester fetus might have certain rights, but a first trimester fetus might not. These hedges relate to and are dependent upon laws – which are tools of power (Foucault, 1980, p. 141) – concerning jurisdiction, age of mother, and circumstances of conception. And so different statements about the same referent really have nothing

whatsoever to do with the referent itself, which in its ever-changing form has not changed: if left alone, it will become a human.

When an animated being is labeled as an animal being rather than a human being, we stumble upon a peculiar story that constitutes our present reality. It is peculiar, because the same story has been told about other animated beings at other times, though as applied to them, the story is now understood to be not true. The story has lost its truth-telling powers about all animated referents except for animals. The story itself is quite simple. As applied to animals, it goes like this: When we say that a particular object is an animal, we understand on the one hand that we are referring to a tangible physical object in the world that is a *living being*. However, on the other hand, we also understand – at least in modern western civilization – that we are referring to *personal property*. The term *personal property* means tangible, moveable property subject to ownership interests that is not real property or intellectual property.

For all other animated referents besides animals, the story that they are both living beings and personal property is understood to be false. Yet those stories exist about other living beings in history. This does not illustrate that animals are progressing “out of” that story. Instead, it illustrates the changeable nature of truth. Chapter five addresses these parallel stories.

As a final note to this section, the definitions here are not stipulated as unchanging facts. They are offered so that one might understand what is being discussed by the present work. These definitions should not be construed as an absolute imposition

of an understanding or a fixed sense of “meaning” upon them. An understanding of the subject of the animal, of course – like any subject – is always enmeshed in its historical-social context.

### **Scope and Limitations**

This project is a critique of thought concerning the conceptualization of animals in western civilization. This project examines other ways of knowing about animals and describes the present way of knowing about animals from the evidence gathered (i.e., texts) by applying Foucault’s theory of power. Silence concerning other, non-western ways of knowing about animals is neither a statement about nor a comparison to the history of thought presented here. This project does not address any ways of knowing about animals that may exist among non-western peoples.

This project does not do many things. Throughout the project, I have attempted to address specific potential objections to the work as it unfolds, so that those objections are integrated into the course of discussion, rather than corralled in a dark corner of the manuscript where a reader quite reasonably might forget about them.

This chapter set forth the groundwork for this project, which contributes to assessing the “essential political problem” as it relates to animals. It discussed the choice of the subject of the animal as the focus for this work, as well as my choice to use Foucault’s work as models, both theoretically and methodologically. The chapter also addressed the relationship between language and reality, as well as providing key

definitions for terms related to language that are used throughout this project. It discussed why the relationship between language and reality matters in a project concerned with dominant and subjugated discourses. It also discussed what is meant by the term animal within these pages.

Throughout western civilization, many stories about animals have surfaced, been adopted as “truth,” and later discarded, as new stories have emerged. This work contributes to our understanding of knowledge by examining the emergence and fall of particular ways of knowing about animals, without attempting to create a narrative to link those ways of knowing to one another.

Foucault’s insistence that we do not closet inconsistencies with the metanarrative of history is essential to the present project. If it were not, then the fact that animals once stood trial for criminal offenses would have to be ignored or explained away. Of course, historians of *ideas* have done both. As we shall see, there are many ways of knowing about animals that have been closeted. It is the work of this project to open up the closet door, shine the light about, and have a look around, so that the question might be asked: what ways of knowing about animals developed into great boughs of knowledge while others withered on their branches?

## Chapter 2 Contemporary Discourses about Animals

In chapter one, the idea that animals were the appropriate subjects of criminal punishment for their actions was introduced as a way that animals were once understood in a different time and in a different place. This conceptualization of animals, along with the attendant power apparatuses that generated and perpetuated it – such as use of the courts, executioners, jailers, and letters of pardon – has been essentially forgotten. The discourse about animals changed. Reality changed. But once-knowledge that animals could be held liable for their criminal acts is an example of a discourse within our inventory of what once passed for knowledge. Our job here is to accept that way of knowing on its face, to recognize the truth claims made within that way of knowing were subject to evaluations for veracity based upon that particular way of knowing, and to resist inclinations to explain away that way of knowing as an aberration or as evidence of widespread delusion from our predecessors. It emerged as an historical contingency, and the conditions that allowed it to emerge may not be discernable. And so we must accept that discourse and the knowledge that it conveyed as “true” in the time and in the place in which it appeared.

Recall, too, that the essential political question is whether a new politics of truth can be constituted. Identification and descriptions of different ways of knowing and the ever-present power apparatuses, as well as recognition that resistance is always present at points of power, suggest an affirmative answer to that question. Indeed, such a new constitution seems possible, because all truth is corrigible, though it may be outside of

our ability to force it. What passes for truth today may pass for error tomorrow. As will be introduced in subsequent chapters, several subjugated discourses about animals have existed in different times and in different places. Understandings about animals did not evolve. They simply changed. They emerged.

Before addressing other ways of knowing, however, it is useful to sketch the lay of the contemporary land. This will be done by describing two dominant discourses about animals. These ways of knowing – today’s knowledge about animals – are generally accepted as “true.” Of course, other “truths” about animals exist today – some of which will be addressed in subsequent chapters. Those other ways of knowing either sit easily in a non-conflicting manner with the dominant discourses of the day about animals, or they represent points of resistance. These may be “insurrection[s] of subjugated knowledge” (Foucault, 1976, p.7) or altogether new ways of knowing.

Subjugated knowledge means two things. First, it is “historical content[...] that has [...] been buried or masked in functional coherences or formal systemizations” (Foucault, 1976, p. 7). So, for example, the explaining away of the events at Falaise as something that “make sense” in our unbroken history would be an example of historical content that has been masked in a functional coherence. Second, subjugated knowledges are “systems of knowledges that have been disqualified as nonconceptual knowledges, as insufficiently elaborated knowledges: naïve knowledges, hierarchically inferior knowledges, knowledges that are below the required level of erudition or scientificity” (1976, p. 7).

In either case –the insurrection of subjugated knowledge or the appearance of an altogether new way of knowing, emergence of ways of knowing that are not the dominant discourse may de-legitimize knowledge (“truths”) of the dominant discourse. Subjugated knowledge may challenge the dominant discourse, but it need not delegitimize it.

The first discourse addressed in this chapter is the manner in which animals are understood in law. The discourse of law is powerful regarding any referent, of course. Indeed, laws are tools of power (Foucault, 1980, p. 141). Not only does law set out the rules that proscribe, permit, or require behavior, but it also shapes the very way that our society functions. Resistance to this tool of power known as law carries potentially serious penalties, thereby perhaps rendering this particular tool of power more effective in controlling bodies than those with weaker penalties associated with them. Additionally, we benefit from not resisting the law. With respect to animals, human beings may use the power generated by law to gain wealth, for example, by ownership, trade, and use of them.

Additionally, the *discourse of lines* is considered in this chapter. The discourse of lines is simply comprised of lines that convey meaning when superimposed upon a representation of the whole of something. These, for example, can be cartographic lines, star charts, or plat maps. For the present purposes, meat cut charts are relevant. This discourse is comprised of lines that are understood to be knowledge. This discourse specifically conveys the knowledge that that wholes may be split or be disassembled.

### **The Discourse of Law**

Today, the term *animal* is understood to mean personal property. This is because law language conveys meaning that animals are primarily property. That has the effect of committing human beings to understanding them as property. That animals are personal property is a well-settled area of law in all fifty states (Wise, 2000; Waisman, Wagman, Frasch, 2002). The concept that animals are a form of personal property has deep roots, extending to the earliest known written laws. (For an interesting discussion see e.g., Wise, 1996, pp. 476 – 505). Animals can be purchased, sold, and bequeathed like any other personal property. Animals on public lands are chattel of the government jurisdictions upon which they are positioned or through which they move (e.g., marine mammals in federal waters), and animals in private hands are chattels of private owners. Statutes refer to them as personal property, and judges consider questions of their ownership in terms of property analyses. For example, common law personal property acquisition concepts have been invoked to vest title in animals, when ownership has not been attained through purchase, gift, or bequest. For example, in *Mass. Soc’y for the Prev. of Cruelty to Animals v. Comm’r of Public Health* (1959, p. 226) stray dogs were deemed lost or abandoned property.

The legal institutions within which laws have been created give authority to the writings themselves that emanate from within the confines of that discipline. The knowledge conveyed by legal writings is presumed true, because the writings emanate from persons who hold an “office of authority to speak.” These persons have the status of someone who “say[s] what counts as [the] tru[th]” (Foucault, 1980, p. 131). The

discourse of law creates a reality about animals that they are personal property, because the persons who state that animals are personal property have the status of persons who say true things. The words that emanate from the discourse of law also, of course, carry the mantle of authority – power – that is inherent in law.

Notably, of course, when we are submerged within a particular way of knowing, paradoxical “truths” are accepted. Recall that one part of subjugated discourse is their masking in functional coherences. For example, since animals are understood to be personal property, a question might be raised concerning how it is possible to be cruel towards them. After all, it is nonsensical to assert that one is being cruel to inanimate personal property, such as a table. Even if we intentionally destroyed a table with malice or great violence, we would still not be said to be cruel towards it. This is because a table cannot apprehend violence. It cannot fear the acts of cruel or vicious behavior. A table is not a property *being*. However, of course, an animal does possess a state of *being*, though the animal cannot express it in human language. Animals are at once capable of the first person singular of the verb *to be* (“I am”), but they are not able to utter it.

The term *animal* conveys a bifurcated concept. Animals are understood to be both living beings and personal property. This bifurcated understanding about animals allows us to ban cruelty towards them, because being cruel towards a being is abhorrent. But it also allows otherwise cruel behavior, because the concept of cruelty towards property is nonsensical. This bifurcated understanding about animals has permitted humans to engage in activities that are, at once, both proscribed and permitted. Specifically, while

our laws prohibit cruelty towards the referent labeled as *animal*, cruel acts may still be committed against them, because they are understood to be personal property. This is the cruelty paradox. This is true despite all U.S. states having enacted anti-cruelty statutes that ostensibly protect animals against cruelty (Waisman, p. 399). This bifurcated understanding has been generated through the discourse of law, and it perpetuates paradoxical truths about animals, such as the cruelty paradox.

A general belief persists that anti-cruelty statutes exist to protect animals for their own sake. However, this is not an accurate understanding of those statutes within our particular way of knowing. In other words, to assert that anti-cruelty statutes exist to protect animals for their own sake would be a statement of error within the discourse of law. This is because those statutes do not contemplate damages to the animal that has suffered cruel treatment for pain, suffering, or loss of life. If a human being douses a cat with accelerant and ignites the cat, the cat cannot seek damages to receive treatment for burn care, pain and suffering, skin grafting, and other veterinary services. There is no corresponding civil claim. Though the owner of the cat may be able to collect damages for actual costs for damage to his or her property of the cat, those damages would not be sought under criminal anti-cruelty statutes. An owner of an animal in that situation would need to bring a garden variety tort claim, non-specific to the animal itself – such as trespass to chattel, in order to press such a claim. There is no civil remedy for the animal because the discourse of law does not recognize any such claim, setting aside for the moment the obvious question of how such a claim might be uttered, even if the discourse of law recognized it. State anti-cruelty statutes are criminal laws, which serve to punish

the wrongdoer; they offer no remedy to animals for their injuries from cruel acts inflicted upon them. Animals do not have legally recognizable interests in their own bodies, because, within the discourse of law, it is legally nonsensical for property to have interest in their own body.

Within the discourse of law, animal welfare and protection laws exist to punish humans or restrict their activities rather than to create any legal rights or cognizable self-interests in animals. These types of laws do not do much to protect animals, but they serve as vehicles to prosecute those who would engage in activities that society as a whole finds abhorrent.

In such cases, as well as from the origins of the laws themselves, genuine interest in providing some legal protection for animals may exist. We would certainly expect to see such an interest, not only given concerns about cruelty towards animals, but also because the side effects of cruel behavior are thought to be detrimental to human civil society itself, according to our present way of knowing. For example, the consequences of human beings inflicting violence on nonhuman animals have long been contemplated. Speculation concerning the effects of violence towards animals – or indifference to violence against them – is that it deadens human compassion and sympathy, thereby diminishing those virtues that are so valued in civil society. This is very similar to the old prohibition against butchers sitting on juries, due to the common knowledge that such people would not have normal compassion that one might expect in a jury of one's peers (Willich, 1803, p. 452). This argument has it that violence towards animals harms human civil society, and, therefore, it should not be tolerated. A related observation is reflected

in criminal justice. Contemporary research suggests that the correlation between human and nonhuman violence is not trivial (*see e.g.* Linzey, 2009). Indeed, the U.S. Federal Bureau of Investigation considers the link to be so important that violence towards animals is regarded as a primary indicator of propensity of violence towards humans (Linzey, 2009, p. 2). Similarly, employment in a slaughterhouse has been admissible as evidence to show violent propensities against humans (*People v. Griffin*, 2004, p. 537). Here, the concern is not so much with a hardening of virtues important to civil society but, rather, with the predictive affects that abuse against animals portends regarding violence against humans.

Of course, there most certainly is a contemporary knowledge about animals that would seek to implement laws, such as anti-cruelty statutes, for the protection of animals for their own sake. But this contemporary way of knowing is a competing discourse, one that may sit uneasily beside the actual discourse of law related to anti-cruelty in which the focus is on prohibition of cruelty towards animals for the sake of civil society, but one that is not fully reflected in the discourse of law.

What shall we make of the general belief that persists that anti-cruelty statutes protect animals for their own sake? Is this a masked error in the functional coherence of the discourse of law, thereby rendering it a present-day subjugated discourse? Certainly assertions that anti-cruelty statutes *should* protect animals for their own sake would be easy to identify. Moreover, a reasonable *assumption* exists that this is the current state of affairs, given the natural relationship invoked between the word *animal* and the concept of living being, and the general abhorrence against cruelty to living beings. People who

work towards the passage or the strengthening of anti-cruelty statutes, or those who are content in the knowledge that such things exist, might reasonably believe that those laws exist to protect animals from cruelty. The common usage of words might reasonably lead people to draw such a conclusion.

But assertions that anti-cruelty statutes should protect animals for their own sake and discourse springing from erroneous assumptions that this is the current state of affairs are, in fact, errors within the discourse of law. These errors can either be explained away so that they cohere with the discourse of law or they can be recognized as resistances to the power associated with the knowledge created about animals by the discourse of law.

Note that the former position requires cohering error statements with statements understood to be true, viz., the discourse of law, so that they “makes sense.” For example, “Of course anti-cruelty statutes cannot protect animals for their own sake, because animals have no use for money damages! What would they do with a settlement or judgment? Besides, animals are personal property, and property has no interests in itself!” Such machinations deflate the statements of error by fitting them within the dominant discourse in a manner that coheres with statements understood to be true within that particular way of knowing. Doing so allows us all to continue forward, unperturbed, in our current fiction. Of course, such statements gloss over the obvious problem that such responses are oriented in the civil law part of the discourse of law, while anti-cruelty statutes themselves reside in the criminal law side of that discourse.

Recognizing errors as bona fide resistances to the dominant discourse of law potentially unsettles. It, at least, contains the seeds of disruption. It is there, of course,

where we might consider the essential political question, viz., can a new politics of truth be constituted? Though we cannot predict what we might come to know and the manner in which old ways of knowing may fall asunder, we can recognize statements of error as bona fide resistances, the accretions of which may altogether displace what we think we know as truth. Resistances to the dominant discourse that are overtly recognized as such by the discourse of law are addressed in the next chapter.

For now, it is useful to examine how statements cohere with other statements within the discourse of law, which can lead to conclusions that at once underscore the error that exists in statements that “animals are protected by law” and illustrate how the language of law creates knowledge about them, even paradoxical knowledge. For example, it is through the discourse of law that we understand that dogs and cats are not domestic animals, unless state legislative bodies have specifically identified them as such, and therefore they were once not protected under certain anti-cruelty statutes (see e.g., *Sentell v. New Orleans and Carrollton Railroad Co.*, 1897). How could such a statement cohere with other statements that we understand to be true? After all, dogs and cats have been hanging around the domestic sphere for thousands of years. Such statements cohere with the discourse of law by other words, viz., that cats and dogs are kept only for caprice, rather than for economic benefit. Since they do not labor and they are not used for food, clothing, or shelter, then they are not “domestic,” but only kept for a whim or pleasure. Therefore, the knowledge that we once had about them from the discourse of law is that a dog at large may be shot by a neighbor, and this would not be cruel. If damages are to be found for conversion, which is the substantial interference

with the use and enjoyment of personal property, those damages would accrue to the owner of the dog for the value of the dog as personal property. So, this is how man's best friend can be reduced to, say, \$5 in damages. The "truth" of this outcome is purely a function of the discourse of law.

Let us consider other examples. Extensive exemptions or limitations through the use of narrow or ambiguous labels weaken or entirely remove protection that might otherwise be afforded to animals. If we were to more properly label the laws themselves, then perhaps confusion would not exist on this point. For example, we might rightly refer to South Dakota's anti-cruelty statute as the "statute to criminally punish human beings who commit cruel acts against domestic animals, which are animals that have had a long association with man and have been bred to a degree that has resulted in genetic changes to make them unique from wild animals." If we did so, then we might understand immediately that this statute has major limitations (S.D. Codified Laws §40-1-1(5)). If we more accurately labeled this anti-cruelty statute, we might understand that it is not a statute to protect animals. Specifically, we would see that it only applies to undefined behavior directed at certain animals, though we would not be clear about which ones. Moreover, it might be a very easy thing indeed to argue that whichever animal is the subject of the alleged prohibited activity does not fit this definition. Or, we might argue that a human child is an animal, since he or she would fit nicely within the definition of domestic animal. This type of statute is easily gutted.

Within the discourse of law, judges generally employ basic tenets of statutory interpretation to determine the meaning of statutes. Specifically, they look to the plain

meaning of the words first. If the statute remains ambiguous, they look to legislative history and intent to discern statutory meaning. In interpreting anti-cruelty statutes, much rests upon what is an “animal” or “domestic animal” versus “wildlife,” “game,” “livestock,” or simply what is not an animal. This is because many anti-cruelty statutes are written to prohibit cruel acts relating to specific categories of animal, such as “domestic animals,” and beings that are not understood to be a member of the specified category are not contemplated under these statutes. Common sense might lead one to conclude that the beings that appear to be animals or that are referred to as animals in common parlance would be the appropriate subjects of such statutes, but such a conclusion would be far from certain. For example, judicial interpretations of key terms have led to members of the kingdom *Animalia* being excluded from the statutory contemplation under anti-cruelty statutes. This has occurred in relatively recent legal history, e.g. gamecocks are not animals (*State v. Buford*, 1958; *State of Kansas v. Claiborne*, 1973). (But note elsewhere, chickens are animals (*McDonald’s v. Steel*, 1997).) Wild animals not in captivity, specifically deer in this case, are not animals (*State v. Cleve*, 1999). Dogs are not domestic animals (*Sentell v. New Orleans and Carrollton Railroad Co.*, 1897), and cats are not domestic animals (*Sentell v. New Orleans and Carrollton Railroad Co.*, 1897, p. 702). Likewise, cats are not domestic animals, because they have no intrinsic value (*Commonwealth v. Massini*, 1963).

Of course, language changes and reality changes. In the discourse of law, precedents change, and new holdings contract or expand the legal understanding of what is animal. Additionally, modern state legislative bodies have passed carefully worded

statutes to include certain animals that would otherwise be excluded by common law, where animals without obvious economic value – such as dogs, and cats, kept for reasons other than food production, labor, or other economic activity – were without any legal protection by criminal anti-cruelty statutes (*Sentell v. New Orleans and Carrollton Railroad Co*). For example, “dog” or “canine,” “cat,” “fish,” and “equine animal” are often specifically listed as falling within modern statutes that exist to protect “pets,” though context is still key. Many examples exist on this point, e.g. a pet ferret is a wild animal (*New York City Friends of Ferrets v. The City of New York*, 1995); a pet wolf hybrid is not wildlife (*People v. Hepburn*, 1999); a pet cougar is a pet in Oregon (*Turudic v. Stephens*, 2001) but not a domestic animal in Ohio (*Warren County Combined Health District v. Rittenhouse*, 1997).

The end result of this type of judicial and legislative word wrangling is that many beings that look like animals, or that might be referred to as animals in everyday language, are not *animal* according law and, therefore, they are not protected by statutes that seemingly exist to protect animals but actually exist to punish people. Of course, even if they included within the class of property contemplated by such statutes, that would not change the fact that they are also chattel and subject to laws governing personal property.

State laws are not alone in excluding animal beings from the protection of statutes that otherwise might exist to protect them. Federal statutes, such as the Animal Welfare Act (AWA), exist to ensure that animals are provided with humane care and treatment (7 U.S.C. §2131 (1), (2)). However, many animals that most keenly need the protection of

such a statute are exempted from its reach. For example, ninety percent of all animals used in research are exempt from its protection (Waigman, et al, p. 521), because they are excluded from the definition of “animal” in that statute. Specifically, birds, mice, rats, certain horses, livestock, farm animals, and poultry are *not* animals under both the AWA’s definition of animal (7 U.S.C. §2132 (g)) and the United States Department of Agriculture’s (USDA) definition of animal (9 C.F.R. §1.1 “animal”). This is not to say that regulated entities choose to regard beings within their charge as “not animal.” Certainly, many researchers are concerned with treating animals in their care as living beings, presumably animal beings. The point here is not to speculate about how specific animals may or may not be treated. The point is merely that the discourse of law – together with its associated power apparatuses– have excluded certain beings that otherwise may appear to be animal from the definition of “animal” that it otherwise purports to protect.

Similarly, the Marine Mammal Protection Act (MMPA) is a federal statute that, based upon its title, would seem to exist to protect animals, specifically marine mammals. However, the MMPA explicitly seeks to protect the economic interests *in* marine mammals, by focusing on optimum sustainable population to ensure, among other things, continued viability of commerce in marine mammal products (16 U.S.C. §1361 Sec. 2 (2), (5), (6)). While this law most certainly does protect marine mammals in general from various harms, it does so as a tangential matter for the continued viability of commerce.

Of course, our existing laws relating to animals might simply be an affirmation that our system of checks and balances is working properly. For example, we could

observe that state judiciaries are simply doing their best to determine the legislative bodies' meanings given particular statutory language passed into law. Likewise, legislative bodies most assuredly could write more expansive or more pointed legislation if they chose to do so. Indeed, in the case of animals kept for whim or caprice – such as dogs or cats – we see state legislatures doing just that. The point here is not to criticize judicial interpretations of the statutes before them or the statutory work undertaken by legislative bodies, but rather to illustrate the paradoxical “truth” emanating from the discourse of law that allows us to say that animals are protected from cruelty, while ignoring or even sanctioning cruelty towards them at the same time. This paradox may be altogether missed by those who believe that anti-cruelty statutes exist to protect animals.

But how is it missed, when it exists in plain sight? The very existence of animal welfare laws and anti-cruelty statutes may lead to the belief among the general population that animals are adequately protected. Such laws frequently bear names that would lead one to reasonably hold such a belief, since those names often include words like “protection” and “welfare,” as illustrated by the federal statutes already mentioned. This schism between the perception that animals are protected by law and the reality much to the contrary is a consequence of the discourse of law that denies that members of the kingdom *Animalia* are animals. The discourse of law is a manifestation of power of the knowledge that animals are property, and this delimits our ability to see them otherwise. Errors are explained away so that they cohere with the discourse of law. They are not generally recognized as bona fide resistances to what we “know.”

When the discourse of law ostensibly protects animals, words that limit understandings of what constitutes “animal” often render those protections largely illusory. This is because there is a constant explaining away – a cohering – of statements that refine, demarcate, set aside, exclude and create knowledge about animals that is somewhat different than what the error discourse might understand. For instance, statutes seeking to define *animal* to prohibit cruel acts against them, or to set down rules to use them, reflect a morass of labels which has had the effect of confusing both citizens and the judges charged with interpreting the statutes. For example, beings included, excluded, or omitted altogether from state statutes include those beings bearing labels like wildlife, game animals, game, nongame, domestic animals, undomesticated animals, livestock, beasts of burden, fish, mammals, vertebrates, invertebrates, birds, wild birds, quadrupeds, not humans, crustaceans, mollusks, fur-bearers, predatory animals, migratory birds, migratory game birds, upland birds, reptiles, primates, old world rats, farm-raised deer, sentient creatures, dumb creatures, vermin, insects, pests, bait, etc. This is not a comprehensive list, though it is representative of definitions of *animal* in state anti-cruelty statutes (Waisman). Additionally, when combined by conjunctions such as “and,” “but,” or “and also, but not” then these categories are not simply fuzzy around their borders (e.g., is a pygmy goat a domestic animal or livestock?), but these concepts are fuzzy right through the heart of the category. Moreover, entire industries in which the status of animals as property is necessary for economic success are simply altogether exempt. That is to say, the animals used by those industries are largely excluded from the

term “animal” in the statutory language that would exist to protect them. Fur-farms and livestock operations are examples.

When the discourse of law labels a referent, that label creates a concept. Judges or legislators impose concepts between words and referents (e.g., a dog is *not* a domestic animal), and the imposition of those concepts may tease apart what seems an obvious and natural connection between the words and referents. This creates a reality about the animal through the discourse of law.

While the idea that animals are personal property may be objectionable to persons who are not accustomed to thinking about them that way, the fact that the discourse of law creates knowledge about them as such has far-reaching and obvious implications. To counter such effects of that language, some argue that animals should be labeled something else in the discourse of law, such as legally recognized persons. While the idea that animals might be persons might be objectionable within our present way of knowing in the same way that the idea the corporations are persons once was, the idea that animals are *animal* is usually not objectionable on its face.

If animals were labeled as *beings* rather than as *personal property*, we might expect reality itself to change, because the language itself would have changed. This is not a predictive statement. That is to say, changing the words would not necessarily lead to a wholesale reconceptualization. However, if the conditions that allowed such a reconceptualization emerged, then such a change might be possible. This would set in motion new knowledge and related power apparatuses (associated with the new label). Perhaps through such recognitions of the consequences of words – that is, the *reality*

created by words, nascent movements have sprung up to reclassify some animals as persons or to reclassify persons who own animals as guardians rather than owners. Such efforts have been undertaken in order to change the discourse of law. When a word with different meanings or connotations is used, the idea is that different meanings will then attach to the referent. For example, In Defense of Animals, a non-profit organization, has successfully lobbied state and local governments to amend existing laws to replace terms like “owner” (as this term is used in conjunction with animals) with terms like “guardian” (Waisman, et al, p. 95). The Rhode Island state legislature adopted this change, as did several cities throughout the U.S. (Waisman, et al, p. 95 – 96).

Do guardians of dogs in Rhode Island regard their canines as something (or someone?) to which a greater responsibility attaches than, say, dog owners do in Missouri? We do not know. We can, however, recognize that the discourse of animal guardian is a resistant discourse to that of the discourse of dog owner (property owner) that is reflected in the dominant discourse of law. The fact that such a discourse has worked its way into the discourse of law in certain specific areas might be an intimation that it could potentially delegitimize the dominant discourse, though we have no way to predict such a thing. Indeed, the language of guardianship and owners may eventually both fall by the wayside.

Consider the example of the word chattel, which is today just another word for personal property. The Latin *pecun* meant cattle, and it is from *pecun* that pecuniary derives, which, of course, relates to money. Likewise, *capitāle* meant wealth, and from it, we derive both the terms capital and chattel. Therefore, we see that the words *cattle*,

*capital*, and *chattel* are etymologically closely related. The use of the word *cattle* has created different concepts at different times. Specifically, *cattle* has 1) signified the sum of all property owned including all other types of animals and all other property understood to be wealth; 2) it has signified all livestock owned including other animals but not other personal property; and, 3) as used today, it has signified simply the bovine livestock owned, excluding all other animals and all other property or wealth (Joseph, p. 63). Note that the concept has changed, while the word has remained the same. The term *cattle* carries the meanings of *chattel*, wealth, and money. The great violence of abandonment would have to be done to the word *cattle* to rid it of its connotative legacy.

The general idea is that if animals were reclassified as persons, rather than as *chattel*, then they would enjoy the legal protection afforded to persons, much in the same way that corporations receive these protections. As no doubt hoped for in the In Defense of Animals campaign, to change the word from owner to guardian recasts the human beings associated with animals in roles of greater moral responsibility. Likewise, as certainly hoped by proponents of such campaigns, recasting pets as companions would have the effect of raising their status to a morally equal footing. Moreover, the object that was formerly owned must cease to be property. With these changes, animals would have to be recognized as something other than property, with the presumption being that the law would require treatment that is better than that afforded to property. These efforts would seem to indicate that those who argue for a change in property status for nonhuman animals (e.g. Francione), recognize that language itself creates reality about

animals. In short, if we stop referring to them as personal property, then they will cease to be personal property.

Suggestions that simply changing words can control or alter conceptualizations of the referent may seem naïve. Indeed, the label applied to the referent itself is a form of knowledge. If, in the present case, the referent is labeled as something that is property, then the power inherent within that label will emanate those understandings associated with property. This is readily apparent in the discourse of law. If something is labeled as property, property law applies. If, however, the label changes to something that is not-property, then the power inherent with that label – again, which is knowledge (imbued with power), will correspond to that new label. Of course, what passes for truth is contingent upon conditions that may not be readily identifiable. Simply changing a label may not – by itself – effectuate change.

Intangible concepts – such as dignity, fairness, and justice – that are linked to the words *human beings* simply cannot attach to the word *animal*. This is because, as noted in the first chapter, there must be some human understanding of an intangible concept for it to exist. Animals are not human beings, and they cannot utter human language to give such intangible concepts form. Therefore, those intangible concepts cannot exist *by* them, though human beings can certainly discuss those concepts *about* them.

So, in the discourse of law, not only are animals not persons but, in many cases, they are also not *animal*, particularly when, as animals they might receive some sort of relief from the darker consequences of being chattel. Of course, even outside of the discourse of a law, our general way of knowing might hold that certain members of the

kingdom *Animalia* are not animals. For instance, perhaps one might argue that a garden aphid is not an animal, because for some, they are not a species that garners empathy, they do not look like us, and their “language” is unheard or unknown. Indeed, we might be persuaded that garden aphids are not animals because the common term for them is garden lice. Lice are a member of the kingdom *Animalia*, but one that we hope to keep at a distance.

Animals may be animals that we would like to call legal persons, or they may be animals that we wish to keep at a distance. Animals may even be animals that we regard as family. Regardless of any of this, animals are primarily considered by the discourse of law to be personal property rather than as living beings. Indeed, because the understanding of animals as personal property is so engrained into our social consciousness by the discourse of law, then it is difficult to consider what it might mean to consider animals as *beings*, which is something quite different than considering animals as property, or animals as persons, or even animals as *animal*, given the bifurcated understanding of the latter term. It might be useful to think of one’s dog or horse or other animal that appears capable of having a relationship with humans. Most people in the U.S. would not consider eating their dog or their horse, and would find the idea repugnant, especially if they had something else to eat. However, those same people do not have any difficulty in eating a cow or a pig.

What is the difference? An obvious difference is seen in the language used to label some as animals (dog, horse), while others are livestock. This work does not go too far afield in discussing the ordinary grammar of animals, because the focus here is on

competing stories about them, but it is interesting to make some basic observations to consider how those observations support or create the stories about animals that we tell ourselves. Restrictions upon grammar and vocabulary and the way those symbols are strung together for meaning is relevant here. Modifiers are generally non-essential in grammar rules. The words used convey meaning: live – stock. Live supply. Live sustenance. Live food. Live edibles. These are animals that many would not mind eating. They are “stock” as in stocked goods in a grocery store or vegetable stock simmering in a pot. Livestock happen to be live, but they are primarily stock. After all, live is a modifier to the noun stock. That means that *live* is non-essential and subordinate to the noun, which itself is both indispensable to the sentence structure and in a dominant grammatical position. Therefore, live-stock is edible, like a can of peaches or a bag of rice. If our primary understanding was that cows and pigs are *beings*, rather than personal property – like food stock – then humans might feel repugnance at eating those beings, too, especially if conditions that may not be identifiable existed that gave rise to a different understanding about them. If animals were not referred to as livestock, but rather as live-juveniles or live-captives, then they might not be so enthusiastically consumed simply because our understanding about them would be altered, perhaps even with but the change of a word.

Likewise, words regularly shift when used to describe what is to be eaten. A pig, which is an animal, becomes pork, which is a dinner entrée. Likewise, a cow or bull becomes steak, hamburger, or roast; a calf becomes veal; a deer becomes venison. A chicken or rooster becomes a broiler. We eat drumsticks, breasts, livers, giblets, tongue,

feet, and all manner of parts, but we do not eat the whole animal, at least in name.

Animals are literally and figuratively diced up and commodified in the market, because language allows us – indeed, perhaps requires us – to conceptualize them as parsable pieces of property.

Note, too, that the use of a gendered pronoun for an animal rather than the gender neutral *it* is an error. If a dog is referred to as a “him” or a “her,” the pronoun would be understood as error. The use of a gendered pronoun can be explained away (cohering to what we think we know, by asserting that animals are property), or we can recognize it for what it is: a resistance to power-knowledge about animals created by the discourse of law, viz, that they are property. And note how this understanding has created power far afield from law itself. For example, formal rules set out in publication manuals, such as those published by the American Psychological Association Publication Manual, to which publishers insist upon adherence before utterances can be made via their printing presses. The “it-ness” of animals absolutely reflects the property designation of animals in the discourse of law.

Stepping back from the question of the animal for a moment, the discourse of law reflects many shifts in conceptualizing others in modern U.S. history. These include, for example, African-Americans, women, children, and fetuses, all of whom (or all of which) have been at various times considered chattel, non-possessors of rights with no legally recognized self-interests, and without lawful ability to own property, even their own bodies. In these comparable stories, an understanding of whom or what is included in the moral community is directly related to the language used about them. For example, is the

being rational? Is it sentient? Does it possess language capable of being understood by humans? If it possesses rights, from whence are those rights derived? If it can pass threshold considerations for inclusion into the moral community, the language used to describe it shifts (or has already shifted) and new conceptualizations form. For example, African-American slaves that were property became persons. Fetuses may become persons or property. Felony sodomists become partners, and partners become married couples.

Shifts in understanding are reflected in social consciousness through new language labels, thereby requiring new realities to emerge. Even upon inclusion in the moral community, of course, Foucaultian *résistance* is ever present. The stories about the referents that were once dominant and understood to be true become subjugated. For example, a gay male may have once been a felony sodomist but today may be understood as a married partner. However, though a “new” way of knowing has emerged in some places (i.e., acceptance of gay married partner status), the subjugated knowledge (e.g., that such behavior is deviant or criminal) endures. Those for whom (or about which) understandings have not shifted or changed remain the target of stories that explain our particular understanding about them. Some parallel stories about referents other than animals are addressed in chapter five. Importantly, of course, no intimation is made that human conceptualization of referents moves inevitably through these specific different realities. Plainly stated, just because some of these referents were once chattel but are now human beings, no assertion is made that that human understanding about animals will follow that same path.

### **The Discourse of Lines**

In addition to the discourse of law relating to animals, the *discourse of lines* is another way of knowing about them, purporting its own truths. As noted above, the discourse of lines is comprised of lines, which are understood to be knowledge. Specifically, the knowledge is that the lines that are superimposed upon representations of wholes are the points at which the wholes may be disassembled. Of course, the discourse of law supports the discourse of lines, by creating entire systems of property ownership and rights in parts and pieces of the wholes. The discourse of law legitimizes the lines that convey knowledge. While language itself partitions, the discourse of lines is a discourse comprised of linear objects superimposed upon abstract representations of a physical object or event (e.g., land, sky). Lines themselves are not words. Words are used to describe lines, but lines are not words. The discourse of lines is a discourse that conveys knowledge through the use of lines.

Like any conceptualization, the appearance of the discourse of lines was arbitrary rather than inevitable. However, like the discourse of law, the discourse of lines is a powerful story with truth-telling power. In its applicability to whole animated beings, it is consequent to the *birth of the concept of man* and its fascination with ordering parts of wholes. The birth of the concept of man was, in fact, a “casual antecedents of [...] socio-intellectual reality” (Gutting, 2005, pp. 12 – 13) relating to how we conceptualize animals by the discourse of lines.

So, let us pause for a moment to examine the birth of the concept of man. In the late eighteenth and early nineteenth centuries, the limits of representation had been reached, and birth of the concept of man occurred, which Foucault identified (1970a, p. 221). It is not the purpose here to recreate the description and interpretation of the birth of the concept of man undertaken by Foucault. However, its emergence created a condition for the emergence of the concept of the animal in the discourse of lines. This is because the birth of the concept of man ushered in a way of knowing that demanded the fragmentation of former wholes into parts, which allowed the rise of new disciplines. Indeed, it required it, along with the pursuit of the many shards of knowledge then revealed or created.

This propulsion fueled macabre appetites – proclivities for dissections – fanned by the limits of representation (Foucault, 1970a, pp. 217 – 249). Once the limits of representation became apparent, man pushed up his sleeves and got his hands dirty. Resemblances – rather than representations – became the order of the day, and this necessitated removing parts from wholes, and slopping them up onto the table under the light of reason. It required the carving up of the old representations – the formerly whole of the thing under investigation – into parts to be ordered and compared, separated out and combined. Parts that were once unique and vital to the whole were made fungible in the combining. This created new categorizations of knowing. It allowed man, for example, to view organs in jars of formaldehyde. The organs became important objects for study – comparing, contrasting, weighing, measuring; the whole of the being that produced the organs was quite secondary – perhaps even forgotten – in the process.

The discourse of lines is comprised of lines that are superimposed upon wholes of things that emanate from an “office of authority to speak.” They partition wholes into parts. In such a context, lines are a text. A text is “a recognizable message; an unchangeability of the text’s meaning so that through repetition the same meaning recurs; and a system of relations that reveal coherence” (Adams, 1990, p. 24).

The statements of the text convey meanings about the object of the discourse. A statement is “a function of existence [...] on the basis of which one may then decide, through analysis or intuition, whether or not they ‘make sense’, according to what rule they follow [...] and what sort of act is carried out by their formulation [...] [A statement] [...] is a function that cuts across a domain of structures and possible unities” (Foucault, 1972, pp. 86 – 87).

The discourse of lines conveys statements considered to be true within our way of knowing. These statements are assertions that the whole imposed upon is dissectible, cubiclizable, disassemblable, pieceable, or parsable.

Consider, for example, constellation cartography. Those who can read the discourse of lines of constellation cartography no longer see a night sky filled with uncountable stars. We see Orion, Ursa Major, the Big Dipper and the like. The whole has been pieced by the discourse of lines.<sup>9</sup>

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<sup>9</sup> Though this project only addresses cartography in passing, an interesting project might be pursued there. Certainly much has been written about the history (of ideas) of cartography (e.g., how it developed, technological improvements), but little yet exists concerning the history of thought of cartography, viz. how it is that we have come to conceptualize physical spaces as partitionable.

Notably, of course, not all maps contain a discourse of lines. A discourse of lines only exists when lines are superimposed upon abstract representations of wholes of things, when those lines emanate from an “office of authority to speak,” and when their statements partition those wholes into parts. Some maps, such as depictions of natural landscapes, may not contain such features.

Primary sources containing the discourse of lines are themselves abstractions. They are placed upon representations of the whole to be carved, rather than upon the actual thing itself. This is the case with, for example, plat maps. Interpretative physical manifestations of the discourse of lines may exist upon the actual thing, such as a fence placed upon the land, but physical existence is not necessary for the *véridictive* power – that is, the truth-telling power – of the discourse of lines to exist if the statement appears on an abstraction and issues from an “office of authority to speak.”

For example, the boundaries between properties in a city might easily be discerned by studying plat maps in the county recorder’s office. Those boundaries would be understood to exist whether or not the physical boundaries of the properties themselves were marked off and fenced. The lines are superimposed upon an abstraction of the actual physical object, e.g. a map. The statements issuing from the discourse of lines contains truth-telling power. If, for example, the boundary was ignored by an enterprising squatter who threw up fencing around property understood to be owned by another, the plat map could be used to set in motion the power apparatuses in support of the truth of the knowledge it contained.

The discourse of lines captures many referents as suitable object. Consider the characterization of women's bodies as piece depictions. Howard Kelly, the first professor of gynecology and obstetrics at Johns Hopkins in 1899 – and, of course, the establishment of a professorate of this discipline is a legitimizing event of the knowledge that it purports – worked with Max Brodel, a medical artist (Schultheiss & Jonas, 1999, p. 113). Brodel's work with Kelly catapulted the field of medical illustration – particularly through the depictions of urogynecological illustrations – to a professional discipline (Schultheiss & Jonas, 114). In 1911, Brodel, like Kelly, also found himself in academia, as the head of a university department for medical illustration, thereby legitimizing that discipline as well as the depiction of woman as object, particularly their reproductive organs (Schultheiss & Jonas, p. 114). Woman had, quite literally, become parsable, an object comprised of parts.

This remarkable<sup>10</sup> phenomenon is pervasive and absolute. That lines superimposed upon wholes represent partitionability of the whole is a truth that also comprises a current conceptual boundary. To say that a whole is not partitionable by lines is to utter an error in today's way of knowing. Whole things are understood to be partitionable by lines superimposed upon them, including bodies of land, water, air,

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<sup>10</sup> This is a remarkable phenomenon because the lines are superimposed upon wholes in ways that often do not take into account the necessity of the whole remaining intact in order for it to function. For example, lines superimposed upon rivers, migratory paths, or the *bodies of beings* hold the potential to destroy – through knowledge of their dissectibility conveyed by those lines – the natural rhythms or functions of those wholes. To the objection that things do not have functions, but that humans impose functions upon things, the observation is made that physical realities (tangible objects) exist, even though they are without meaning absent human language.

subsurface substances, chattels, or bodies of beings. Indeed, great difficulty may exist in conceptualizing a reality in which lines issuing from one with an “office of authority to speak” superimposed upon a whole did not represent the parting of the thing. Our conceptualizations are created by the discourse of lines. Indeed, the discourse of lines has quite literally determined the *form* of knowledge made possible about the whole. As Foucault noted, “[P]ower-knowledge [...] determines the forms [...] of knowledge” (1977, p. 28).

Consider the example of the U.S. Public Land Survey System of 1787 (PLSS), which is an example of the discourse of lines. This system requires the placement of lines upon areas of Gaia – the concept of Earth as a living *body* (Lovelock, 2009) – that are understood to be parts of the United States. (Indeed, the concept of Earth as a living body must be cited, because the current way of knowing does not conceive of such an assertion as common knowledge.) This line system conceptualizes the whole as partitionable, by imposing lines that represent meridians, townships, and sections. It precludes a conceptualization of the whole.<sup>11</sup>

This system is conceptually the same – it emanates from the same discursive formation – as meat cut charts, in that both are examples of the discourse of lines. They

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<sup>11</sup> The blindness to the whole of the land (or to the whole of any ecosystem) has not been pursued here. In passing, it is notable that many environmental challenges in our current way of knowing seem to be consequent to failures to comprehend or conceptualize that all natural systems are connected. Watersheds, pollution drift, and migratory species do not reflect an understanding of the knowledge conveyed by the discourse of lines. Political and ecological wholes are often spatially mismatched. Failure to recognize these things is a failure to recognize a different way of knowing.

are both systems for conceptualizing parts of wholes as appropriate for ownership. Meat cut charts were created in the 1920s by the National Livestock and Meat Board (NLMB).

The NLMB was responsible for the first ever Congressional appropriation to study retail meat marketing in the U.S. The appropriation was for \$50,000 (Pollack, p. 191), which, according to the Consumer Price Index, would be equivalent to approximately \$625,000 today. These studies included foci relevant to the “science” of meat – a term certainly chosen to legitimize the focus of the work, including meat cut charts. The studies focused on the palatability of meat, the value of meat consumption for lactation, and the development of new cutting methods to render the final product an “attractive package” for women that was convenient in size (Pollack, p. 191).

Additionally, the NLMB maintained an explicit goal of making meat “one of our basic foods” (Pollack, p. 191). Congress legitimized the NLMB’s work through funding these studies, thereby establishing the “science” of meat as a body of knowledge, together with its language of the discourse of lines, viz., meat cut charts. Congress and the NLMB therefore sanctioned the discourse of lines as it applied to whole living beings as knowledge with *veridictive* powers. The statements issuing from the NLMB were then statements of knowledge, adjudged “true” given the legitimacy bestowed upon it by its creation by the NLMB and Congressional favor. This “knowledge” created statements understood to be true about the need for lactating women to consume meat and the necessity of meat to the human diet. It also created “knowledge” about the disassemble nature of animal bodies, along with the related power apparatuses associated with that. We see much more than remnants of these “truths” today in our ever expanding industry

of concentrated animal feeding operations (CAFO) and the slaughter of about nine billion live beings each year in the United States alone to supply the demand created largely by this “knowledge.”

The NLMB conveyed the knowledge created by its science far and wide. For example, it published lesson plans for school teachers to teach students the “truth” about meat and the parsability of animals, together with meat cut charts for animals considered livestock (NMLB, 1940). Artifacts of this “knowledge” have been captured in dictionaries, some of which depict various farm animals with sketches of the specific animal’s body, superimposed by meat cut charts (American Heritage Dictionary, 1969, p. 734). For example, the American Heritage Dictionary’s definition of lamb – at least in 1969 – was illustrated by the sketch of a lamb superimposed by lines indicating the ribs, loin, shank, and leg (p. 734).

The NMLB’s efforts to convince women that parts of animals were attractive products to purchase is an example of power-knowledge as it relates to the modern conceptualization of animals as partitionable personal property. The meat cut chart information came to the housewife in the form of little cooking booklets (Lukas). If the woman knew the name of the thing to ask for and other words (recipes) directed her on what to do with it if she obtained it, then she could speak the language of acquisition and ownership emanating from the discourse of lines, and perform a task that increased her chance of marrying, which was an economic necessity for most women at the time the NMLB was doing its work. A common adage encourages women to “get” a husband by reminding them that “the way to a man’s heart is through his stomach.” It was quite

literally necessary for women to buy in to the discourse of lines as applied to the animal in order to attain economic security.

However, some degree of liberation of women was also taking place, such as the attainment of the right to vote, the shedding the covertures of marriage, the development of reliable methods of birth control, and women's entry into political and economic systems under fairer arrangements. Synonymous with the time that women were achieving a modicum of liberation, however, a concurrent movement was afoot to teach them the discourse of lines as applied to the animal other.

The discourse of lines illustrates how language works to shape the *form* of our knowledge about things. It has created boundaries and it has carved properties. It has dissipated the whole.

The discourse of lines is offered as an illustration of the contingent nature of knowledge. The "truth" of the discourse of lines and the knowledge that it conveys as it applies to animals are products of conditions that are not wholly identifiable, and that could change with the insurrection of subjugated resistant discourse or the creation of new knowledge through new discourse. Or, of course, the truth and knowledge conveyed by the discourse of lines as it applies to animals may remain entrenched, as it is in our present way of knowing. Predictions cannot be offered on the point. As noted above, change happens, but it need not happen as a matter of logic. As it stands, the discourse of lines contributes to the dominant knowledge of the animal by conveying the "truth" that animals are parsable. It also illustrates the positive effects of power, because the discourse of lines grants power to human beings to undertake the parsing of animals for

personal gain (e.g., profit, food, pleasure, etc.), thereby supporting desires to consume or own pieces of the animal. Powers positive effects are readily apparent here.

### **Conclusion**

This chapter has addressed two dominant contemporary ways of knowing about animals, including the discourse of law and the discourse of lines. These ways of knowing are considered today to be stories with truth-telling power. Errors erupt, however, in other discourse, that may be explained away – that is, made to cohere with the dominant way of knowing – or that may be understood as bona fide resistance to the dominant understanding of animals. Recognition of error as the latter provides a basis for considering the essential political question, viz., whether a new politics of truth might be constituted about the animal.

Attention now turns to a different way of knowing that is overtly recognized as resistance. This will allow us to examine both the subjugated knowledge – the once-knowledges – that are in a state of insurrection and that appear in the contemporary resistant discourse, as well as the effects of power of our dominant discourse today.

### Chapter 3 Insurrection

Ski mask: \$12  
 Bolt cutters: \$39  
 Freedom: Priceless

These are the words of a resistance. They appear on a political button, the photo of which can be found on the Animal Liberation Front's (ALF) website. The objective of its mission is to seek the abolition of the use of animals as property.<sup>12</sup> The ALF is a leaderless resistance,<sup>13</sup> the philosophy of which people may adopt and act upon according to their own conscious. For example, many animals have been liberated that were held for future vivisection, other ongoing or planned biomedical experiments, agricultural pursuits, and fur farms during the last several decades by ALF adherents (See e.g., Newkirk, 2000).

Those who choose to act upon the ALF philosophy often don ski masks, carry bolt cutters, and burgle<sup>14</sup> facilities containing animated personal property. Stated another

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<sup>12</sup> Specifically, the ALF's mission is to "effectively allocate resources (time and money) to end the "property" status of nonhuman animals." Additionally, "The Objective of the Mission: To abolish institutionalized animal exploitation because it assumes that animals are property" (Mission Statement).

<sup>13</sup> The Department of Homeland Security (DHS) defines "Leaderless resistance" as "stress[ing] the importance of individuals and small cells operating independently and anonymously outside of formalized organizational structures or leadership in order to increase operational security and avoid detection. Postings on extremist websites and other online media forums offer guidance on objectives, tactics, and target selection. Followers are encouraged to self-train, promote their own objectives, and conduct attacks on their own initiative" (Leftwing Extremists, 2009, p. 4).

<sup>14</sup> At common law, burglary required the entry into the dwelling house of another at night with intent to commit a felony therein. Modern law has expanded this definition to include other places besides dwelling houses and times other than night, though the

way, they hide their identities, carry tools to liberate the captive animals held within, and carry those animals to safety and freedom from torture once the locks and cages holding them have been breached.

The ALF has been labeled as a domestic terrorist organization by the Federal Bureau of Investigation and as “leftwing extremists”<sup>15</sup> by the Department of Homeland Security (*Terrorist 2002 – 2005*, p. 3; *Leftwing Extremists*, Appendix). This is so despite ALF’s adherence to a strict code of nonviolence (Best & Nocella, p. 25). Indeed, the Federal Bureau of Investigation describes the “victims” of the ALF as coming from a “wide range [...] [including] international corporations to lumber companies to animal testing facilities to genetic research firms [...]”, none of which are human beings (Putting Intel to Work, 2008).

Whether a burglary or liberation event could be labeled “successful” or not depends entirely upon whether one speaks the dominant discourse of the day or whether one speaks from a point of resistance. The dominant discourse of the day is that animals are personal property. An example of speaking from a point of resistance is found in Rod Coronado’s words. Coronado is a warrior<sup>16</sup> in the Animal Liberation. He said, “I’m here

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definition varies by jurisdiction. It is applicable here, where the facilities entered are places such as research labs.

<sup>15</sup> The DHS Office of Intelligence and Analysis defines leftwing extremists in part “as groups or individuals who embrace radical elements of [...] animal rights [...] and are often willing to violate the law to achieve their objectives. Many leftwing extremist groups are not hierarchically ordered [...] but operate as loosely-connected underground movements composed of “lone wolves[...].” (*Leftwing Extremists*, Appendix).

<sup>16</sup> The term warrior is applied to Coronado in writings describing Coronado’s activities associated with ALF.

to represent my animal relations who are suffering at this very second. And I don't care what anybody says about what I do to achieve their freedom" (Coronado, 2007). The ALF, indeed, is an overt resistance to the dominant, contemporary Western understanding of animals that they are personal property.

Language such as that used by the ALF has formally been labeled as error in law within our current way of knowing – the current truth regime – by, among other things, the enactment of the Animal Enterprise Protection Act (1992), which is a federal statute, and the amendment to that statute, the Animal Enterprise Terrorism Act (2006).<sup>17</sup> Truth regime (or “regime of truth”) is Foucault’s term. He used it when describing the fact that each society has its own

politics [...] of truth: [...] the type of discourse which it accepts and makes function as true; the mechanisms and instances which enable one to distinguish true and false statements, the means by which each is sanctioned; the techniques and procedures accorded value in the acquisition of truth; the status of those who are charged with saying what counts as true (Foucault, 1980, p. 131).

Persistence in engaging in that discourse of “errors” – if interpreted as interference with an animal enterprise<sup>18</sup> – is a precursor to loss of liberties, such as

<sup>17</sup> The Animal Protection Terrorism Act, for example, specifically prohibits “us[ing] the mail [...] for the purpose [...] of interfering with the operations of an animal enterprise; and in connection with such purpose [...] intentionally [...] causes the loss of any [...] personal property (including animals [...])” (18 USC §43(a)(1) and (2)(A).

<sup>18</sup> Animal enterprise is defined as “(A) a commercial or academic enterprise that uses or sells animals or animal products for profit, food or fiber production, agriculture, education, research, or testing; (B) a zoo, aquarium, animal shelter, pet store, breeder,

incarceration and payment of fines, even if no bodily harm or property damage has occurred (18 USC §43 (b)(1)(a)). For example, the six individuals that comprise the “SHAC-7” have been convicted under the Animal Enterprise Protection Act and sentenced to incarceration for 29 years (total for all convicted) for engaging in speech activities (The SHAC-7). They did not engage in acts causing bodily injury or in property damage. Moreover, as Judge Fisher’s dissent in the appeal noted, the evidence was merely circumstantial that their speech acts constituted conspiracy to interfere with an animal enterprise (*U.S. v. Fullmer, et al, 2009, p. 60*). The only thing that was certain is that they engaged in speech acts. The speech acts engaged in emanated from resistant discourse.

Recall that a bifurcated understanding about animals exists today – specifically, that they are *personal property* and that they are *living beings*. In our present way of knowing the former understanding trumps the latter, bearing in mind that animals are what we make of them in any particular way of knowing; that is, they are a feature in human power-knowledge. This trump is apparent when considering the “error” of the ALF’s words – specifically, that animals are not personal property. The former understanding,<sup>19</sup> in fact, eclipses the latter in our present way of knowing. Though the

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furrier, circus, or rodeo, or other lawful competitive animal event; or (C) any fair or similar event intended to advance agricultural arts and sciences” (18 USC §43(d)).

<sup>19</sup> While assertions are made that various “understandings” exist or have existed about animals, this work does not try to uncover the underlying motives. Words are taken at face value. For example, if an assertion is made that an understanding about animals is that they are capable of rational thought, what is meant is that the words used to describe animals are words that described them as rational.

idea that animals are living beings freely exists, it is subordinate to the dominant understanding, which is that animals are personal property. However, other discourse related to “living being” discourse, such as “rational animal” discourse and “transmigration of souls” discourse, are largely subjugated. A subordinate discourse is one that exists in a position with fewer and/or less powerful power-knowledge trappings than a dominant discourse about the same object.

When “living being” discourse is inconsistent with or directly challenges “personal property” discourse, the inconsistent or challenging discourse is soundly quashed by today’s power-knowledge apparatuses. This, of course, is what has happened with the Animal Liberation Front. An inclination exists here to protest that the ALF commits terrorist acts through property damage or threatening behavior and that those actions – rather than the discourse itself – are being punished. The veracity of that assertion is not explored here, though we can recognize in passing that what is understood to be a terrorist act is itself a human concept, subject to change. The concept of terrorist act is not static. This project concerns itself with statements, documents, words, discourse, and language, rather than whether or not speakers of a subjugated discourse committed an act understood in our present way of knowing as being a terrorist act.

Let us recall, too, that power is not solely negative or punitive. As discussed earlier, the Foucaultian concept of power recognizes that power’s strength lies in its ability to create knowledge that creates desire (Foucault, 1980, p. 59). Moreover,

conceptual delimitations associated with “living being” discourse today compel us to see animals primarily as “living” rather than as “beings.”

In short, our dominant contemporary understanding of animals is that they are personal property, and this understanding has vast power-knowledge apparatuses associated with it. While the subordinate understanding of animals as living beings also has power-knowledge apparatuses associated with it, they are substantially fewer than those of the dominant understanding. Moreover, our primary understanding of animals in the latter respect is that they are *living*, rather than that they are *beings*. This focus on the *living* in subordination to an understanding of animals as *beings* has as its consequence a conceptual blindness – a blindness to a concept – that precludes us from seeing them in ways that they may have been understood at other times.

### **Organization of chapter**

This chapter begins by describing the subordinate status of knowledge of animals as “living beings” to that of the dominant understanding of them as “personal property.” Specifically, it introduces several subjugated discourses about animals that convey knowledge that animals are primarily “living beings” instead of “personal property.” Describing subjugated knowledge about animals brings into clearer focus the present limitation on our understanding of animals, which may include a *conceptual blindness* to regarding them as *beings*. The term *conceptual blindness* simply refers to a concept that may require excavation to discover or to recognize its ongoing presence alongside the dominant discourse.

Subjugated discourses – regardless of whether those discourses were always subjugated, fleeting, or merely faint resistances – illustrate knowledge paths not taken in our manner of thinking about animals. These may underscore the contingent nature of our understanding of animals now, particularly when viewed from the suggested perspective discussed in chapter one. Specifically, explanations that would force subjugated discourses to “fit” within a linear history should be resisted, particularly those that explain “why” the knowledge conveyed by subjugated discourses receded or were overtaken by other discourses espousing other “truths” about animals.

No assertion is made, of course, that any of the subjugated discourses were ever dominant discourses. But they are points of resistance that persist. This persistence itself warrants our attention. For why would they persist, if the dominant discourse represented the Truth? Contemporary institutions and social forces support the dominant discourse and might be said to legitimize “truth” conveyed by that discourse within our way of knowing. But that phenomenon is merely contingent upon conditions that allowed the present way of knowing to emerge as dominant.

The subjugated discourses about animals presented in this chapter convey knowledge that animals are *beings*, rather than personal property. Disperse statements that convey knowledge that animals are primarily *beings* rather than personal property comprises a *discursive formation*. Recall from chapter one that the term *discursive formations* refers to disperse statements in which *a regularity* can be found. However, unities, including unities of time are not relevant to whether a discursive formation can be said to exist or not (Foucault, 1972, p. 38).

The subjugated discourses presented here – specifically, “transmigration of souls” discourse, “karmic” discourse, and “rational animals” discourse – are presented to illustrate not only the fact that they happened, but also to provide a point of comparison against the dominant discourse of the day, viz., the knowledge that animals are personal property, which is a different *discursive formation*. The subjugated discourses presented here do not provide an exhaustive collection of all discourses or disperse statements that comprise the *discursive formation* that conveys knowledge that animals are *beings*. However, the material included here is enough to illustrate that disperse statements that animals are beings have occurred, and those disperse statements can be collected under the discursive formation that conveys knowledge that animals are beings. Additionally, the subjugated discourses presented here provide a point of comparison against which contemporary disperse statements belonging to the same discursive formation (i.e., the discursive formation that conveys knowledge that animals are primarily *beings*) can be compared, bearing in mind, of course, that the utterers of such statements may be wholly unaware of any commonality or regularity between their statements and those of the discursive formation to which it is related. Of course, today, disperse statements that animals are foremost *beings* instead of personal property occur as points of resistance to the dominant discourse or “error”.

This chapter also describes the emergence of an academic discourse about animals as an *insurrection of subjugated knowledge*, which is rapidly assuming the accoutrements of legitimacy through power-knowledge accretions. By so doing, it may de-legitimize knowledge (“truths”) of the dominant discourse. This insurrection consists

of statements that are understood as error. For example, such statements include affirmative assertions that animals are not personal property.

The term *subjugated knowledge* has two definitions. First, it consists of “historical content that has been buried and disguised in a functionalist coherence or formal systemisation [...] [that are] present but disguised” (Foucault, 1980, pp. 81 - 82). Second, they are “knowledges that have been disqualified as inadequate to their task or insufficiently elaborated: naive knowledges, located low down on the hierarchy, beneath the required level of cognition or scientificity [...] [that are] particular, local, regional knowledge, a differential knowledge incapable of unanimity and which owes its force only to the harshness with which it is opposed by everything surrounding it” (Foucault, 1980, p. 82). *Insurrection of subjugated knowledge* is term used by Foucault to indicate a “return of knowledge” once known, comprised of either of these two types of subjugated knowledges.

### **The subordination of knowledge of animals as *living beings***

Today, the understanding of animals as personal property trumps the understanding of animals as living beings. People may protest that they do not think of animals as personal property, and therefore their personal conception of animals as living beings has not been eclipsed by an understanding of them as personal property. Perhaps a natural resistance to the idea of animals as personal property erupts by those who have companion animals or by those who know people who have companion animals and have participated in or observed affection flowing freely from one to the other. As mentioned

in chapter one, people often do not refer to their pet as “it,” preferring instead to use a gender-specific pronoun when referring to the animal. When such an ordinary – though erroneous within our manner of speaking – use of grammar is employed to refer to animals, surely, one might protest, there is no overt understanding of the animal as personal property.

Whether we consciously recognize that the dominant contemporary Western understanding of animals is that of personal property or not, it is, in fact, a conceptual delimitation of our understanding about them. Though objections to or denials about beliefs that animals are personal property exist, the conditions that give rise to our understanding of animals as personal property have rendered the assertion that they are personal property to be a true statement within our way of knowing. And, this way of knowing is not limited to the range of knowledge governed by formal rules, such as laws, that have shaped our space of thought about animals. We do, in fact, understand animals foremost as personal property, because our knowledge about them – that is, our language we use about them and the power structures that have accreted around that language – requires us to understand them as personal property. Animals could not comprise our clothing, food, entertainment, or be subjects upon which biomedical research is conducted without a fundamental understanding of them as property, because we do not use non-property in such capacities. That we understand animals as property is true even if the understanding is subconscious or even if the understanding is selectively applied to only certain animals.

To illustrate the fact that our dominant understanding of animals is that of personal property rather than that of living beings can be illustrated by comparing power-knowledge associated with human children to that of a dog, even when the language that refers to both is identical. Of course, with a word that conveys a “truth,” we can also expect to find social forces to support the knowledge conveyed by it (or to resist the knowledge conveyed by it.) Consider, for example, a homeless waif. A waif, of course, simply means both “a person without home [...] esp[ecially] a child” and “something found, of which the owner is not known, as an animal” (The American College Dictionary, 1969, p. 1369). If the homeless waif is a dog, actions to capture it would not be illegal. Indeed, such actions would hardly be remarkable. This is because the dominant understanding of dog is that it is personal property, which is tangible, moveable property. To take hold of it and move it is not a particularly remarkable event. However, if the waif was a human child, such action would be outlawed, without engaging in certain procedural acts first, including bestowment of a label upon the captor tantamount to that of “one who is suitable to seize the child” by someone from an “office of authority to speak” on the matter, because a human child is not considered personal property. That is, using Foucault’s terms, within our truth regime, a person who has the status of someone charged with “saying what counts as true” (1980, p. 131) would have to assert that the person seizing the homeless child was permitted to do that. No such utterance from someone who is understood to say true things is required to seize a dog without an “owner.”

These outcomes are so even if the respective captors insisted that the found dog was a child or that the stray child was a mongrel. Indeed, to say, “My dog is my child,” is understood as error, though the utterer may assert it as a truth claim. In such circumstances, the animal itself might well be treated like any other member of the family, including a child, subject to its own peculiar biological needs and personality, but the power-knowledge apparatus that could legitimize such a statement is utterly absent. Likewise, an assertion that a child is a mongrel and should be left to her fate would be considered a statement of error, because the child is a human child. The power-knowledge apparatus would label such an assertion as an error. The kid would be picked up and shunted off to social services, whether she wanted to go or not.

Language that gathered children and animals under the same umbrella of discourse was common throughout the west, until the early late nineteenth century. For example, the word “pet” was also, until rather recently, a term used to describe an animal or a child, viz. “a domesticated, fondled young animal (esp[ecially] a young lamb),” “a spoiled child,” and a “merry or spoiled girl” (Spitzer, 1950, pp. 533 – 534 *citing* NED).

Before human children and animals separated so completely in our language – the former became a subject and the latter became an object – the same power-knowledge apparatuses tried to address both. For example many of today’s state humane societies were originally founded as organizations against cruelty to children and horses. The American Society for the Prevention of Cruelty to Animals brought the first claim of child abuse to court, successfully arguing that the child being abused, Mary Ellen Wilson, was a member of the animal kingdom and should not be subjected to cruel treatment

based upon the laws in place for animals at the time, because no child cruelty statutes yet existed (see e.g. *Nicholson v. Williams*, et al., 2002, p. 93 citing Weithorn, p. 48).

Tellingly, the defendant, who was the wife of the man who fathered the illegitimate child at issue, was recorded by the *New York Times* as giving testimony in which she referred to the child as an “it.” For example, “[M]y husband said the mother left it there, and he would take it out until such a time she called for it” (The Mission of Humanity, 1874).

Of course, objections that animals are not personal property – either overtly made (e.g. by the ALF) or subtly insisting upon (e.g., by the use of gender specific pronouns) – constitute Foucaultian error in contemporary thought. Such discourse is tolerated to a point – specifically, to the point that it does not disrupt or interfere with the dominant discourse, viz. that animals are personal property. However, when those objections disrupt or interfere with the dominant discourse that animals are personal property, then the power-knowledge apparatus supporting the dominant understanding of animals quashes it.

This power-knowledge apparatus is apparent in many forms. Though consequences of violating the Animal Enterprise Protection Act provide a ready example as noted in the discussion that opened this chapter, the danger is that a reader will understand power to be only punitive. However, as mentioned earlier, power’s strength lies in its ability to create knowledge that creates desire. Examples of the positive effect of power that creates knowledge that creates desire is the “knowledge” that the use of animals and parts of animals is appropriate and supported by our tools of power (law). So, human beings have desires (i.e., to use animals or their parts) and the “knowledge”

that animals are appropriate objects for human use is supported by our power apparatuses. A person who issues statements that are inconsistent with the dominant understanding of animals as objects to use may be regarded as a teller of “error.”

Recall that the term “Foucaultian error” refers to truth claims that are labeled as not true within the discourse of any particular field of knowledge. The notion of error as a failure to reach the truth has traditionally been viewed as negative (Gutting, 2005b, p. 78). Error now, however, may be truth in a different or new field of knowledge (Gutting, 2005b, p. 78; *see also*, Kuhn). Error is knowledge. It is a point of resistance. As an example, Foucault refers to the schism between reason and unreason in the *History of Madness*, (*See e.g.*, 2006, p. 98 – 99). It is the “unreason” that was viewed as “error” by the control apparatus, once it gained its legs (e.g., the psychiatric profession). However, the lived error (e.g., the mad) could conceivably be viewed in other ways (gifted, a conduit to the divine, animal-like, etc.) which would provide a truth specific to an alternative reality. The mad provide a portal into a different paradigm. Errors are points of resistance to power inherent within the knowledge carried by words within our particular way of knowing. For example, every utterance in which a gender specific pronoun refers to an animal is a point of resistance. (The assertion that “*This* dog is not an *it*” hums just beneath the surface.) As Foucault noted, “Where there is power, there is resistance” (1978, p. 95).<sup>20</sup>

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<sup>20</sup> Of course, Foucault asserted in this same sentence that resistance is not found “in a position of exteriority in relation to power,” but my use of the first part of the sentence is not out of context. To identify discourses that are inconsistent with the dominant discourse as points of resistance says nothing about the position that those discourses might spring from. Indeed, discourse – dominant or otherwise – springs from the

Given the modifiers (i.e., dominant, western, and contemporary) at issue in this project concerning our understanding of animals, we can also carve out knowledge about animals that is not Foucaultian error, of course. Specifically, some ways of knowing about animals are not mainstream (or dominant) thought, not western, or not contemporary. These different ways of knowing might comprise knowledge or error within other epistemes that are not addressed here. Such knowledge might hold, for example, that animals are not personal property. In such a case, there would be an absence of power-knowledge apparatuses related to knowledge that animals are personal property. Additionally, there might be points of resistance found in discursive events holding that animals are personal property.

That the understanding of animals is that they are personal property trumps other understandings can be seen when considering language in general as well. Consider again the pig at Falaise. If, today, the question was asked, “What was executed at Falaise?” the answer would have to be that it was a pig, which everyone understands to be a specific type of animal. To ask, “What was...” requires an answer that designates a thing. Such an answer, of course, is consistent with our understanding of animals as personal property. But to ask “What was executed?” is itself problematic, because we cannot execute a thing. This is because things are understood foremost to be property rather than living beings. So, we might ask, “Who was executed at Falaise?” Yet, given the circumstances of the particular case from Falaise, such a question would make little sense. Such a

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subconscious space of thought created by conditions that allow it to exist, rather than from the utterer’s individual will or some identifiable exterior point.

question would require us to understand the inquiry as one concerning the pig's ownership. Again, the default tilts towards our understanding of animals as personal property. Beyond that, we do not generally understand the pig as possessing an identity as a *being*. Indeed, the secondary understanding of animals, viz., that they are "living beings," is itself bifurcated in understanding. Specifically the *being* part of that understanding is subordinate to the *living* part of that understanding. This point is taken up in the next chapter.

Only if we knew the pig personally or knew of the pig's name – let's say the name of the pig was Antoinette – could we provide an answer that indicated the subordinate understanding of animals, viz. that they are living beings. Only then might we say, "Antoinette was executed in Falaise." Of course, that would not be the end of it. The likely response to such an answer would be something like, "Your pig?" Or, "Pierre's pig?" Again, the property status of animals would enter into the discourse quite rapidly. These boundaries of how we might think about animals exist whether we are aware of them or not.

As has been illustrated in this section, the default understanding of animals today is that they are personal property, and this understanding of them trumps or eclipses our other understanding of them, viz. that they are living beings. The discourses comprising the discursive formation that animals are primarily "living beings" have generally fallen away as subjugated discourses. The knowledge that they conveyed is subordinate to our dominant understanding about them as personal property. However, these discourses, such as "transmigration of souls" discourse, "karmic discourse," and "rational animal"

discourse, illustrate knowledge paths that share a *regularity* of a discursive formation. This regularity is that animals are foremost *beings*. That way of knowing has not been a path taken in our present manner of thinking about animals. Of course, the phrase “not taken” does not connote intentionality about the knowledge path that *has* been taken. Indeed, the word “path” itself, as used here, must not summon ideas of linearity. It is simply used to represent the *event* of knowledge, itself embodied in a discursive formation that emerges or has emerged as “truth.”

The existence of the dominant discourse is contingent upon the conditions – themselves perhaps unidentifiable – that required it to emerge as such. This dominance subordinates other knowledge, such as that conveyed by the subjugated discourses presented here. These subjugated discourses convey an understanding of the animal foremost as a *living being*. As mentioned, our present understanding is that animals are *personal property* and that they are *living*, though the idea of animals as *living* is subordinate to our understanding of animals as *personal property*. The concept of animals as *beings* is a dim and distant third in our present way of knowing. Subjugated discourses are now reviewed to show that they have happened and to provide points of comparison to contemporary disparate statements of resistance or of error that comprise the same discursive formation, viz., that animals are primarily *beings*.

### ***Transmigration of Souls Discourse***

Transmigration of souls discourse is a subjugated discourse that conveyed knowledge that animals were *beings*. Transmigration of souls discourse contains words

that convey beliefs that souls or *beings* inhabit different bodies in different lives. The soul inhabiting a human body may later inhabit an animal body; or, conversely, souls that once inhabited animal bodies may later inhabit human bodies. There are many examples of this discourse, a few of which are recorded here:

Pythagoras and his intellectual progeny engaged in the transmigration of souls discourse. For example, Pythagoras taught that the soul “went a necessary circle, being transformed and confined at different times in different bodies” (Diogenes, § XII).

[Pythagoras] [...] taught that the soul was immortal and that after death it transmigrated into other animated bodies. After certain specified periods, the same events occur again; that nothing was entirely new; that all animated beings were kin, and should be considered as belonging to one great family (Porphyry, §19).

Sotion, as reported by Seneca, taught that souls were distributed from body to body – human and animal – and that death was nothing more than transmigration (Morell, pp. 266 – 267). Moreover, killing animals might well be parricide, since we could not know if our very parents’ souls happened to be then residing within the body of the animal set for slaughter. (Sotion’s words have been translated in various ways, and so they have simply been summarized here.) This discourse was effectively subjugated at least in part by Tiberius Caesar’s rule, at which time abstinence from eating flesh was put forward as proof of participation in cultish beliefs (Summers, 1910, p. 136). (“[...] *in primum Tiberii Caesaris principatum iuuentae tempus inciderat alienigena tum sacra remouebantur sed inter argumenta superstitionis pone batur quorundam animalium*

*abstinentia*” (Seneca, CVIII, quoted in Summers, 1910)). Here, we see a discourse about animals that was put down by the rule of law.

Sextus Empiricus wrote that killing animals is a sacrilege, because doing so is to destroy our kin (Empiricus, *citing in* Hallie, 1985, p. 203).

That transmigration of souls discourse occurred has been illustrated. Additionally, contemporary disperse statements that are points of resistance to the dominant discourse can be compared to this subjugated discourse, which can lead to assertions about whether or not those disperse statements belong to the same discursive formation (e.g., here, the discursive formation that conveys knowledge that animals are primarily *beings*). For example, the examples of transmigration of souls discourse just described and the words used by members of the ALF both describe animals as relations or “kin.” Since “kin” is generally understood to denote a familial relationship, we must understand the term “kin” used contemporarily to refer to animals to denote a specific type of *being*. Likewise, similarities are apparent between disperse statements contained within the transmigration of souls discourse and disperse statements today averring that animals are not personal property.

This section provided an example of a subjugated discourse, the “transmigration of souls” discourse, to illustrate that this discourse occurred, that it conveyed knowledge that animals were primarily *beings*, and that it makes a useful point of comparison for contemporary disperse statements that animals are *beings* to illustrate that the discursive formation that animals are *primarily beings* once existed and still exists, even if as subordinate knowledge.

### *Karmic Discourse*

“Karmic” discourse is a subjugated discourse that conveyed knowledge that animals were *beings*. “Karmic” discourse generally reflects an understanding of animals as *living beings*, the destruction of which would interfere with one’s personal path to reunification with God. This interference would occur because the destruction of living beings would incur karmic debts, which would enchain one to an endless birth-death cycle. This is because such actions would insult God, who takes pleasure in his creation (animals). Karmic discourse writings often focused on the ill-effects that harming animals will have on the reincarnation of human beings. However, the writings use words that indicate an understanding that animals were primarily living beings (e.g., “victims”), and so that is why this subjugated discourse is presented here.

For example, Porphyry argued against killing animals, which he understood to be a practice inconsistent with being a committed philosopher (Clark, p.1; Porphyry, Book 1). Porphyry noted that the spiritual elite, such as the Egyptian priests, Jewish Essenes, Persian Magi and Indian Brahmans, practiced abstinence from meat-eating, which permitted their attaining closeness to the gods (Clark, p. 14; Porphyry Book 4 §§6-18).

Likewise, Plato’s abstinence from harming animals (or practices that harmed animals, such as meat eating) was said to be consistent with becoming like the divine (Porphyry, Book 1 §37). Porphyry, who was a Platonist (Clark, p. 2), used words to convey a commitment to only using food obtained in non-violent ways (Porphyry, Book 4 §20). Additionally, Porphyry’s words indicate his conviction that flesh-eating “darkens the soul.” One cannot become like god if he eats meat. “It is not possible to be familiar

with a god [...] by following just any lifestyle, especially flesh-eating” (Book 1, §57). Likewise, Pythagoras believed that eating animals impeded the energy of reasoning power (Iamblichus, § XVI).

The point here is that since God does no harm, killing animals is inappropriate activity for philosophers, because killing harms animals by *taking away their souls* (Porphyry, Book 2, §13).

Clement of Alexandria noted that those who eat frugally, rather than those who eat viands, are stronger, healthier, and nobler, and they are wiser, “as philosophers are wiser than rich men [...] It is good, then, neither to eat flesh nor to drink wine,” as [...] the Pythagoreans acknowledge” (Clement of Alexandria, *The Instructor*). He also admonished, “Destroy not the work of God for the sake of food” (Clement of Alexandria, *The Instructor*). Mystics from many religious and/or spiritual traditions were and have been concerned about the human soul when animals are harmed, because animals were understood to be living beings. For example, many Gnostic sects existed in the centuries immediately following the crucifixion of Jesus. They held diverse beliefs about matters of importance to the soul (*see e.g.*, The Catholic Encyclopedia). Though the Gnostics were diverse, a conceptualization of animals could most likely be generalized from their writings that would be fairly representative of commonalities between the groups. Many appear to be very nearly identical to those of some of the ancients, as described here, such as those of Pythagoras and Porphyry. Regardless of whether they are identical or not, we can certainly see that they comprise a discourse within the same once-knowledge about animals.

For example, the Gnostics generally sought God not through institutionalized rules and public displays, but instead through self-discipline that often included ascetic elements such as abstention from meat. Statements relating to abstention from meat eating are found in disperse statements relating to God. Specifically, statements that killing nonhuman animals was offensive to God, morally wrong, forbidden by God, and those acts – as well as eating meat in and of itself – would block a connection to God are all relevant. These practices would interfere with their connection to God, which was sought individually through meditation. For the Gnostics, abstention from meat eating was consistent with spirituality and true understanding of karmic forces and reincarnation (Davidson, p. 945).

General exhortations that argue against the harming of animals out of deference to God's (or gods') will exist. Pythagoras "used to forbid [his disciples] to offer victims to the Gods, ordering them to worship only at those altars which were unstained by blood" (Diogenes, § XIX) and "he performed his adorations at the bloodless altar of Father Apollo" (Iamblichus, §VII). He also ordered women away not to worship with "dead bodies" (Iamblichus, §XI). Aristotle reports the same about Pythagoras. To wit: "The only altar at which he worshipped was that of Apollo, the Father [...] because wheat and barley, and cheesecakes are the only offerings laid upon it, as it is not dressed by fire; and no victim it ever slain there" (Diogenes *citing* Aristotle, *Constitution of the Delians*). Empedocles tells us that it is the "greatest defilement among men, to deprive animals of life and to eat their godly bodies" (Fragments, On Purification § 405). Likewise, Plutarch asks,

What madness, what frenzy drives you to the pollution of shedding blood, you who have such a superfluity of necessities? Why slander the earth by implying that she cannot support you? Why impiously offend law-giving Demeter and bring shame upon Dionysus, lord of the cultivated vine, the gracious one, as if you did not receive enough from their hands? Are you not ashamed to mingle domestic crops with blood and gore? (Plutarch, pp. 546 – 547).

That “karmic” discourse occurred has been illustrated. There, we see that animals were understood to be living beings, and it provides a point of comparison against which contemporary disperse statements can be compared, which assert that animals are primarily *beings*. This is because statements collected under this umbrella often refer to harming animals as a cause of incurring karmic debt and killing animals as an act that takes away their souls.

#### ***Rational Animals Discourse***

“Rational animal” discourse is a subjugated discourse that conveys knowledge that animals are *beings*. “Rational animals” discourse contains words that indicate animals are rational, that they understand right from wrong and are capable of exercising free will to make the choice between the two. Accordingly, it reflects an understanding of animals as *living beings*.

Like the “transmigration of souls” discourse, the examples of disperse statements that can illustrate this discourse are many. For example, Plutarch cited several examples of different types of animals and their cleverness as evidence of the rational nature of animals, though he omits storks and foxes as examples too obvious. For example, that

bees remember, swallows prepare nests, lions become angry and deer become frightened are evidential that animals sense and understand their feelings, their needs to make preparations, and their memories (p. 335). To sense is to understand and to understand is to have reason.

Is it not ridiculous to keep affirming that men like Socrates and Plato are involved in vice [...], that they are just as foolish and intemperate and unjust, and at the same time to stigmatize [...] the imprecise virtue of animals as absence of reason rather than as its imperfection or weakness? [...] [V]ice is a fault of reason (Plutarch, p. 337).

Plutarch noted that [unnamed] philosophers had used evidence “to demonstrate that beasts have their share of reason” (p. 361). To support the argument that animals have reason, he cites their

possession of purpose, preparation and memory and emotions and care for their young and gratitude for benefits and hostility to what has hurt them [...] [and] [the fact that] they find what they need and their manifestation of good qualities, such as courage and sociability and continence and magnanimity (p. 361).

Plutarch also relayed a story is of a negotiation between ants, which culminated in the payment of a ransom for the return of a dead ant belonging to the payers (p. 369 – 370).

According to Plutarch, Democritus argued that humans are pupils of animals. For instance, we learn to weave and mend from spiders; to build homes from swallows; to sing from swans and nightingales; to practice medicine from various animals (e.g. dogs purge themselves by eating grass when they need to do so; wolves and lions fast to improve health); and to bring aid to wounded members in the manner of elephants (pp. 409 – 410). He said that dolphins have “what the best philosophers seek: friendship for no advantage” (p. 473). For Plutarch, these things indicate that animals are rational.

Porphyry also engaged in “rational animals” discourse. He wrote that animals were rational, possessing practical wisdom, language, and thought, though they might be less rational than humans (Clark, p. 12). Just because animals are less rational than humans, does not make them non-rational (Clark, p. 12). They have bodily illnesses and soul experiences (like perception) in common with humans (Clark, p. 12). Porphyry argues that animals’ souls are rational and possess wisdom by noting that they are aware of their advantages and disadvantages, they learn, remember, sometime behave badly though, even so, often better than humans, and manifest virtue such as justice (Clark, p. 13; Porphyry, Book 3 §§9 – 11). Just because humans do not understand animal behavior does not make animals irrational (Clark, p. 13; Porphyry, Book 3 §11). Just because they do not have a social contract does not mean that they are not rational, especially since some people have not made such a contract (Clark, p. 13; Porphyry, Book 3, §14). Their vices (e.g. sexual jealousy) are rational, though unlike humans, they lack one vice: “they are loyal to benefactors” (Clark, p. 13 *paraphrasing* Porphyry Book 3 §13). In religious traditions animals “are honoured and associated with gods” (Clark, p. 13; Porphyry, Book

3 §§16 – 17). Porphyry argues that animals must reason or they could not survive (Clark, p. 13; Porphyry, Book 3 §§21- 22). He points out that since they care for their young, this is manifestation of a concern for others which is justice, a position with which the Stoics apparently agreed (Clark, 13; Porphyry Book 3, §22).

To Porphyry, gods, humans, and animals are all rational. Though humans are less rational than gods and animals are less rational than humans, the degree was too close to kill them without provocation, like in self-defense (Porphyry, Book 2, §22; Clark, p. 3). It is interesting to note that for Porphyry, the standard definition of ‘human’ [...] was ‘mortal rational animal’ (Clark, p. 3 citing Porphyry in *Introduction to Aristotle’s Categories*).

Consider, too, the example of the execution of the pig at Falaise. In other ways of knowing, the question, “Who was executed at Falaise?” might garner a different answer than one generated today. This difference can be attributed to altogether different understandings of animals, permitted by conditions that created the space of thought that allowed for different understandings about them. The Falaisians, for instance, understood that particular pig to be a murderess, with the ability to possess a criminal state of mind. Ability to possess a criminal state of mind by implication means that animals are capable of understanding right from wrong and can choose between the two, viz. that they are rational. So, a fourteenth century Falaisian who was asked “Who was executed?” might rightly answer, “A felon” or “A murderess.”

That “rational animals” discourse occurred has been illustrated. Additionally, it is useful to compare contemporary disperse statements that make truth claims about the rationality of animals against “rational animal” discourse.

Of course, in the dominant discourse today, no one would seriously consider criminally prosecuting an animal for its actions. However, many animals are privately “prosecuted” for their misdeeds by their owners. Consider the now famous<sup>21</sup> dog Denver, who was accused by her owner of eating cat treats without authorization. She was sentenced to kennel time after being found “guilty” of her “crime.” Denver’s “tell” is her face scrunched up in what we interpret as undeniable evidence of *mea culpa* (Guilty, 2011). This is a disperse statement or group of statements that comport with “rational animal” discourse. However, the power-knowledge apparatuses associated with the dominant discourse today are absent to support this statement (or these statements) as “true.”

In less whimsical examples, animals are also often condemned to death or to permanent confinement because they are adjudged as “dangerous.” The “dangerous” element may stem from a perception that they possess an incorrigible demeanor or that they “know” the wrongness of their actions. Occasionally in modern times, animals are executed for their crimes in a punitive sense. Consider Mary, the elephant, who killed a man Tennessee in 1916, and who was summarily hanged for her crime the following day in retribution (Schroeder, 1993). Statements about Mary that led to her hanging belong to “rational animals” discourse that can be compared against “rational animals” discourse of

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<sup>21</sup> Three weeks after its upload, over five million downloads of “Guilty” had been recorded on YouTube.

times gone by. These are all statements that fall within the discursive formation that conveys knowledge that animals are *beings*.

That animals are rational and therefore should be held criminally responsible for their actions is not a claim understood to be true within the dominant discourse. It is therefore not a statement that can summon the vast power-knowledge apparatuses associated with criminal responsibility.

However, *any* understanding that an animal may be “guilty” is only possible because the space of thought about animals allows us to think about them in that way. The label of “guilt” as applied (if applied at all) to an animal today – even if it does not mean criminally culpable, but merely conveys the idea that animals should be responsible for their actions because they know about the “rightness” or “wrongness” of their behavior is part of the same subjugated discourse that animals are rational that condemned the pig in Falaise to be executed. The regularity that exists between these disperse statements is that animals are rational.

This concludes the part of the chapter that illustrates subjugated discourses about animals that convey knowledge that animals are foremost *living beings*. These examples were presented to show that they have existed and as points of comparison against which contemporary disperse statements belonging to the same discursive formation (i.e., the discursive formation that conveys knowledge that animals are primarily *beings*) can be made.

### **The Potential De-Legitimizing Power of Insurrection**

The fact that other knowledge about animals has existed has been illustrated. But what of it? As noted earlier, subjugated discourses are not presented as discourses that ever were or inevitably will become dominant discourses. Instead, they are points of resistance, even if faint and fleeting. However, disperse statements that spring from subjugated discursive formations persist. The persistence itself is important. After all, if we have finally “gotten it right” about animals, why then do we see old knowledges erupting from the ground of knowledge that we “know”? Knowledge does not become fixed, and it does not remain unchanged.

Rather than seeking or creating an explanation concerning how or why animals were once deified but later disassembled and commodified, the focus is on the points of contradictions, because from there different paths of thought spring. The paths not taken are then identifiable. There, too, we can see the forces of (powers of) discourses that are potential de-legitimizers of the dominant truths of the day.

Application of the archaeological method allows subjugated discourses about animals to be brought forward and described on their own terms, viz. that they occurred. Several examples have already been offered. Additionally, a description of the relations between discursive formations is imperative to revealing the “tree of derivation of a discourse” (Foucault, 1972, p. 147). In other words, the relations between these various discourses are described to see how they are related. As noted, knowledge of animals as primarily *living beings* is conveyed in “rational animal,” “karmic discourse,” and

“transmigration of souls” discourse. That animals are primarily living beings is the relationship between the subjugated discourses already presented in this chapter. The relationship between the discursive formations that animals are personal property and that animals are living beings is that both comprise the forks of a bifurcated understanding about animals today. As noted earlier, conditions must exist for the subjugation of some discourses and the rise of others. An archaeology is a dusting off and examination of the surface of the writings, without interpreting, extracting, or imposing meaning, or overarching or underlying themes upon the events themselves. As Gutting noted, an archaeology’s strength is that it centers upon the language itself to reveal the conceptual structures that lie outside of human consciousness (Gutting, 2005, p. 12). The next section reviews the archaeology method and, using it, examines an insurrection of subjugated knowledge. This particular insurrection of subjugated knowledge is emerging through an established power-knowledge generator – that of the academic institution. This matters because it is an illustration of the potential for subjugated knowledge to delegitimize existing “truths” of the dominant discourse. Of course, no prediction can be made about what will occur. The point is simply that this competing discourse is now emerging, even though it does not logically “follow” from the dominant discourse. Additionally, this competing discourse is not emerging from the fringe. Instead, it is emerging from the midst of our “knowledge” centers themselves.

### *Archaeology and the Insurrection of Buried Discourse*

This section begins with an overview of archaeology. An archaeology analyzes the subconscious of knowledge, or things that are thought to be true within a body of knowledge. Though many disciplines have things to say about animals that are believed to be true or not true within those disciplinary borders, much discourse about animals occurs that is not ostensibly part of a disciplinary way of thinking, though it may be rooted there, whether those with something to say about animals are aware of those footholds or not. For example, if words or writings appear regarding the use of animals in biomedical research, those words or writings might emerge from a particular discourse where statements can be labeled as true or not true, in which the rules that adjudge those statements as such have emerged from fields such as biology, medicine, law, and philosophy.

Of course, *animal* does not denote a disciplinary field itself. This is just as well, because if it comprised a discipline, to conduct a proper archaeology, we would have to step outside of the boundaries of that field to recognize the existence of conditions that have allowed us to make truth claims regarding the animal. This is because as a threshold issue and as a matter of methodological rigor, an archaeology requires suspension of unquestioned authority given to discursive unities, such as tradition, influence, and in particular, those associated with books and bodies of work (*œuvres*) (Foucault, 1972, pp. 21 – 24, 31). Foucault insists that we approach what purports to be knowledge with recognition of the relative nature of any such claim, rather than meek deference to its purported truth or by the limits of disciplinary boundaries. Unities occur in many layers,

such as in a single text, or an *oeuvre*, or a time period, or in intellectual traditions, and, of course, in disciplines (Foucault, 1972, pp. 21 – 24).

Archaeology does not hide contradictions, and it does not try to explain them (Foucault, 1972, p. 151). Untruths are not hidden and discontinuities are never ignored; rather, they are the very focus or the object of the work itself (Foucault, 1984, p. 460; Foucault, 1972, pp. 13, 31, 145). The common points of a discourse, as well as the forks of divergence, reveal the gaps (Foucault, 1972, p. 152). Once identified, those gaps lay open to allow description of the relations between discourses (Foucault, 1972, p. 29). And, a description of the relations between discourses reveals its “tree of derivation” (Foucault, 1972, p. 147). In other words, it reveals an interpretation of why one discourse has emerged as the dominant discourse, while others have been subsumed into the murky bygone.

The cohesive element of unities is their means of transmission (e.g. a single author’s development from work to work; the influence of one thinker to another) (Foucault, 1972, pp. 21 – 24). Indeed, authentication of a truth claim may lie deeply – be well-layered, so to speak – within its respective unity, having been passed down from thinker to student, from text to mind, from one generation to the next.

A contemporary legend regarding the questioning of a unity rooted in tradition is presented here. A woman always cooked a ham for the holidays. As a matter of preparation, she sliced both ends of the ham off before baking it. One year, someone asked her why she sliced the ends of the ham off. She answered, “My mother taught me to do that!” The next year, the woman’s mother was there to help prepare the holiday

meal. The same question was put to mother. She said, “My mother taught me to do that!” When both women realized that they did not know why they prepared the ham that way, they contacted the mother’s mother. She said, “Oh, my roasting pan was always too small to cook a ham! I had to slice the ends off to get it to fit.” Slicing the ends of the ham off was completely unnecessary to the cooking. This is a simple example of a well-layered “truth,” that illustrates the need to avoid unquestioned deference to unities.

The greater accretion of the power-knowledge apparatus, the more firmly rooted those claims of truth. The statements gathered for study themselves must be addressed as events unfettered by its unity’s boundaries – as a “dispersed event,” to be viewed for their own occurrence, for the fact that they happened at all (Foucault, 1972, pp. 28, 138 – 140). This, of course, is how we examined subjugated discourse earlier in this chapter. Doing so allows the examination of relationships without the artificial limits subjective unities, such as time (Foucault, 1972, p. 29).

A Foucaultian archaeology has been employed to reveal the relative dimness with which we understand animals today. That project is undertaken in the next chapter. It is also used to describe the emerging discourse about animals – “the academic discipline of the question of the animal” – that has the potential to de-legitimize dominant “truths” about them, though no assertion is made that this change is inevitable. What is notable about this emergence of subjugated knowledge is that it has emerged from academia, which is a concentrated power-knowledge center. This emerging discourse (knowledge-power) directly contradicts the dominant discourse by asserting that “animals are not personal property.” It is an insurrection of subjugated knowledge, because it supports an

understanding of animals as “beings.” Disperse statements from the emerging discipline relating to the question of the animal are very similar in many ways to those emanating from subjugated discourses of the past, which have been mentioned in this chapter.

The new academic field related to the question of the animal is still poorly defined and without a well-established moniker. It is a unity in the making. Besides the location of its emergence – in the heart of “knowledge” centers themselves, what is of fundamental interest, of course, is that conditions exist that have determined that the animal is an object of knowledge and that particular persons possess knowledge about that object (*see e.g.*, Rabinow, pp. XXV). Moreover, the animal is making a re-appearance as subject, rather than as solely object. The disperse statements coalescing within this forming discipline appear to be comprised of those of the subordinate prong of our bifurcated understanding about animals – that animals are *living beings*. Indeed, this new academic discipline utters statements directly contradictory to the dominant way of knowing about animals, viz., that they are personal property. For example, useful comparisons can be made between the discourses of the “agriscience” disciplines (e.g., animals as food production machines) and the new academic discipline concerning the question of the animal. In the former, animals may be referred to as “machines,” while in the latter, animals may be labeled “sentient beings.” The former is a statement about property, while the latter is a statement about *beingness*. The former is a statement about an object, while the latter is a statement about a subject.

This emerging academic discipline emits statements that are “error” when viewed from our dominant way of knowing about animals. Statements that might interfere with

or disrupt the dominant understanding of animals as personal property might be uttered by persons who are recognized to say true things (Foucault, 1980, p. 131). If so, those statements may no longer be labeled as subversive or illegal – as “error” – such as has been the case when the same assertions have been made, for example, by the ALF, though no prediction can be made on the point. However, if this new academic field does elevate the “living being” discourse from its subordinate position to something approaching the trump position of personal property discourse, this will perhaps challenge the exclusivity and control of truth production by the “few great political and economic apparatuses” (Foucault, 1980, p. 132) currently recognized as saying true thing about animals, such as the various livestock industries, government agencies charged with overseeing slaughterhouses, grocers that carry dismembered animal parts, and multinational corporations that traffic in disassembled animals. Or, both versions of truth will live side-by side. After all, seemingly contradicting truth regimes have lived side by side before.

This emerging academic field related to the question of the animal differs from the well-established field of Animal Science, which is often a precursor to, substitute for, or synonymous with Veterinary Studies – where the biological body and (or) the holistic health of the animal is studied. Moreover, it is different from programs addressing the technical aspects of using animals as tools – e.g., Assisted Therapy Animals (e.g. University of North Texas) or agricultural programs. During the last few years, graduate programs in Animal Law (e.g. Northwestern School of Law of Lewis and Clark College), Animal Studies (e.g., Michigan State University, Eastern Kentucky University, New

York University, Wesleyan University), Human-Animal Relations (e.g. Canisius College), Human Animal Bond (e.g., Carroll College), Environmental Ethics and Animal Welfare (Colorado State University), Critical Animal Studies (e.g., Brock University), Human Animal Interactions (e.g., Ohio State University), Humane Leadership (e.g., Duquesne University), Animals in Human Society (e.g., Notre Dame de Namur University), and Animals and Public Policy (Tufts University), to name a few, have emerged.

These programs are quite apart from the occasional foci concerning the question of the animal that spring forth in departments of philosophy and environmental studies, where statements are analyzed for their truth within certain disciplinary borders, such as moral philosophy, and economic and political decision making theories, respectively. While this new academic field might edge itself into those or other existing disciplines in time, the newness of the field allows for self-definition and criteria that are outside the existing rules and knowledge of other disciplines. In other words, the conditions and rules that will adjudge statements about animals as true or not true within this new discipline are yet forming.

A recent emergence of an academic discipline relevant to this discussion is environmental studies. This field is distinct from the natural sciences, and it is a new discipline, having emerged in the last few decades. The apparatus of unities – the power-knowledge relations – has become entrenched around it, which include professorates, departments or programs in universities, academic major and minor courses of study, graduate programs, and peer reviewed journals. Conditions have also developed to

adjudge statements as true or not true. One discourse systematically excluded or adjudged error within environmental studies is that involving animal abolition (see e.g. Sagoff, 1984). Likewise, discourse that favors animal liberation over property ownership interests (*a la* Animal Liberation Front) is considered error within that field. Indeed, in the latter case, the label “terrorist” has been branded upon those who engage in such discourse by the U.S. government as well as many state governments. The governments are favorable to environmental studies graduates, for example, but label as error language that animals are not property.

Disperse words, discourses, relationships between discourses, and relationships between discourses and events/institutions are being gathered up by this new field. For example, the Institute for Critical Animal Studies has as a core belief that scholars must be brought together under a common field of study (About ICAS, 2011). The Oxford Centre for Animal Ethics uses terms like “the first” and “pioneering” to describe its Aims and Visions (Aims and Visions, 2011). That this poorly identified field is emerging – the once error (an incision) has grown to knowledge (an out-and-out tear) – is also apparent in the relative intellectual youth of the people who participate in the discourse, as well as the great emergence of legitimizing “offices of authority to speak.” For an example of the former point, the presenters for the 2010 Institute for Critical Animal Studies conference were largely comprised of Assistant Professors and PhD students or candidates (Presenters’ Biographies, 2010). An example of the latter point can be seen in the emergences of academic journals devoted to this discipline (e.g., *Journal of Animal Law and Ethics*, *Journal of Animal Ethics*), animal law deanships (e.g. Lewis and Clark

School of Law has employed the world's first Animal Law Dean), full time faculty devoted to the question of the animal (e.g., New York University; Lewis and Clark School of Law), massive, well-funded and politically connected no-kill animal shelters, vegan clothing and shoes companies, etc. For example, Best Friends in Kanab, Utah is the largest no-kill animal shelter in the United States. It regularly and consistently houses several thousand animals in spacious quarters, employing full time, on-site veterinary staff as well as a wide range of professional and non-professional positions. No-kill animal shelters have vastly multiplied nationwide over the last twenty years, including specialized farm sanctuary no-kill shelters (housing animals considered as "livestock"). Likewise, of course, that certain animals (e.g., dogs, cats) were considered appropriate objects to place in shelters that routinely euthanized its inhabitants is an example of power-knowledge that existed because conditions allowed it to exist.

Incisions in truth regimes are made by errors, which, as will be recalled, are statements understood to be not true within a particular way of knowing. Incisions are precisely the things that are sought in an archaeology (Foucault, 1972, p. 28). That an incision in the "knowledge" that "animals are personal property" has been made is undeniable. Indeed, this incision may portend a truth shift in the way that human beings understand animals, though no such prediction can be made on the point. Change happens, but it need not happen as a matter of logic. Indeed, one might note the illogic of such an incision emerging from universities, which are modern generators of "knowledge" itself. Why might the emergence be considered illogical? Because the statements considered "true" in the emerging academic discipline concerned with the

question of the animal do not follow from the statements that have been considered “true” in existing academic disciplines that have things to say about animals. This truth shift, if it is occurring, is an error-turned truth that, which has been enabled – perhaps has even been required – because conditions have allowed it to emerge as such. In other words, this must not be viewed as an evolution in discourse that thinkers have willed into being. It should also not be viewed as a result of a greater or more sensitive human enlightenment, or as a result of any other human-driven will-to-knowledge. After all, subjugated discourses in which animals were understood to be something other than personal property have occurred in the past, having both risen and fallen – perhaps countless times – within various fields of knowledge.

What will this emerging field look like in 50 years? Knowledge changes with context. Knowledge is comprised of facts that are understood to be true within a particular way of knowing. And when this knowledge starts and has sufficient momentum – a truth generator as it were – then it may assume the status of a discipline. If this emerging field succeeds in establishing itself as a bona fide academic discipline – pumping out holders of degrees, professors, judges, legislators, and writings from presses that are understood to publish “knowledge” then we can expect it to have accreted its own power-knowledge apparatuses accordingly. It will have vetted the truth or untruth of statements, as well as how statements might be adjudged true or not true. It will have governing rules related to the objects that statements can be made about, and it will have rules concerning the status and authority of statements, concepts, and themes or theory related to the object about which the discourse is formed (Foucault, 1972, pp. 40 – 70),

though not expressly stated. Instead, those rules will “‘traverse’ formulations, and set up [...] a space of coexistence” (Foucault, 1972, p. 147). And, importantly, for a critique of thought about animals in the future, the “truth” generated by these power-knowledge relationships will have to be held at arm’s length, because this discipline will comprise a unity.

Are we there yet? It may be impossible to see the present from a contemporary seat, where our blinders are most firmly affixed. When a statement made about the question of the animal may be judged against existing statements made about the question of the animal to determine whether the statement is true or not true, then we may see that the question of the animal is the subject of a unity that may be an academic discipline. Perhaps a more worthy query for the present is why the animal has become a question at all. The emergence of university curriculum of classes and entire courses of study from multiple points within a relatively short time span could certainly be explained by various theories within our present way of knowing, but as illustrated above, any cause-effect explanation is not infallible because the emergence of the question of the animal as a discursive formation was not an inevitable consequence of an event or a set of events. The emergence of new discourse has the markings of evolution in that errors (mutations) give rise to new discourse (traits) that fit some conditions have created (a niche.) However, we must hold any tendency towards understanding emerging conceptualizations like evolution at arm’s length, because evolution denotes some ordered sense – predictable sense – of how things unfold. If the new academic discipline concerning the question of the animal is a burgeoning of our secondary understanding of

animals (as living beings), then we might view statements such as those uttered by the ALF (that animals are not personal property) as incisions that wrenched to an out-and-out tear in our fabric of understanding about the animal, the hole of which has now allowed the emergence of this new discourse. If so, then a shift in understanding – a change in episteme – may result, though of course, no prediction can be made on the point. What can be said with certainty is that many points of resistance exist, which seem to have coalesced under the general umbrella of the emerging academic discipline concerned with the question of the animal. What was once “error” is now regarded as “truth” within a particular way of knowing. That new way of knowing also bears the some of the mantles of legitimacy (e.g., universities) carried by the competitor dominant discourse (i.e., that animals are personal property), but not all (e.g., law).

Of course, we do not require a discipline to conduct an archaeology, though the emerging academic discipline of the question of the animal seems to be a convenient example. Of course, the conditions that gave rise to knowledge assuming a status of a discipline *are* relevant, because knowledge about the animal is formalized, gathered into disciplines, and perpetuated and disseminated as truth. However, the body of knowledge of concern here is disperse. The concern is not limited to conditions that gave rise to knowledge assuming the status of an academic discipline about the animal, but rather it is more broadly defined. A fuller expression is that consideration must be given to the disperse statements about the animal – regardless of their “fit” within any discipline – and

to the recognition that conditions must exist to give rise to the existence of those statements wherever they may appear.<sup>22</sup>

An archaeology “is nothing more than a rewriting [...] [I]t is a systematic description of the discourse-object” (Foucault, 1972, p. 140). In order to *do* an archaeology, then, requires writings to be identified and to be understood as descriptions of the words themselves (Foucault, 1972, pp. 138 – 140). Resurrection of the writers’ thoughts or feelings is not attempted (Foucault, 1972, p. 13). As noted earlier, the importance of the writings lies in the fact that they happened, rather than what meaning they might hold or what thematic representation might be drawn from their existence (Foucault, 1972, pp. 28, 138 - 140). For example, when thinking about the emergence of the question of the animal as academic discipline, the point of inquiry is not to uncover the meaning of the emergence of the discipline (e.g., advancement in human consciousness; liberation of oppressed beings), but, instead, the point of inquiry is in the fact that writings that have created or are creating this discipline have appeared at all. From there, we can recognize a new locus of power-knowledge as well as its related apparatuses.

Writings are comprised of the object of the statement (Foucault, 1972, pp. 13, 40 – 70, 147). In the example of the emerging academic discipline concerning the question

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<sup>22</sup> That is to say, “wherever they appear, within the confines of this project.” Non-western thinkers, such as those hailing from the Hindi, Jain, and Buddhist traditions, have been omitted. Additionally, references drawn from mythology, literature, poetry, and other arts (e.g., cave markings) have been omitted. Native American thinkers are also omitted, though footnote 10 contains a direct quote from an Animal Liberation Front warrior, who is also a Native American (Pascua Yaqui). His writings, therefore, are also Native American writings.

of the animals, these writings may or may not have as its object the animal; they most certainly have as their object the legitimization of the discourse about the animal and, in particular, the “living being” discourse about the animal as a favored discourse to that of “personal property” discourse. We might also think about this as a dichotomy between animal as subject versus animal as object. Recall that “living being” and “personal property” discourses are not mutually exclusive, but instead, comprise our bifurcated understanding of animals today. However, the emerging academic discipline of the question of the animal favors “living being” discourse to “personal property” discourse and, in fact, “animals are not personal property” discourse flourishes there as well.

As noted by Derrida, Jeremy Bentham quite famously “changed the question” about animals. In his day, discourse centered upon whether animals were rational or whether animals could speak in human language. Showings in the negative necessitated an understanding of them as personal property. However, as Bentham wrote, “The question is not, Can they *reason*? Nor, Can they *talk*? But, Can they *suffer*?” (Bentham, 1790, Chapter XVII note 122). Might this emergence of the question of the animal as academic discipline be a changing of the question?

Several examples of thinkers could be offered on the point concerning the rise in “animals are not personal property” discourse. Contemporarily, there are many. Consider, for example, Martha Nussbaum, who advances neo-contractarian theories that extend justice to animals, based upon their individual species’ capabilities. Consider also Gary Francione, who argues that the status of animals as personal property is a fundamentally and irredeemably problematic conceptualization of animals (Francione, 1995, p. 253).

The writings found in the emerging academic disciplines related to the question of the animal take the form of dissertation proposals, curriculum proposals, and conditions imposed for endowed courses. For example, Bob Barker has endowed courses related to the question of the animal in several universities, such as Harvard and Duke (Honorary Fellows, 2011). These are largely writings about writings. Among these writings, one may note quite readily that “rational animal” discourse seems to have found favorable conditions to emerge – even flourish – though “transmigration of souls” discourse has not. Writings are also comprised of the authority of the statement and the theory advanced, and they are subject to rules (Foucault, 1972, pp. 13, 40 – 70, 147). In our example, the authority of the statement concerning the emergence of an academic discipline concerned with the question of the animal will have emanated from those who have an actual or potential “office of authority to speak,” such as professors or people with funding resources to give to institutions of higher learning. This, of course, is precisely what has happened.

But why do we suddenly have a generation of emerging academicians that are interested in the question of the animal? Might the temptation exist to *explain* this discourse by remembering the televised likes of Mutual of Omaha’s Wild Kingdom or Jacques Cousteau? We might tack that way if we were to construct a history of ideas. However, the project here is not to construct a history of ideas, but instead to examine the space created by rules in which thought occurs (Foucault, 1970b, p. 384). So, instead of finding an explanation in the early influences of today’s thinkers – which would be the same thing as deferring to a unity and the cohesive element of its transmission – we

might instead ask why animals were the focus of a discourse at all. This is because in archaeology, the focus is on the subconscious of the discourse itself (Foucault, 1970b, p. 338). Instead, we must look to what made this discourse possible in the first place at that particular time. As Foucault discovered with respect to psychiatric discipline, there is no immediate precursor that can explain it (Foucault, 1972, p. 179). Instead the relationship between events that then existed are what made it possible. In the case of psychiatric discipline, those things included “relations between hospitalization, internment, the conditions and procedures of social exclusion, the rules of jurisprudence, the norms of industrial labor and bourgeois morality” (1972, p. 179). Additionally, the discursive formation that permitted its status as science was not limited to scientificity or academic disciplines. It was also found in law, literature, philosophy, political decisions and daily life (p. 179).

And so to consider why an emerging fleet of academicians are coalescing around the question of the animal – and in particular the “living being” discourse about the animal – requires us first to recognize that the existence of the discourse itself is conditional; it exists, is modified by, and disappears by rules of formation (Foucault, 1972, p. 38). The discursive formation is formed by the rules that shape the space of knowledge and is outside the control or will of individual persons. With respect to the dominant contemporary western understanding of animals, viz. that they are personal property, we will see that the concept of man is a central condition of the production of “truth” or knowledge about animals. With respect to the emerging academic discipline concerning the question of the animal, the rules that shape the space of knowledge that

are outside the control or will of individual persons are drawn from these multiple points of emergence. Moreover, a mass of “living being” discourse has emerged – so much so that it cannot be stamped out as it appears by the power-knowledge apparatuses of that created the dominant discourse of the day (i.e., personal property discourse). It is – perhaps – an observable sea change in episteme, though no prediction can be made on the point. It is certainly a resistant discourse.

To consider why the emergence of the academic discipline concerning the question of the animal has sprung forth from multiple points during the same time period, the focus must remain on the production of truth. This is because the conditions that have permitted statements to emerge as truth have formed the rules that shape the space of knowledge in which this discourse can exist. The discourse has *veridictive* power because the conditions have allowed it or required it to have it. Uncovering the rules that have allowed statements to be labeled as true or not true quite necessarily lead us back to the authority under which truth claims are made. These points of authority are knowledge generators, perpetuators, and gatekeepers. These points of authority are power, because they protect, perpetuate, and keep alive the production of truth.

Foucault also informs us that writings also contain the formation of the theory (1972, pp. 13, 40 – 70, 147). The writings in question of the emergence of an academic discipline concerned with the question of the animal, regarding the academic discipline relating to the question of the animal are concerned with legitimizing an academic discipline related to the question of the animal, and specifically, emphasizing “living being” discourse and providing a legitimized resistance to the “animals are personal

property” discourse. Integration of writings about the question of the animal into curricula and research streams would render the claims made in those writings that spring from those efforts (e.g., publication in journals, conference papers) to be understood as truth rather than as error.

Rules govern the formation of the discourse. These rules spring from social norms, from recognized rights to make statements, and from institutional authorities from which the statements emerged (Foucault, 1972, pp. 41- 42, 50 – 53, 147). An analysis of the formation of the discourse involves classifying its governing rules. For Foucault, those governing rules included rules for the formation of objects, rules for the formation of enunciative modalities, rules that govern the formation of concepts, and rules concerning the formation of strategies (Foucault, 1972, p. 147). These rules are described here, but a dogmatic adherence to them has not been observed in the present project.<sup>23</sup>

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<sup>23</sup> After all, Foucault himself did not advocate dogmatic adherence to his methods. His methods have been picked through, and those best suited have been selected for this task (Gutting, 2005b, p. 112). Foucault said of his use of Nietzsche’s methodologies, “The only valid tribute to thought [...] is precisely to use it, to deform it, to make it groan and protest” (Foucault, 1980, pp. 53 - 54). Likewise, Foucault’s methods here may be slightly deformed.

Foucault also described his early seminal works as “imperfect sketch[es]” (1972, p. 14). The problems Foucault identified in *Madness and Civilization*, *Naissance de la Clinique*, and *The Order of Things* include a too heavy-handed focus on certain elements of discursive formation, including rules formation (1972, p. 65).

Rules for the formation of objects appear in three types (Foucault, 1972, pp. 41 – 42). First, rules associated with surfaces of emergence spring from social norms in which objects of a certain character are separated off. In our example of an emerging academic discipline, we see that the object of the question of the animal has been adjudged to be an object of academic concern, where the university is the surface of emergence. Second are rules associated with authorities of delimitation (Foucault, 1972, p. 41 – 42). In our example, a certain group of people – academicians – have taken the question of the animal as an object. Third, rules for classifications of objects existing outside the reaches of authoritative judgment are nevertheless classified by grids of specification (Foucault, 1972, p. 42).

Rules for the formation of enunciative modalities include recognized rights to make statements, institutional authority from which the statement emerges and the relative position of the subject who made the statement vis-à-vis the object (Foucault, 1972, pp. 50 – 53). In the present example, if an academic field of the question of the animal becomes established, professors in that field will be understood to be experts, and their universities will be the institutional authority from where the statements emerge. The relative position of the question of the animal to the person who made the statement would be quite close, since the discipline concerns the question of the animal, which is all textualized. In other words, it is not the animal being discussed, but rather, the question of the animal. The animal is an object of the discourse, but the statements themselves are statements about statements. Recall that writings are descriptions of the words themselves (Foucault, 1972, pp. 138 – 140).

Rules that govern the formation of concepts fall into three types (Foucault, 1972, pp. 56 – 59). First, there are rules that establish relational ordering among statements (Foucault, 1972, pp. 56 – 57). These involve succession, which include orderings of enunciative series and types of dependence (Foucault, 1972, pp. 56 – 57). Second, there are rules that establish attitudes about types of statements, and these define field of presence, field of concomitance, and field of memory (Foucault, 1972, pp. 57 – 58). Third, there are rules for procedures of intervention, such as techniques of rewriting, methods of transcribing, and modes of translating (Foucault, 1972, pp. 58 – 59).

Finally, as discussed above, rules concerning the formation of thought itself (e.g., strategies or theoretical perspectives) are restrained within discursive formations by implicit underlying rules (Gutting, 1989, p. 237). The range of possible alternatives is defined by points of diffraction, which are permitted by the rules of the particular discursive formation but that are incompatible, thereby representing forks of thought within the discursive formation (Foucault, 1972, pp. 65 – 66). Further, limitations upon formation of strategies are imposed – and thereby reduce or eliminate possible points of diffraction – by the economy of the discursive constellation (Foucault, 1972, pp. 66 – 67). Moreover, formative elements may authoritatively delimit potential points of diffraction (Foucault, 1972, p. 68).

### **The Hidden Truth of Error (Or, Some knowledge should just remain buried)**

Thought that is “different” from those governed by the rules that govern the discourse are considered error; indeed, they may be considered as madness (Foucault,

1972, p. 42). An example of utterances understood to be error and labeled as madness with respect to our present understanding about animals is useful before this chapter concludes, so that we might not fall into an easy belief somehow that we have “finally arrived” at the truth about animals. A focus on an utterly inexplicable irruption in discourse is also consistent with Foucault’s own predilection to do the same.

Consider the case of Timothy Treadwell, a bear enthusiast, who lived for many seasons in Alaska with the bears. His writings indicate that he had been accepted as part of the bear community, and that he was their “brother” (Treadwell, 2003). His statements also indicated that it would be an honor to be eaten by a bear so that his body could be transformed into bear scat (Medred, 2003). Those statements were presented as truth claims, but they were labeled as error; indeed, some took those words as evidence to label Treadwell as mentally ill (Schutten, 2008, p. 195).

To quickly sketch via archaeology why this might be so, we can see that Treadwell’s writings contained the formation of the theory (e.g., that humans and animals were related as family). However, Treadwell was not speaking from an “office of authority to speak,” because, for example, he had no exterior labels of expertise (e.g., wildlife biologist, ranger, etc.) and he lacked institutional authority, because he was not aligned with a legitimizing organization (e.g., U.S. Fish and Wildlife Service, National Parks Service, any university, etc.). In short, he did not have any recognized rights to make statements that would be understood to be true. Therefore, he was not recognized as someone who said true things. Though he lived in close proximity to the object about which statements were made (bears), proximity was trumped by lack of office of

authority to speak, both personally and institutionally. Taken as a whole the rules governing the formation of the discourse tilted his statements as being statements of error rather than being adjudged as true. And, his ending seems to have legitimized the judgment upon his words as true – that is, his words were error. Specifically, Treadwell was eventually eaten alive by a bear (Bear Mauling).

But consider other discursive formations have existed that might not render a judgment of error upon a statement such as Treadwell's claim that he was a "brother" of the bears. In other ways of knowing, this statement might be a statement that would cohere with once-knowledge that then existed. His statements might have been adjudged as true. For example, in certain discursive formations, asserting that an animal is a kinsman would be considered to be a statement of truth. If, for instance, animals were understood to be kin, then Treadwell's words would not be considered error. Likewise, if their bodies were considered to house the souls of once-humans or someday-humans, the claim that they are "brothers" might be labeled as true within a particular discourse. If such statements were adjudged true, then they would not at the same time be considered as error.

Consider, for example, the "transmigration of souls." Today, we cannot imagine any member of any legislative branch discussing the transmigration of souls vis-à-vis any statute that exists to punish human beings who commit cruel acts against animals or in any agency related to the processing of livestock. Any such utterance would be labeled as error and would possibly lead to the career ruination of the utterer, because such a statement does not cohere with the rules that form our present structure of space of

thought that require us to view animals as personal property. Truth claims made within a body of knowledge that could be adjudged as true or not true are based upon whether those statements reflected coherence within that particular way of knowing.

Consider again the “transmigration of souls” discourse. In the Treadwell example, we might recognize dispersed statements that share regularities with “transmigration of souls” discourse. For example, like Treadwell, Pythagoras reportedly used terms like “kindred” to describe animals, and he considered them “intimates and friends” (Iamblichus, § XXX). Pythagoras<sup>24</sup> was said to declare that one spirit, like a soul, pervades the universe, rendering humans and animals as one. According to one tale, for example, Pythagoras once saw a dog severely beaten, and he stopped to speak to the man responsible. Pythagoras asked the man to stop beating the dog, because he recognized the voice crying as belonging to a soul who was once a dear human friend of his that now lived in the body of the dog (Diogenes, *quoting* Xenophanes §XX). Treadwell’s words about animals as “brothers” are similar, too, to those of St. Francis, who is said to have called all creatures “by the name of brother and sister” (Linzey, *citing* St. Bonaventure, p. 12). Francis is said to have preached to “Brother wolf” and to counsel him to cease terrorizing a village in exchange for regular feedings by the townsfolk.

Were we to attempt to make truth claims within that now subjugated discourse – which is how we might characterize Treadwell’s statement about bears as brothers (i.e., an attempted truth claim), we certainly would point to those before us who remain

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<sup>24</sup> And others, of course (e.g., Plato, Empedocles, Plutarch).

prominent and who left words indicating that they believed the same. This appeal to authority is relevant here not to prove the truth of the assertions made, but for a different reason altogether. What we would want to know is whether the utterers of these words spoke from an “office of authority” to speak when the discourse was not subjugated (though perhaps it was subordinate knowledge, and merely a point of resistance). Were there methods by which statements could be adjudged as true or not true? If so then we might expect that truth claims once asserted within the subjugated discourses to be self-legitimized, if they emanated from people who were understood to say true things. In other words, truth claims were considered true, rather than error. Those who spoke them may not have been considered mad.

What then of Treadwell’s assertion that a conversion of his body to bear scat would be an honor? Surely mad. Yes? For what can be done with knowledge that we are recyclable, reusable, thoroughly dispensable – indeed, existing so that *animals* might use *us*? Surely no such knowledge has ever existed. Could the utterance of such a claim be said to be an error *absolute*? Then again, let us not forget that humans and animals have born the weight of the same language labels, and those labels have had, at times, non-illustrious roots. Let us return momentarily to the linguist Spitzer, who, traced the common locus of *pet* (English, meaning animal or child) to *pet* (French – as in *ne vaut pas un pet*) to Latin *pēditum*. Indeed, he quotes extensively from “Termes scatologiques” from *Enfant, garçon, fille* (Lund, 1919, pp. 216 - 223), to trace the word to concepts of

*stercus and pēditum* (p. 535 - 536). Child, animal, human, scat. Certainly outside of our ability to conceive of it.

Treadwell mad? Perhaps in our present episteme. But surely a person recognized as saying true things in a different truth regime.

## Chapter 4 On Blindness to Being

In the last chapter, the insurrection of buried discourses was considered, as well as its potential de-legitimizing effects upon what we think we know or understand to be true. This chapter considers another discourse buried in plain sight, that of animals as *beings*. It also addresses disperse statements and discursive formations, whose presence or not marks conceptual limitations. Specifically, statements that are not understood to contain truth-telling power lie outside of our current way of knowing. They are not knowledge or “true” and they lack power associated with knowledge. Conversely, of course, statements that are knowledge form our conceptual possibilities. This is because power-knowledge determines the form of possible knowledge (Foucault, 1977, p. 28).

Recall that our subordinate understanding of animals as “living beings” is itself bifurcated. The conceptual delimitation of this, our secondary understanding of animals, requires us to see them as *living*, but dims our understanding of them as *beings*. This dimming is concurrent with the absence of knowledge springing from “living being” discourse that required understanding animals as primarily *beings*, such as “transmigration of souls,” “karmic discourse,” and “rational animal” discourse, as described in the last chapter. This has left us, in modern times, with a shell of what might possibly be a more multi-faceted understanding of animals as “living beings.” Of course, no suggestion is made here that discourse related to “unliving” beings exists or might be relevant. However, discourse related to the being-ness of animals appears to be only dimly apparent. For example, discourse asserting that animals have no soul seems to understand animals as living, but without a being. Of course, the term “soul blindness”

has been applied to nonhuman animals by others (Cavell, 2008, p. 93) as a failure to see others.

Note, for example, that in the “transmigration of souls” discourse, the emphasis, in fact, is on *being*, rather than on *living*, because the biological body is understood to die, but the *being* departs it and re-inhabits another. The term *being* is identified with soul, which allows the distinction between living and being. The “transmigration of souls” discourse was once knowledge in which truth claims could be made. Viewing the events at Falaise through the veil of such knowledge would have required the pig at Falaise to be viewed as a body housing a soul, indistinct from the souls that take up tenement in human bodies. Such an understanding would have required consideration of “who” (as in, which *being*) was being executed, rather than simply understanding that the termination of the signs of life had occurred, and whether that being was someone once known or to be known again in the future. However, claims today consistent with what was understood to be true within that discourse would be considered error, given the current dominant understanding about animals.

Of course, what may appear to be a “shell” of knowledge now could appear to be a wealth of understanding in some other way of knowing about animals. For example, if the dominant understanding about animals completely eclipsed our secondary understanding about animals and we only conceptualized them as personal property and not as living beings, then our present understanding as primarily *living* with a dim understanding of them as *beings*, would seem quite rich, by comparison. We know by

uncovering once-knowledge that others – elsewhere and at other times – have had fuller understanding of animals as both *living* and as *beings*.

#### Discursive formations

Recall from the last chapter that discursive formations refer to disperse statements in which a regularity can be found, but unity of time (or any unity) is not relevant to whether a discursive formation can be said to exist or not (Foucault, 1972, p. 38). Utterers of the dominant discourse may be unaware of other discourses that their statements are related to via a unity. Perhaps more importantly, the relative nature of the truth claims made within the dominant discourse may be unknown, because commonalities with disperse statements uttered at other places and/or at other times may be unknown or regarded as unimportant. However, for the consideration of the essential political question regarding whether a new politics of truth about animals might be constituted, discursive formations are relevant to illustrate the changeable nature of “knowledge.”

Disperse statements comprising various discursive formations about animals lie dormant in libraries, recorded by those involved in the discourse, perhaps later translated by others. The discursive formations from which they spring may be wholly subjugated. For example, words describing the religious lives of animals appear in extremely limited fragments. A 1615 treatise asserted that ants had religion and observed certain days with feasts. They were also said to be able to foretell knowledge about the future (Wilde, 1615, caput VIII (*Proprietates Septum Formicarum admiranda recensentur*) & caput IX (*De Religione Formicarum*). Likewise, elephants were said to revere heaven (Gilhus, p.

73, *citing* Pliny, 8.1 – 13). The discursive formation in which these words appear may be nearly wholly buried so that we may only guess as to whether such statements were understood as true within a body of knowledge, or if they were labeled as error.

Of course, assertions that animals have religion or magic – there is a distinction between the two, but for the purposes of this discussion that distinction is not relevant – are considered statements of error in contemporary discourse. Today, animals are said to have too much sense for religion (Harrison, 1915, p. 189). “[A] hot dog might like a cool breeze, but he does not whistle for the wind” (Harrison, p. 189). Likewise, Thorndike mentions that “beavers build dams, birds build nests, ants excavate, but they have no magic, just as they have no science or religion” (Thorndike, 1923, p. 4).

For those discursive formations that are only partially subjugated, statements in modern times provide a resistance to dominant truths, perhaps harkening back to the once-knowledge that it mirrors. Partially subjugated discursive formations are statements that today are error, but which are related to once-knowledge through similarities in disperse statements. This harkening does not imply a unity. Indeed, the statements may be utterly discontinuous. This is because the resistance of subjugated knowledge exists, even if the modern utterers are wholly unaware of the relationships of their statements to statements of old.

The relationship of statements is not the same thing as the roots of words. The etymology of words certainly denotes relationships. For example, to expand upon the discussion related to the word “pet,” which has been used to simultaneously refer to a human child and to an animal, recall from the last chapter that the root word is the Latin

*pēditum*, certainly an inauspicious root for something that has worked its way into English as something beloved (Spitzer, p. 535 – 546).

Relationships between statements occur when the same words are used to describe a concept or applied to an object as a label, regardless of the relationships (or not) between the discursive formations in which those words appeared. For example, in the last chapter we see that the ALF uses “abolish” as a term in its statement of Objective of the Mission. “Abolish” was also used, of course, in relationship to the institution of slavery. This denotes a relationship between the statements uttered by the ALF, which is an example of “animals are not personal property” discourse and anti-slavery discourse. Note that the objects about which the words have formed (e.g. animals, human beings) are different objects altogether, but the conceptualization of those objects is the same or similar within the discursive formation itself.

#### Conceptual limitations

Here, we will attempt to identify what lies at our periphery of knowledge about animals. This faint presence of a way of knowing appears dim, if at all, though it may tickle our senses with its presence. If we know that animals are living, then power associated with that knowledge will be present. The dim understanding of animals as beings also carries power, because it, too, is knowledge. As noted earlier, the changeable nature of the “truth” within any field of knowledge is not an idea that we tend to hold foremost in our minds. From fields of knowledge, understandings emerge about the objects of discourse within that field. The present understanding always exists in the

present, though perceptions of the present are something that we tend to take at face value, without probing the why's of the thing or questioning its changeable nature.

However, failure to recognize the changeable nature of our understandings about things has a blinding effect on our ability to conceptualize. Consider a simple example. Imagine a dog that has something worthwhile to say. Would we be able to hear it? An immediate and obvious objection is that dogs cannot speak in human language. For us contemporaries, that is usually the end of the matter, should the matter arise at all. After all, even if a dog had something to say that was worth hearing, he wouldn't be able to speak it in a language that we could unambiguously understand. But if assumptions are suspended for a moment – assumptions relating to beliefs that dogs cannot formulate or share ideas of any importance, or assumptions that support a general tendency to dismiss their presence altogether, or assumptions that we can understand other human beings' meanings when *they* speak – then we might consider the-dog-with-something-to-say's problem to be something akin to the speaker of error – not truly heard and not understood.

Of course, it is not the focus of this project to discern what it is that animals might have to say or whether they have anything to say at all. That is probably a good thing, too, given Foucault's (1970a) observation that increasingly, it is not so much what has been written that interests us, but rather *who* is doing the writing (p. 222). A dog would have to be "somebody" for us to pay attention. No assertion is made here that animal language is something that humans can understand. Humans bring to animal utterances the perceptions of humans, reading in to them what they may.

In our present conceptualization of animals, of course, animals are not perceived to speak from a place of authentication of truth. That is, their communication does not emanate within the boundaries of our understanding of where knowledge or truth may be found. Moreover, their language is indigenous to them. So, let us explore the issue of a dog that has something to say, because it *is* the focus of this project to examine subjugated knowledge. Additionally, the goal of the present section of this chapter is to examine the dimness of our understanding of animals as *beings*. One part of that is to undertake a critical examination of our present way of knowing by, among other things, feeling around the edges of our conceptual borders so that its outer limits might be mapped. This cartographic effort permits us to consider the dog with something to say from the human perspective, which, of course, is the only perspective that we might view it from. We can examine human beings' actions when faced with a dog that is understood to be uttering a message, because examining human actions can point the way towards conceptual borders, which delimit what we can know.

So, we do not have to abandon the dog with something to say on the grounds that we are not concerned with discerning it, due to the dog's lowly status, or we are unable to determine whether it has something to say or not. Instead we can examine the actions of human beings, including the words that we utter in response to the dog with something to say. After all, when we write or speak, we are just writing or speaking about other words that have been written or spoken. If a truth claim is made and is adjudged as true, such judgment is a statement about the truth claim's coherence with other utterances or writings. Instead of the truth of the matter asserted, Foucault maintains that when

presented with an utterance we are, instead, concerned with whether the written or spoken words are consistent with the rules that form the boundaries of the discipline from which they spring, and whether the speaker or writer from whom the words emanate is situated in a place of authentication of truth. In short, do the words flow forth from a place of exclusion or from that of the fellowship of discourse (Foucault, 1970a, pp. 227)?

Now, we do not tend to think this through consciously. Instead, these are benchmarks against which we compare statements to adjudge them as true or not true. This process is automatic, instantaneous, and ongoing. When we are conscious of it (e.g. “So what? That was not a peer-reviewed journal!”), then we engage in the deliberate exclusion of discourse. But much of the time this sorting of true/not-true is automatic and instantaneous. The filter, for example, is quite automatic when we consider the dog with something to say. We might hear the dog utter what we believe to be the simplest of requests and we might even respond to those requests in a way that we believe is responsive to those requests. (A person might “hear” a dog to day “Feed me!” in its vocalizations. The human might respond verbally (and with a bowl of food) “Here you go, good boy!”)

Possible objections may exist here concerning the fact that we do not speak the same language as a dog and therefore cannot understand whether “Feed me!” is the correct translation of any verbal utterance. However, this point is not taken up at length, because this is simply an example of how human beings respond to dog utterances, rather than the meaning of dog utterances in and of themselves. Moreover, observations concerning the dog’s cessation of utterances once fed, for example, can indicate that the

interpretation of the utterance was accurate (or, at least, mollifying.) However, we could not understand complex ideas emanating from a dog, because our present conceptual space does not permit us to understand that they have them.

Let us set the language barrier issue aside for this discussion. After all, human beings do not dismiss other human beings as incapable of harboring or conveying complex thoughts simply because they speak different languages. The point of this writing is not to make the case that human responses to animal vocalizations are founded or unfounded anthropomorphisms. The discussion here only concerns itself with considering the possibility that a nonhuman animal might have something to say, despite the blockade presented by language. As for speech, consider Sextus Empiricus's thoughts on the point:

[L]et it be supposed that a man is dumb, no one would say that he is consequently irrational. However, aside from this, we see after all, that animals, about which we are speaking, do produce human sounds, as the jay and some others. Aside from this also, even if we do not understand the sounds of the so-called irrational animals, it is not at all unlikely that they converse, and that we do not understand their conversation. For when we hear the language of foreigners, we do not understand but it all seems like one sound to us. Furthermore, we hear dogs giving out one kind of sound when they are resisting someone, and another sound when they howl, and another when they are beaten, and a different kind when they wag their tails, and generally speaking, if one examines into this, he will

find a great difference in the sounds of this and other animals under different circumstances; so that in all likelihood, it may be said that the so-called irrational animals partake also in spoken language (Empiricus, First Trope).

So, if a dog had something to say, unless the dog had an imprimatur from whence to proceed, the dog may simply not be heard. Again, no assertion is made that “hearing” a dog means “understanding” the dog’s message. The discussion simply considers the possibility of an animal with something to important to say. Of course, even when the imprimatur exists that an animal does speak from the “office of authority to speak,” it may be ignored. Consider Eluo, a police dog in Boca Raton, who, while wearing a police uniform with the word POLICE emblazed upon its side, ordered an assailant to stop. Instead of halting, the assailant refused to yield to Eluo’s police authority, and, instead placed Eluo in a stranglehold (Dog Testifies Against Burglar, 1991). Of course, criminal suspects frequently resist arrest when those arrests are attempted by human beings, so we may not read too much into this incident. Indeed, we might recognize that Eluo was placed in such a situation *because* the suspect recognized that Eluo was speaking from “an office of authority to speak.”

This “not being heard” business is not a matter of ignoring, in the same way that we may ignore an insistent child or an annoying colleague. For in those cases, the ignoring is deliberate – maybe even automatic after a time – but a decision nonetheless. We may, of course, also ignore the dog in a similar fashion. But when considering a dog

with something to say, we are getting to something more than ignoring. Instead, this “not being heard” business is more like conceptual blindness. Again, the issue is not whether human beings can understand language emanating from an animal. The discussion here only considers the possibility that an animal has something worthwhile to say, because that knowledge lies outside of our conceptual limits. The language blockade between human beings and animals is recognized. Recall, too, the term conceptual blindness simply refers to a concept that may require excavation to discover or to recognize its ongoing presence alongside the dominant discourse. When so many human beings struggle to obtain “an office of authority to speak,” how then – given our current understanding of animals as personal property – might a dog be said to ever possess such a place of inclusion? Even if it could, of course, human beings could not understand it. But, the fact that human beings cannot understand something does not mean that the knowledge does not exist.

This point that human beings often struggle unsuccessfully to obtain an “office of authority to speak” has been expressed repeatedly in the arts. For example, Julia Roberts in the title role of *Erin Brokovich* makes the following remarks to her companion, George, when he asks her to leave her job: “How can you ask me to do that? [...] For the first time in my life, I got people respecting me. Up in Hinkley, I walk into a room, everybody shuts up to hear what I have to say.” In “real life,” many examples exist on the point. Consider women who studied law (either having read the law in apprenticeship or having graduated from a university) in the 19<sup>th</sup> century United States but who were subsequently denied admission to the state bar of their choice because of their gender

(See e.g., *Bradwell v. Illinois*, 1873). (Of course, the movie *Erin Brokovich* was based on a true story, but we cannot know whether that particular monologue occurred in “real life” or not.)

From this “not being heard” position a person might giggle at the complaints of the chained, lone dog on an isolated land. Or, a shivering hound might be observed, and the observer might discover that their commitment to their senses, viz. that “seeing is believing” is relative. In such a case seeing is not believing, because the shiverer happens to be a dog and, after all, it is common knowledge that dogs are animals and animals do not need protection from the cold. Or, a person might not heed the low growl emanating from a canine companion upon meeting a stranger – someone new – who may be discovered later was mistakenly regarded as harmless.

This blindness is indeed a dulling of sensory perception – we may disregard our sight, our hearing, and maybe even a “sixth sense” that alerts us that something isn’t right – but it is also a deadening of reason. We scold the dog for barking at the stranger on the porch who is there to make a delivery. Yet, when another on the porch jangling burglars’ tools puts them to successful use, we scold the dog for not providing warning. What must the whole of these words say, from a rational perspective?

Consider Sextus Empiricus’s thoughts on the matter, as he sees certain actions of dogs as proof of rationality. He argued that animals were not inferior to man in the “trustworthiness of their perceptions” (First Trope). He goes on to discuss reasoning in thought and in speech, and argues that dogs have both. He also argues that they are virtuous and are just.

the true nature of justice is to give to everyone according to his merit, as the dog wags his tail to those who belong to the family, and to those who behave well to him, guards them, and keeps off strangers and evil doers, he is surely not without justice. Now if he has this virtue, since the virtues follow each other in turn, he has the other virtues also, which the wise men say, most men do not possess (Empiricus, First Trope).

However, in modern times, we give little thought to the words and actions that flow forth in front of the dog. If we substituted a human being capable of the most basic logical analysis in the stead of the dog, such a person would certainly object to being punished for following the rule as presented: Do not bark at non-kinsman on the porch. And few human beings take time to explain the exception to the rule. Exception: Apply the rule, unless that non-kinsman is a burglar.

The dulling of sensory perception and the deadening of reason – that is, this blindness of *being* that is the animal – may be temporarily sharpened by authentication of the message emanating from the animal. However, before discussing the authentication of the message emanating from the animal, objections to the term “blindness to being” must be put to rest. Objections to the term “blindness to being” may be raised, because the phrase itself implies an understanding of a *being* to whom one might be blind. In other words, it presupposes a particular understanding (i.e., that there is a being there) at the expense of the present understanding (e.g., that there is a faint sense of a being there). However, the concept of “living being” is not alien to our present way of thinking.

Indeed, as discussed, an understanding of animals as “living beings” comprises our subordinate understanding about them. Indeed, most contemporary thinkers today would agree that animals are “living beings,” and if pushed on the point, would have to agree that “being” comprises an understanding of them as “living beings.” For being-deniers, however, this may not be enough. Being-deniers are invited to understand “blindness to being” as a phrase that means an inability to conceptualize animals as beings. This is a truncated meaning of the phrase, which in a more fuller expression of its meaning means an impediment to conceptualizing animals as the beings that they are generally (but subordinately) understood to be.

One way of authenticating a message – establishing a fellowship of discourse – is for an existing and recognized authenticating body, whether a person or an institution, to bestow an “office of authority to speak” upon the messenger, even if but for a moment. This concept was discussed in the first chapter. Authenticating a message does not mean that the message will be labeled as “true.” It well may be labeled as error. However, when it emanates from an “office of authority to speak” the message can be considered against the accepted knowledge within a field of discourse as to whether it is true or not. Statements considered to be aligned with true statements within that field of discourse will at the very least be labeled as true. Statements that are aligned with a field of knowledge and contribute something to it anew can expand knowledge within that particular discourse. Truth is produced this way, and it is conditional upon its alignment within the field of knowledge in which it is heard. But, what is true might be false (or error) later.

Even an impermanent bestowing of “office of authority to speak” will do to let us glimpse an understanding – at least temporarily – of that which is ordinarily conceptually hidden. Consider Scooby – not the cartoon – but the flesh and blood body, summoned to a Parisian court for testimony. This was understood to be a dog with something to say. Recognized as possessing a unique quality that none other possessed – for Scooby was the sole witness to his master’s hanging death – what he could impart concerning the matter was of some importance. The alleged perpetrator of the staged suicide, who was perhaps blinded in both sensory perception and in the intellectual faculty of reason, was emboldened to commit a capital offense before an eye witness who stood in plain sight. The dog furiously barked when presented with the suspect in court. But what did the dog say? In a language understood to dog and judge, whatever it was, the judge remarked that the dog had been of “invaluable assistance” in the matter (Dog Takes Stand, 2008). That the judge did not bestow a permanent “office of authority to speak” upon the dog does not lessen the initial inclusion of the dog’s message into the shoot of knowledge, to be labeled as truth or error.

Just because the judge in this case might be said to have believed that he “understood” the message presented by Scooby, no assertion is made here that animals and humans share the same language. We cannot know what the judge understood or thought he understood. Again, the discussion here simply considers an animal with something to say. The language blockade between species exists. We are merely considering the knowledge that lies outside of our conceptual limitations.

A messenger who stood outside the ability to be heard was invited in, so that his message would be imparted from an “office of authority to speak.” Plainly stated, the dog was heard as a lay witness. This is not wholly unlike the student who becomes a professor, or the apprentice who becomes a tradesman or an artisan. But unlike those cases, in the matter of witness testimony, no training – that is to say, no learning of the discourse – is required, unless the witness is to be heard as an expert. An expert has greater leniency to say what he will, providing those statements do not exceed his recognized authority or attempt to answer the ultimate question itself. But a lay witness appears in court often to report sensory input. Indeed, a lay witness is prohibited from engaging in certain types of discourse by formal rules.

Though the discussion concerning lay witnesses versus expert witnesses occurs in close proximity in the text to a discussion of the French case involving Scooby, the discussion of the distinction between witnesses is particular to the laws of the United States. According to the Federal Rules of Evidence, “If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are [...] not based on scientific, technical, or other specialized knowledge” (Art. VII, Rule 701).

And, certainly a dog receives sensory input, because a dog has the same faculties of sense perception as human beings. The only thing necessary for a dog to speak from an “office of authority to speak” is for someone that holds the power to bestow that office to grant it. That person is the judge, and that is precisely what he did in the case of Scooby’s

testimony against the alleged murderer. Of course, whether or not the message was understood correctly cannot be known, because we do not share language with canines.

Opposition may arise against one who is already authenticated – specifically in the present example, the judge – as overstepping his powers, when the “office of authority to speak” is bestowed upon a messenger who is not recognized within our way of knowing as an appropriate holder of that office. This was exactly the issue that rose to a Texas appellate court in an altogether different case, when three bloodhounds’ out-of-court incriminations concerning scent evidence was found to be inadequate, resulting in an overturning of the conviction, an acquittal, and the vacating of a 75-year sentence for a convicted murderer. But note the difference between the testimonies of Scooby and that of the Texas bloodhounds. Scooby gave verbal lay testimony based upon sensory input – perhaps he saw, smelled, or heard the alleged perpetrator at the time and place of the hanging and he conveyed that sensory input to the court in a manner that was understood by the court to convey an intelligible message. Once Scooby, in the Parisian case, was bestowed with the “office of authority to speak,” that evidence was interpreted by a judge and accepted at face value as eye-witness testimony as to what was seen, smelled, or heard. In contrast, the bloodhounds did not appear as lay witnesses themselves in the Texas case. Instead, their human counterpart appeared as an expert witness – that esteemed witness category whose members enjoy great latitude in their testimony, and who can be recognized as an expert witnesses by demonstrating through credentials and compliance with principles and methods of fields of knowledge that they make statements considered to be true within those fields.

According to the Federal Rules of Evidence, an expert witness is a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise, if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case (Art VII, Rule 702).

Of course, this is formal rule, which is an example of a power restraint upon words.

The expert witness in the Texas case relied upon the bloodhounds' actions when they were presented with the scent of the alleged murderer and the victim's clothing. However, the Texas appellate court held that what was once adjudged evidence worthy enough to convict a man (expert testimony concerning bloodhound scent evidence) was to be re-categorized as the type of evidence that needs corroboration (Winfrey v. The State of Texas, 2010, p. 14). Some critics argue that dog scent evidence is junk science, because it does not meet the Daubert test. Non-scientific expert testimony may be foreclosed through the *Daubert* standard (*Daubert v. Merrell Dow Pharmaceuticals*, 1993). The *Daubert* standard is a non-dispositive, non-exclusive list used to determine the reliability and admissibility of scientific evidence. These include items such as whether the theory has been tested, generally accepted within the field, and subject to peer review. If dog scent evidence is ever found as junk science, then that would be a

formal exclusion – a rule – upon which all courts within the jurisdiction so holding would be able to exclude the scent evidence of dogs when presented by a human expert. It would say nothing of direct dog testimony – that is, lay witness testimony, however. This is an illustration of power-knowledge apparatus at work, maintaining the status quo – the present episteme.

Blindness of animal *being* is also apparent when we consider how much we do – and what we do – in the plain view of the eye witness of the animal. Derrida noted this, and he made much of his naked encounter with a cat (2008). Even if we set the question aside concerning whether an animal is possessed of a soul or has a mind, it is illogical to believe that an animated body possessing eyes does not see, possessing a brain cannot think, possessing ears cannot hear, and possessing a means of communication would not use it.

Of course, we cannot know for sure. As Wittgenstein remarked, “If a lion could talk, we could not understand him” (1958, p. 225). By this, he seems to mean that the lion’s conceptualization of its world would be wholly different from ours. Even if lions could talk, humans have different language, therefore different points of reference, different statements understood to have verdictive power, and different forms of life. We would, in fact, see our worlds differently because our language would be different.

Human behavior before animals indicates despite animals possessing senses, we understand that they are not using them. We do not conceptualize them as *beings* who might, for example, see us or judge us. Consequently, humans must be said to be possessed of illogical or irrational thought on the point, rendering us, in fact, blind to a

conception of animals as *beings*. Our present understanding of them as *beings* is, at the most generously stated, dim.

In the case of Scooby, a spokesman for the Palais de Justice incorrectly noted – apparently based upon assumption alone – that Scooby’s appearance was the first time that a dog had testified in court (Dog Takes Stand, 2008). Why was such a thing assumed, when so much written evidence exists to the contrary? As noted in chapter one, many criminal cases against animals have occurred, including cases in France, and, specifically, in Paris, which is where Scooby’s testimony was heard. Those were cases in which animals appeared as defendants and as witnesses, and many occurred in secular courts. Perhaps the spokesman was not familiar with those cases of criminal animals. And, why should he be? This pushing down of once-knowledge is pervasive. To ask “Why [the subjugation]?” perhaps misses the point. The better question is, “What conditions existed to allow its burial?”

To carry this example a bit further, we do not have to be aware of the case from fourteenth century Falaise to know that animals have appeared in court to testify. While it is not a common occurrence, it is also not rare. Consider Toby, a Great Dane, who testified in court during the arraignment of a man for thievery – specifically – specifically, thievery of the dog Toby. Toby testified. How inky the conceptual blindness must have been – knowledge that Toby might be the possessor of knowledge – that the alleged thief thought nothing of standing naked before the animal, so to speak, as he committed the crime involving it, even as the animal was taken along in perpetuation of the crime. Even if the thief thought to himself, “This dog could testify against me!” the

likelihood of anyone bestowing an “office of authority to speak” upon the dog was certainly assumed to be slight, if it was thought of at all. But, once that office was given the dog, so convincing was his testimony that the judge ordered the dog home with the complainant, and he promised that an unpleasant time awaited the thief (Dog Testifies in Court, 1905).

And so, is it a matter of consciously applying an exclusion to a particular type of discourse that emboldens our actions and words before animals? That is, do we think, “This animal could testify against me!” but then weigh the likelihood of that happening to be so slight that we gamble a position based upon odds? Rational thought would lead us to reach such a conclusion by balancing the potential risks against the potential rewards given our current conceptualization of animals and the rarity with which they obtain an “office of authority to speak.” However, the suggestion is made here that this inky blindness is not a calculated, reasoned, cognizant risk. Instead, it is conceptual impediment to understanding – or, at the very least – an inability to recognize a way of knowing that lies outside of our boundaries of thought.

Consider a dog that has something to say, but calculates against saying it. A terrier was summonsed to court to defend against civil charges brought against his master by the neighbor, a fruitier, whose wife’s heart was broken by damages wrought to the garden by some dog believed to have climbed the fence between the properties. Though the terrier was encouraged to demonstrate his fence climbing prowess by leaping the bar in the courtroom, the dog declined. We might pause for a moment to ponder the dog’s ability to weigh that decision before declining to do as told. (Let us resist the temptation

for a moment to fall into an easy belief that the dog simply did not understand or was unable to comply.) The dog was then brought to the bench at the judge's request, who was so convinced of the dog's docile character, that a verdict was entered for the terrier's owner, with costs (London Dog, 1911). As they say, every dog has his day. It is the rare occasion indeed – and perhaps that is just as well – for a witness to be fondled by the judge and permitted to promenade upon his bench. But this particular witness partook of this revelry, and that seemed to seal the judge's perception of the credibility of the testimony. Perhaps like the judge, it is natural for us to believe the parenthetical suggestion. It may be impossible for us to understand a suggestion that the dog made a calculated decision, because we suffer an impediment to conceptualizing animals as the beings that they are remotely understood to be, viz. we are blind to that way of understanding.

Perhaps this list of stories could continue, so at a final tally, there were twenty such stories. Would that be enough to overcome this human blindness to understanding concepts that might exist, but which we cannot perceive? Or would those stories still be seen as hiccups – outside of our way of knowing – subject to ready explanations, targets of derisive comments regarding the judgment of the bestowers of “office of authority to speak,” anomalies – best forgotten, and forgotten quickly? What if 100 stories were related? Or, 1,000? How many stories about animals in which animals have been understood as having something to say and have been authenticated to do just that would need to be put forward before human beings conceptually understood that they might have something to say? We may consider these stories as disunities, discontinuities,

resistances, mistakes, madness – in short, Foucaultian errors to our present way of knowing. For, to understand these stories as something other surely disrupts our sense of reality. To take them at face value requires a conceptual careening. Conceptual balance requires understanding things in a manner consistent with the rules that form the space of our thoughts. To recognize that an animal has something to say is a recognition that human beings understand that animals have something to say. For human beings to have that understanding, conditions must exist that allow that understanding to take shape.

Before leaving this discussion of dogs with something to say, it is worthwhile to note that it was once commonplace for persons to understand that dogs might have something useful to say. Plutarch (79) cites several cases of dogs that caught their masters' murderers or that caught thieves. Those dogs would publicly accuse the evil-doers by setting upon them, following them and barking until human beings interceded and the perpetrators confessed. One such dog, for example, after pursuing a thief for days who was ultimately apprehended as a result of the pursuit, "led the procession, capering and exultant, [...] claim[ing] for itself the credit for pursuing and capturing the temple-thief" (Plutarch, p. 383). The dog was given a public ration of food for reward.

That our understanding of animals as "living beings" has been subordinated to the understanding of them as "personal property" has been illustrated. Both exist, but one benefits from power-knowledge apparatus to a much greater extent than the other. Moreover, the subordinate understanding that animals are "living beings" is modernly

understood that animals are seen primarily as living, and less so as *beings*, as illustrated in this section.

#### Subjugated discourse: A resistance

Once-knowledges related to “living being” discourse, viz., “rational animal,” “karmic discourse,” and “transmigration of souls” discourses have quite fallen away. The shucking off of those particular related discourses can be described by recognizing that conditions existed that required an understanding about animals as “living beings” without also requiring us to understand them as rational animals or as the possessors of souls or as something that could interfere with our reunification with God. Those related once-knowledges, however, may contribute knowledge about animals as *beings*, and they comprise a resistance to the dominant truths of the day.

Foucault discussed the criteria of epistemic authority, which include the thresholds of positivity, epistemologization, scientificity, and formalization (1972, pp. 186 – 187). These are relevant because discursive formations are always becoming epistemologized (Foucault, 1972, p. 195). The threshold of positivity relates to when the discourse achieves independence or autonomy. This means that it is capable of being a discourse within itself, without the need to hang on to other discourses to legitimize its being. The threshold of epistemologization refers to the validation of methods by which statements might be verified or measured against knowledge within the discourse for coherence; when this process becomes formalized, the discourse is said to have crossed over the threshold of scientificity.

We can see that various once-knowledges have ebbed and flowed across these boundaries at different places and in different times. While conditions must exist for certain discourses to rise and others to fall, identification of the specific conditions that allowed or required such events may be elusive. So, of course, we cannot predict how we may understand ourselves in relationship to animals in the future. As noted, we can only describe ways of knowing and interpret them from the existing documents. Explanation, though seemingly similar to interpretation, is also elusive, because to explain is to place great stock in cause-effect relationships. While certainly some explanations might be said to be accurate, others just as easily fall apart with the emergence of new words, with errors-turned-truths, and new power-knowledge relations.

An understanding of animals as not-ensouled and not rational while at the same time understanding them to be living beings requires conditions that allow such statements to be understood as “truth” rather than error. When conditions allow such statements to be accepted as knowledge, and when conditions allow an understanding of the animal as an appropriate object about which something may be known, then that understanding takes root and is disseminated as such. And, of course, knowledge creates, buffers, and bolsters power, which in turn, creates new knowledge. Moreover, “rational animal,” “karmic discourse,” or “transmigration of souls” discourse need not necessarily be labeled as error for this to occur. What must exist, however, are conditions that allow understandings of animals that they are *not ensouled* or that persons cannot reunite with God, or that that animals are *irrational*. Because a label of error concerning other knowledges is not a prerequisite for an understanding of “living being” discourse to exist

that encapsulates an understanding of animals as not rational and not ensouled, then our bifurcated understanding of animals as personal property and as living beings may exist rather harmoniously. Facially oxymoronic phrases – such as “humane slaughter,” may be uttered guilelessly within the discourse of the day, and truth claims concerning the same may be asserted and adjudged true or not true within our present way of knowing.

Consider Plutarch again, who was engaged in “rational animal” discourse. His writings indicate an understanding that the actions and utterances of criminal-catching dogs were those of rational thinkers. An understanding that animals are rational was a position largely supported by observation of their behavior. Note that “rational animal” discourse stood against “irrational animal” discourse, which was put forward by Aristotle, the Stoics (*according to* Plutarch, p. 577), Augustine, and, later, Aquinas (Question 64). It is worthwhile to note that Augustine’s voice was but a competitor’s voice – a resistance against once-knowledge – at one time. The question as to why it is his voice that is regarded as “true” while the likes of Arnobius’s on the point of rationality of animals is regarded as “not true” must be recognized as a consequence of conditions that pushed Augustine’s words forward as *veridictive* and subdued Arnobius’s.

We cannot know whether Plutarch’s words that indicate a commitment to understanding animals as rational was a precursor to or a consequence of an understanding that dogs might have something to say as a *being*. Indeed, the relationship is not relevant. The fact that his words appeared at all are the notable event. We can only

describe that his words indicate both that animals are rational and that dogs had something to say.

But that animals are rational is a conceptualization of them that lies outside of our present way of knowing. Our particular conceptualization about animals exists because our space of thought requires it to exist. Because our dominant understanding about animals is that they are personal property, they are not understood as rational animals that might have something to say. Our subordinate understanding of animals requires them to be understood as living – but not rational. This commitment to viewing them as not rational requires us to take whatever they might say lightly, if we endeavor to hear them at all.

Likewise, the same is the case with an understanding about animals that they are ensouled. Indeed, in contemporary Western thought, truth claims asserting that animals are ensouled are labeled as false by the Catholic Church. Indeed, Aquinas's writings on the point launched what we might call the "Catholic discourse on animals" across all four thresholds of epistemology (discussed below), rendering that particular "knowledge" the dominant branch in the tree of the derivation of the discourse.

Similarly, though the many discourses related to the paths and impediments to reunification with God lie outside the scope of this chapter, it is worthwhile to also note that the once-knowledge that harming animals infers with becoming "divine like" though personal work to reunify with God via meditation is also a truth claim rejected as error in the "Catholic discourse on animals" (or "Catholic discourse in general"). Therefore, truth

claims today springing from that subjugated knowledge are understood as error. For example, assertions that “harming animals will condemn a person to the birth-death cycle endlessly” would be considered error, by dominant, Western contemporary thought.

All knowledge is changeable, conditional upon the rules of the discourse in which it emerges. So, for example, a cause-effect assertion might be made concerning Aristotle’s influence upon Augustine’s and Aquinas’s writings and the subsequent widespread understanding of animals as not rational beings and not as ensouled beings. Indeed, many have made this cause-effect assertion (see e.g., Linzey, 1995; Steiner, 2005; Sorabji, 1993, p. 2). For example, Linzey argues that Aquinas gives the Greek ideas a scriptural “over-writing” (p. 15).

Consider the apparent linkages. Aristotle wrote, “Now if nature makes nothing incomplete, and nothing in vain, the inference must be that she has made all animals for the sake of man” (The Politics 1 § viii). Thomas Aquinas’s work reflects the natural “order of things” as espoused by Aristotle (Linzey, 1995, p. 13). “Wherefore it is not unlawful if man uses plants for the good of animals, and animals for the good of man, as the Philosopher states” (Aquinas, Question 64 Article 1). Aquinas stated that “the Divine Ordinance of animals [...] is preserved not for themselves but for man [...] as Augustine says [...] both their life and their death are subject to our use” (Aquinas, Question 64 Article 1). Likewise, Aquinas wrote that “Dumb animals [...] are devoid of the life of reason [...]; they are moved [...] by a kind of natural impulse, a sign of which is that they are naturally enslaved and accommodated to the uses of others” (Aquinas, Question 64

Article 1 Reply to Objection 2). Aquinas says that animals are not the proper subjects of love of charity, because that “extends to none but God and our neighbour,” and that animals cannot be thought of as animal neighbors because “the word neighbour cannot be extended to irrational creatures, since they have no fellowship with man in the rational life [...]. [C]harity does not extend to irrational creatures” (Aquinas, Question 25, Article 3).

But note the broken linkage in the “transmigration of souls” discourse, where Augustine’s writings break from the apparent beliefs of the Manicheans, with whom he had once been associated. Augustine had been closely aligned with the Manicheans during his early adulthood, and the Manicheans writings indicate their belief that animals had souls (Clark, 2000, p. 8 *citing* Augustine, *City of God* 1.20 and *Catholic and Manichean Morals* 2.17). However, Augustine wrote that animals had souls, though those souls differed from those of humans in capacities (Stanford Encyclopedia of Philosophy, *citing* e.g. *De Libero Arbitrio* I.8; *De Quantitate Animae*, 70; *De Civitate Dei* V.10). Aristotle wrote that animals were irrational but that they had a soul. His writings indicate that the purpose of animals was for human use (*The Politics*, 1, viii). However, Augustine’s writings (as recorded by Aquinas) indicate that animal souls were irrational and were placed on earth for use by man. “When we hear it said, “Though shalt not kill,” we do not take it as referring to [...] irrational animals because they have no fellowship with us” (Aquinas, Question 64 Article 1, *citing* Augustine, *De Civ. Dei* I, 20)

Cause-effect assertion cannot stand alone as sufficiently explanatory. Moreover, to discuss one thinker's influence over another's is to ascribe to a unity, which we must hold at arm's length while engaged in the present approach. Indeed, the more interesting question is what conditions existed that permitted Augustine's writings to work their way to into the dominant discourse at all, while other early Christian fathers' writings about animals being *rational* simply rested on their pages, going nowhere, so to speak?

For example, Arnobius wrote,

But we have reason, one will say, and excel in the whole race of dumb animals in understanding. I might believe that this was quite true, if all men lived rationally and wisely, never swerved aside from their duty, abstained from what is forbidden, and withheld themselves from baseness, and if no one through folly and the blindness of ignorance demanded what is injurious and dangerous to himself. I should wish, however, to know what this reason is, through which we are more excellent than all the tribes of animals. Is it because we have made for ourselves houses, by which we can avoid the cold of winter and the heat of summer? What! Do not the other animals show forethought in this respect? Do we not see some build nests as dwellings for themselves in the most convenient situations; others shelter and secure themselves in rocks and lofty crags; others burrow in the ground, and prepare for themselves strongholds and lairs in the pits which they have dug out? But if nature, which gave them life, had chosen to give to them also hands to help them, they too would, without doubt, raise lofty buildings and strike out new works of art. Yet, even in those things which they

make with beaks and claws, we see that there are many appearances of reason and wisdom which have men are unable to copy, however much we ponder them, although we have hands to serve us dexterously in every kind of work (Arnobius, Book 2, 17).

Moreover, certain early Christian fathers' writings today are labeled as error. For example, Arnobius is said to have been "more earnest [...] than correct" (Catholic Encyclopedia). So, we might interpret Augustine's writings, for example, as rising to the surface because conditions were favorable for that discourse to do so. We may not, however, assert that the emergence of those writings as dominant discourse was inevitable.

Conditions that allow truth claims to be made are antecedent to any such "truth." "Truth" itself is not fixed. Truth is produced, and its production is dependent upon conditions that allow its production (Foucault, 1980, p. 131 - 132). Specifically, we are looking at the rules that permitted the spaces to be created for those truths to be understood as such, as well as the effects upon reality that these rules have had (Foucault, 1984, p. 460).

This chapter has illustrated a subordinate knowledge about animals buried in plain sight, viz. knowledge of them as *beings*. Understanding disperse statements about animals, even if those statements are "error" today, as part and parcel of discursive

formations that may have had *veridictive* power in other places and at other times helps place the contemporary politics of the animal in theoretical context. To understand “truth shifts,” or changes in what we understand to be true, we must look closely at the statements that are understood to be errors in any given truth regime, as well as once-knowledge that has been subjugated because it was understood, at last, to be error. “Incisions” in thickly accreted power-knowledge relations made by errors will, if isolated, be of no importance or, at the most, be very minor distractions. However, such incisions are irruptions in history (which are precisely what is sought in an archaeology) (Foucault, 1972, p. 28) and can be used to question the borders that always exist around the possibilities of knowledge in which we move. Some errors will change the discourse and others will be pushed down, submerged beneath the level of the truth discourse of the day. A description of the former is necessary, so that the dominant discourse’s emergence can be traced. Recall that tracing a discourse is different than providing a cause and effect explanation of it. The latter relies upon reason and places great stock in explanations and cause and effect. The former provides the “tree of derivation of discourse” (Foucault, 1972, p. 147), without heightening such a finding as attributable to human guidance (or hubris). This tree of derivation can place the modern debates within the politics of the animal in theoretical context.

The next chapter examines the derivation of discourse used about the referent animal by examining parallelisms between dominant and recessive discourses and other referents. These parallel stories are traceable across objects of reference (e.g. animal, slave, woman), rather than as evolutionarily or progressively.

### **Chapter 5: Parallelisms (Or, the Changeable Nature of Knowledge)**

The previous chapters have identified subjugated discourses – once-knowledge – about animals that, in other times and places, have been understood to have truth-telling powers or, at least, have provided points of resistance to the dominant discourse. Statements made within those discourses could have been (and most certainly were) adjudged true or not true by measuring them against the rules within those various ways of knowing that separated truths from falsehoods. Likewise, our current way of knowing has been examined, and certain limitations on possibilities in our current way of understanding animals have been apprehended. In all, the work has illustrated the changeable nature of what we think we know about how we understand animals, by observing what has passed for knowledge about them and what passes for knowledge about them today. As has been shown, resistance (error), ever-heaving against power-knowledge, sometimes bubbles to the top as new knowledge to displace the old. Other error remains so regarded, existing just beneath the surface in subjugation or in outright burial.

Therefore, when considering the essential political problem regarding whether a new politics of truth can be constituted about the question of the animal, it is incumbent upon us to recognize the changeable nature of truth and, necessarily, the politics of it, if we understand the politics of truth to be propelled by whichever knowledge and associated power that are then the going concern. This does not mean that subjugated discourse will inevitably rise to the position of knowledge and power. It does not mean that “error” will always become “truth.” It also does not mean that new ways of knowing

cannot be formed. It suggests, very simply, that change itself occurs, and that the exact nature of change is not predictable, especially if the conditions that give rise to new conceptualizations cannot be pinpointed, which of course, they often cannot be. The relationships between events that exist are what lead to the possibility of something or other passing for knowledge (Foucault, 1972, p. 179). Understanding the changeable nature of “truth” allows observation of changes afoot and changes already by-gone, by tracing disparate statements to commonalities or discursive formations, and by identifying the ebbs and flows of different ways of knowing. Of course, such an orientation takes us immediately away from the stance of adjudging any particular knowledge about animals as being objectively “right” or “wrong,” and allows instead meta-observation of the waxing and waning of discursive formations, the eruptions of disparate statements, and pushes to surface of power-knowledge. In short, understanding the changeable nature of knowledge and the politics of it provide a theoretical context to understand the politics of the question of the animal.

This chapter examines stories that once held truth-telling power about certain referents – slaves and women in particular – that we understand today to be something entirely different than the “truth” that these discourses convey. An examination of the discourse of personhood surrounding non-animated referents, such as corporations, ships, or children would also make interesting comparisons in parallel discourses, though that project has not been undertaken here. For example, corporations, though in Lord Chancellor Thurlow’s words have “no soul to damn, no body to kick” (cited in Adams, 1886, p. 77), were granted personhood status by the utterance of U.S. Supreme Court

Chief Justice Waite in 1886, as a preliminary matter before argument in *Santa Clara County v. Southern Pacific Railroad Company*, when he stated:

The court does not wish to hear argument on the question whether the provision in the Fourteenth Amendment to the Constitution which forbids a State to deny to any person within its jurisdiction the equal protection of the laws, applies to these corporations. We are all of opinion that it does (p. 394).

In the opinion's syllabus, the following language can be found, though it was not likely penned by a Justice:

The defendant Corporations are persons within the intent of the clause in section 1 of the Fourteenth Amendment to the Constitution of the United States which forbids a State to deny to any person within its jurisdiction the equal protection of the laws.

The politics of truth about the referents discussed in this chapter have changed. These provide clear examples of the changeable nature of knowledge. Moreover, it demonstrates disperse statements in various discursive formations. That is, the statements are the same, though the referents to which they apply or refer to have changed. The discursive formations presented there are still alive and well, though they are applied to other objects (animals). So we see that there is a relationship between statements, though the speakers of those statements may be wholly unaware of those relationships. For example, to assert that an animal is chattel today is understood to be a statement of truth, even if the assertion is made by someone wholly unaware that the statement that women

are chattel was once understood to be true. These are disperse statements within the same discursive formation. Importantly, no evolution of knowledge is asserted here. For example, no assertion is made that just because women were once understood to be chattel but are now understood to be persons, that animals, currently understood as chattel, will ever be understood as persons. Dominant and recessive discourses rise and fall according to the conditions that allow them to do so, and their appearance or disappearance may erupt or vanish, respectively, accordingly.

### **Parallel stories**

The following tables illustrate disperse statements that are substantively the same (i.e., they are from the same discursive formation), though the referents to which they apply are different.

<b>Table 1 Disperse statements that the referent is property<sup>25</sup></b>	
<b>Referent</b>	<b>Statement</b>
<b>Slaves</b>	<p>“There is a visionary dogma which holds that negro slaves cannot be the subject of property. [...] That <i>is</i> property which the law declares <i>to be</i> property. Two hundred years of legislation have sanctioned and sanctified negro slaves as property. [...] To the wild speculations of theorists and innovators stands opposed the <i>fact</i>, that, in an uninterrupted period of two hundred years duration [...] negro slaves have been held [and] [...] transferred as lawful and indisputable property (Clay, 1839, pp. 28 – 29).</p> <p>“[S]laves [...] are generally considered, not as persons, but as things. They can be sold or transferred as goods” (Wheeler, 1837, p. 191, citing <i>Bynum v. Bostwick</i>, 1812, 4 Dess. Rep. 266).</p>
<b>Women</b>	<p>“Congress [...] [in the eighteenth century] simply assumed that women [...] [were] the chattels of their husbands” (<i>Elias v. U.S. Department of State</i>, 1989, p. 249).</p>
<b>Animals</b>	<p>See chapter 2, Section: The Discourse of Law. Also, many state statutes explicitly state that animals are personal property. The following are some examples of these disperse statements, but this is not an exhaustive list:</p> <p>Delaware state statute asserts that “All dogs shall be deemed personal property” (DE ST TI 9 sec. 910).</p> <p>Indiana repealed the following state statute in 2006: “All dogs now within the state of Indiana [...] are hereby declared to be personal property and shall be subject to taxation at the full cash value thereof the same as other personal property” (IC 15-5-10-1)</p> <p>Oklahoma state statute asserts that “All animals of the dog kind, whether male or female, shall be considered personal property” (OK ST T. 21 sec. 1717).</p> <p>New Mexico state statute asserts “That dogs, cats and domesticated fowls and birds shall be deemed and considered as personal property, and all remedies given for the recovery of personal property and of damages for injuries thereto are hereby extended to them” (NM ST 77-</p>

<sup>25</sup> Compare the differences between statements made about the referent “man” to the referents of interest in this table. “[E]very man has a *property* in his own *person*: this nobody has a right to but himself” (Locke, 1689, p. 216).

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Table 2 Disperse statements that the referent cannot own property	
Referent	Statement
<b>Slaves</b>	<p>“The master may sell [a slave] [...], dispose of his person, his industry, and his labor. A slave [...] can do nothing, possess nothing, nor acquire any thing, but what must belong to his master” (Civil Code of the State of Louisiana, 1825, Art. 35, pp. 65 - 66).</p> <p>“Being property themselves, [...] [slaves] can own no property” (Goodall, 1853, p. 74).</p>
<b>Women (married)</b>	<p>“The common law makes [a wife’s earnings and the products of her skill and labor] [...] absolutely the property of the husband as his own earnings” (<i>Campbell v. Bowles</i>, 1878, p. 662).</p> <p>“[A wife’s earnings] belong to the husband. [...] It is strange that our Legislature did not make some provision whereby a wife might, with the consent of her husband, be entitled to her earnings [...]. Many a good woman toils early and late to support her [...] husband and her children, [...] and it seems very hard indeed, after she has in this way accumulated something [...] necessary to assist her in performing the extraordinary duties thrust upon her of supporting the family, whose natural supporter [...] from sheer worthlessness refuses to discharge the obligation to allow an old creditor of her husband to snatch it from her [...]. But hard as this case and thousands like it are, no relief can be afforded” (<i>Bailey v. Gardner</i>, 1888, p. 101).</p>
<b>Animals</b>	<p>See e.g., Clifford, “The law says animals are property, and one piece of property simply cannot own another piece” (2011, p. 97)</p> <p>“[An] elementary rule [exists] that property has no capacity to hold title to property” (S., 1951, p. 678).)</p>

Table 3 Disperse statements reflecting blindness to being	
Referent	Statement
<b>Slaves</b>	<p>“The Slave, as a Chattel, is fed or famished, covered or uncovered, sheltered or unsheltered, at the Discretion or Convenience of his Owner, like other working Animals. [...] If the negro be a chattel, he [...] needs [to] be restrained from straying; he must be held subject, like other domestic animals, to the superior race holding dominion over him” (Goodall, 1853, pp. 120, 285).</p>
<b>Women (married)</b>	<p>“[T]he very being [...] of woman is suspended in marriage, or is at least incorporated and consolidated into that of the husband [...] [A] man cannot grant any thing to his wife [...] for the grant would be to suppose her separate existence” (Blackstone, 1765, p. 430).</p>
<b>Animals</b>	See chapter 2

<b>Table 4 Disperse statements about the lack of intellectual capacity of the referent</b>	
<b>Referent</b>	<b>Statement</b>
<b>Slaves</b>	<p>“[Black persons’] existence appears to participate more of sensation than reflection. To this must be ascribed their disposition to sleep when abstracted from their diversions, and unemployed in labor. An animal whose body is at rest, and who does not reflect, must be disposed to sleep of course. Comparing them by their faculties of memory, reason, and imagination, it appears to me that in memory they are equal to the whites; in reason much inferior, as I think one could scarcely be found capable of tracing and comprehending the investigations of Euclid” (Jefferson, 1801, p. 206).</p>
<b>Women (married)</b>	<p>“The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life. [...] [A] married woman [is] incompetent to perform the duties and trusts that belong to the office of an attorney and counsellor. [...] The paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother. This is the law of the Creator. [...] The humane movements of modern society [...] for woman's advancement [...] have my heartiest concurrence. But I am not prepared to say that it is one of her fundamental rights and privileges to be admitted into every office and position, including those which require highly special qualifications and demanding special responsibilities” (U.S. Supreme Court Justice Bradley, <i>Bradwell v. Illinois</i>, 1873, pp. 141 – 142).</p>
<b>Animals</b>	<p>See contemporary debates. For example, Carruthers asserts, “[Relating to] birds, mice, or dogs, it is [...] unlikely that such creatures might be thinking things consciously to themselves – that is to say, that they should engage in acts of thinking that are themselves regularly made available for the organism to think about. I assume that no one would seriously maintain that dogs, cats, sheep, cattle, pigs, or chickens consciously think things to themselves” (Carruthers, 1992, p. 184).</p>

<b>Table 5 Disperse statements about the disposition or status of offspring</b>	
<b>Referent</b>	<b>Statement</b>
<b>Slaves</b>	<p>“When a female slave is given to one, and her future increase to another, such a disposition is valid, because it is permitted to a man to exercise control over the increase and issues of his property” (<i>Fulton v. Shaw</i>, 1827, p. 599)</p>
<b>Girls and Women</b>	<p>“An action for [the tort of] seduction is founded, not upon the wrong done to the person seduced, but upon that done to the person who has a right to her services. [...] In the case of the seduction of a daughter, [...] no proof of service is necessary beyond the services implied by the daughter’s living in her father’s house. [...] The father [...] can recover damages for the loss he has sustained [...]” (Hastings, 1885, pp. 159, 161).</p> <p>“If the daughter lives in her father's family, service will be presumed. It is immaterial whether she be a minor or of full age, if she live with her father. If under age, she is, of course, his servant. [...] [I]f she be of full age, [...] from the fact that she lives with her father, the presumption is, that she is his servant” (Judge McKinney, <i>Parker v. Meek</i>, 1855, p. 34).</p>
<b>Animals</b>	<p><i>See e.g.</i> Lawson, “The increase of a domestic animal belongs to the owner of its mother” (1890, p. 2476).</p>

As discussed in earlier chapters, today animals are understood primarily as personal property, subject to ownership and without recognized self-interest. They are believed to be beings that have no ownership interests – not in their bodies, their homelands, or their foodstuffs. They are only dimly recognized as *beings* in and of themselves. They are understood to lack intellectual capacity, and their offspring are regarded as dispensable property, separable from the parent animals at the discretion of and in service to their owners. These understandings comprise a story that is perpetuated as knowledge, together with its associated appurtenances of power. It is a parallel story to

stories that have been told about other referents that share similar qualities with animals – in particular, the quality of animated life. The term parallel simply means that the stories the same as those once applies to other referents. The stories about each referent are the same discursive formation. However, as we know, those stories about others that share animated life have been subjugated by new stories, leaving the former stories relegated to history books, discredited outright by new understandings of truth. And yet these stories remains affixed to our understanding of the animal. A reasonable inquiry might be raised as to why the story about animals sticks, while essentially the same story about other animated beings has been replaced by new stories.

Though a Foucaultian genealogy allows focus upon “causal antecedents of [...] socio-intellectual reality” (Gutting, 2005, pp. 12 – 13), the present work does not address the casual antecedents of the shifts in ways of knowing about slaves or about women. Instead, it illustrates those former stories as examples of the same discursive formations currently shared by the story about the animal. However, this work does postulate the subsumption of the concept of woman into the concept of man, and notes that this subsumption was a shift in the way of knowing about women that may have been a condition that permitted the story about animals to be understood as knowledge, especially by the knowledge conveyed by the discourse of lines in conjunction with the discourse of law as discussed earlier. However, the conditions that gave rise to such a shift are not addressed in this work.

As noted earlier, resistance is always present where there is power (knowledge). As Foucault noted, “Where there is power, there is resistance” (1978, p. 95). As an

example, the late contemporary theorist David Stowe argued that “the intellectual capacity of women is on the whole inferior to that of men” (Stowe, 1995). As he himself acknowledged, most people today disagree with that statement. So, his statements are considered error today, though were “truth” in yesteryear, as the opening of this chapter indicates. His statements are resistance to the knowledge (power) about women today.

A ready explanation exists concerning why the story about animals “sticks,” while the same stories about slaves and about women do not. Specifically, slaves and women are human beings and animals are not. But such an explanation is unsatisfactory, because it presupposes – from the position of perfect hindsight – the conceptual shift in ways of knowing about women and slaves. Additionally, accepting such an explanation fails at the outset to take those stories at face value. Those stories once, in fact, had *véridictive* power. Recall from chapter two that *véridictive* power simply means truth-telling power within a particular way of knowing. Today, we might say, “Of course persons of African American descent and women are not chattel!” But such a statement was considered error when dominant discourses about them – stories with truth-telling power – existed that reflected other truths. When such stories were told, slaves and women were, in varying degrees, recognized as chattel, could not own property, and were not recognized as separate self-interested beings in the discourse of law. We see this same story about animals today in the discourse of law. From an archaeological perspective, points of resistance are easy to identify from those times, viz., the language of the abolitionists and of the suffragists, as examples. Conditions arose that allowed those statements that were

once error to become incisions in the fabric of knowledge. New ways of knowing dawned – or rather, became dominant, while the formerly dominant stories became subjugated.

As an example of the truth-telling power of a discourse about women that no longer is understood to carry *véridictive* power today, consider married women's covertures. These merged women's existences with those of their husbands. However, note that no such covertures existed for single women, who could, in fact, own property and enter into contracts. This is an example of a discourse that created different types of knowledge about the same referent (women) by creating different truths about them based upon marital status. Notably, however, underage single women were presumed to have a servant relationship to that of their father, who was presumed the master. The father had a legal right to his daughter's services. Unmarried women of the age of majority who lived with their father were not presumed in law to have a master-servant relationship with their father, but services could be proved to establish such a relationship to establish grounds for damages if those services were wrongfully interfered with (e.g., if the daughter was debauched or wrongfully seduced). Only the slightest evidence of service was necessary in such cases (*Amos v. Atlantic Railway Co*, 1898, 104 Ga. 809, p. 812, citing 1 Jaggard on Torts, pp. 451-452).

This relation of master and servant between father and daughter, where she lives in her father's family, even when she is over the age of twenty-one years, and when he has no legal right to command her services or to receive her wages, is established by proof of the most trivial or valueless services rendered by her in his family, such as making tea, mending stockings, milking cows, presiding at his tea-

table, or any other acts of service however slight (*Riddle v. McGinnis*, 1883, p. 272, citing *Bennett v. Alcott*, 2 Term Rep 166).

Some courts were more expansive, viz., even if the daughter was of the age of majority, if she lived with her father, services were presumed (*Riddle v. McGinnis*, 1883, p. 275). Single women who did not live with their fathers who had reached the age of majority were apparently not restricted by covertures or bounds of service, and they could sue for damages in their own right, though, of course, other economic barriers existed for them given the power apparatuses of the day.

Note, too, that the statement that “slaves are property” may yet be true within our present way of knowing. If, for example, the institution of slavery was recognized as bona fide, we might yet dust off old slave treatises to determine how to think of members of that class of beings. Though an assertion that human beings should comprise members of a class of slaves is understood today to be false, non-human beings or partial human beings could be considered slaves, and those beings could be considered property. Here, the focus is on the word “slave,” and we must do our best to disassociate it from the term “human being.” For example, if cross-breeding of humans and non-humans was successful, and a new underclass emerged as a result of those efforts, those beings might be enslaved. In such a case, we might understand “slaves are property” to be a true statement applicable to that situation. This is not the stuff of science fiction. Consider H.R. 591 [110th] Human-Animal Hybrid Prohibition Act of 2008 and the identical S.2358, which did not become law, but would have prohibited such hybridization.

Moreover, in the early 1980s, Chinese researchers reportedly successfully impregnated a female chimpanzee with human male sperm, but the experiment was interrupted at 13 weeks gestation. If the cross-breeding attempt had been successful, Chinese researchers at the time acknowledged that the being would be a member of a serf class, not a person, used for labor and for organ harvesting. “The creature produced would be classed as an animal, so there need be no qualms about killing it when necessary” (Ziang, 1980, p. 9 cited in Taylor, 2001, p. 39, footnote 21). It was expected, however, that the being would be able to speak, understand concepts, drive a car, explore outer space and explore the seabed (Ziang, 1980, p. 9, cited in Taylor, p. 39, footnote 21).

Today’s stories about animals have the conceptual effect of setting them apart from man (see e.g., Derrida, 2008, p. 34). As noted above, the stories are of the same discursive formation as the former stories about slaves and about women that opened this chapter. Recall from chapter two that discursive formation is Foucault’s term, which means disperse statements – unity is not relevant (including period of time) – in which “a regularity” can be found (Foucault, 1972, p. 38).

Whenever one can describe, between a number of statements, [...] a system of dispersion, whenever, between objects, types of statement, concepts, or thematic choices, one can define a regularity [...], we will say [...] that we are dealing with a discursive formation (Foucault, 1972, p. 38).

Here, the regularities are that animals (and women and slaves) are chattel; they do not have self-interest; they are not beings or only dimly understood to be beings; they lack intellectual capacity; and, their offspring (and themselves) are dispensable.

The story about animals can be described and interpreted through the use of a Foucaultian genealogy, which is a method for explaining different ways of knowing and corresponding power relations. A genealogy is an archaeology first, and it describes discursive and non-discursive events to reveal the ties between knowledge and power that explain changes in discourse and the very episteme itself (Gutting, 1989, p. 271). Non-discursive events or non-discourse simply means “not writings.” Recall that an archaeology describes writings about the object under investigation (here, animals). The discourse of law and the discourse of lines are both today understood to be knowledge, viz. that wholes may split, be disassembled, or parsed. These discourses, along with disciplinary knowledge springing from human-centered disciplines (i.e., “anthropologisms”), maintains humanity’s supposed centeredness, which supports (through power/knowledge) the concept of man and emanates from it. Together, these are the ties between power and knowledge as they relate to our conceptualization of animals. The present story about animals persists, because the discursive formations from which these stories spring are human-centered and they support the concept of man.

Foucault saw “anthropologism [...] as the great internal threat to knowledge in our day” (1970b, p. 348). By this, he meant that the branches of knowledge (e.g. mathematics, the physical sciences, and philosophical reflection) were in danger of being

contaminated by loosening of understandings between thought and formalization, and incorrect analysis, which occurs in the human sciences (p. 348).

“[T]rue, neither the deductive sciences, nor the empirical sciences, nor philosophical reflection run any risk, if they remain within their own dimensions, of ‘defecting’ to the human sciences, or of being contaminated by their impurity [...]. We are inclined to believe that man has emancipated himself from himself since his discovery that he is not at the centre of creation, nor in the middle of space, nor even, perhaps, the summit and culmination of life, [...] [but] the ‘human sciences’ are dangerous intermediaries in the space of knowledge. [...] What explains the difficulty of the ‘human sciences’, [...] their uncertainty as sciences, their dangerous familiarity with philosophy, their ill-defined reliance upon other domains of knowledge, their perpetually secondary and derived character [...] is not, as is often stated, [...] the [...] transcendence of this man they speak of, but rather [...] their [...] relation [to the branches of non-anthropological knowledge]” (1970b, p. 348).

### **The concept of man, and stories as supporting cast**

The concept of man is a creation of discourse by man (in the non-gendered sense of the word). Indeed, Foucault showed that the emergence of the concept of man was a modern phenomenon (Foucault, 1970b). We human beings study our transcendental unbounded selves with our limited, embodied, bounded selves. We are both the object and the subject of study, a dualism that is paradoxical (Foucault, 1970b, pp. 319, 322).

The concept of man, generated by man, supports itself through language that creates reality about itself and the way that it conceives other things. And, of course, where there is knowledge, there is power. The discourse (of man) perpetuates an understanding about animals that they are personal property.

The ties between knowledge and power that explain the way we presently think about animals<sup>26</sup> – and, coincidentally, the way that human beings have at other times thought about slaves and women – reside here, in the concept of man. This is because the concept of man has been built up and empowered by the creation of knowledge about itself, the institutions that support that knowledge, and the power inherent within the knowledge created. Some of the stories emanating from that knowledge-power appear at the beginning of this chapter.

At this juncture, an important point is underscored. Specifically, “man” as used in these pages does not refer merely to male human beings. No assertion is being made here that a particular way of knowing is a male feature of being. The reader is invited to focus on the word itself (“man”), rather than on the object that may naturally be associated with that word (adult human male). While “man” certainly has meant and continues to mean human male, the concept of man and the use of the word “man” in *general* is more broadly conceived in certain contexts, e.g., “the rights of man” does not refer to the rights of adult human males but to the rights of human beings. However, the term “man” does not include “animal.” Of course, there are movements afoot to use neuter terms in

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<sup>26</sup> Throughout this chapter, references to “the way we think about animals,” refers to our dominant understanding of animals as personal property.

language, viz., not Congressman, but Congress person. Notwithstanding the success of those movements, the word *man* is understood today to be inclusive, unless its use contextually refers to an individual male human being. In any event, man is term in discourse, and what it refers to may contract or expand within different ways of knowing. Man (in the gender-neutral sense) perpetuates knowledge about itself (the concept of man) by creating stories with truth-telling power about other objects, which reflect the way that man self-conceptualizes.

The opening of this chapter illustrates stories with once-véridictive power about certain beings. The same stories can be found today – these are parallel stories – about animals. All knowledge, of course, occurs within the space of thought itself. According to Foucault, “[P]ower-knowledge [...] determines the forms and possible domains of knowledge” (1977, p. 28). So while referents of the stories that render beings as property might change with error-turned-knowledge and the subjugation of once dominant discourse, all knowledge about the referents – whomever they may be at any given time – exist within the space of thought created by concept of man, because the discursive formation about the ownership of beings (and the stories collateral to it) was articulated by man as a self-conceptualization. Specifically, for example, man conceives of himself as the owner of other beings, whoever those beings may be.

Recall that, according to Foucault, during the late eighteenth and early nineteenth centuries, the limits of representation were reached, which gave way to the birth of the concept of man (1970b, p. 221). The birth of the concept of man created a condition for

the emergence of the concept of the animal in the discourse of lines, as discussed earlier, and the fragmentation of former wholes into parts became a natural pursuit, along with new disciplines of knowledge that rose in conjunction.

As an example of these new categorizations of knowing, the unfolding of the possibility of a science of biology emerged (Foucault, 1970b, pp. 226 – 232). By shifting understandings of *animal* away from classifications based upon visible characteristics to the existence or non-existence of particular functions, the possibility emerged that animals might be properly regarded in part, rather than as whole beings. Life itself became simply a characteristic. To have life or to not have life became a description of a function of the being (Foucault, 1970b, pp. 227 – 239). Likewise, to have a face (or not) is to have (or not) a particular characteristic. What are the “usable” parts of the animal? How can we acquire more of those? How might we order what we value the most? And when all characteristics of the animal are ranked, the stories about animals today convey knowledge of the importance of the characteristics of the animal that will produce or not produce certain effects of upon human physiology or human wealth. Accordingly, power structures related to that knowledge exist (e.g., laws and institutions relating to agribusiness and horse racing, for example). These power structures are associated with “beings as chattel” discourse and the “truth” it conveys. Consider the disperse statements in the following account of a slave auction in New Orleans, where the slaves’ characteristics that would maximize wealth were emphasized over their *beings*:

“Elisha,” chattel No. 5 in the catalogue, had taken a fancy to a benevolent looking middle-aged gentleman, who was inspecting the stock, and thus used his

powers of persuasion to induce the benevolent man to purchase him, with his wife, boy, and girl, Molly, Israel, and Sevanda, chattels Nos. 6, 7, and 8. [Elisha] made no appeal to the feelings of the buyer; he rested no hope on his charity and kindness, but only strove to show how well worth his dollars were to the bone and blood he was entreating him to buy.

“Look at me, Mas’r. Am prime rice planter; sho’ you won’t find a better man den me; no better on de whole plantation; not a bit old yet; do mo’ work den ever; [...] better buy me, Mas’r; I’s be good sarvant, Mas’r. Molly, too, my wife, Sa, fus rate rice hand; mos as good as me. Stan’ out yer, Molly, and let the gen’lm’n see. [...] Show Mas’r yer arm, Molly. Good arm dat Mas’r – she do a heap a work mo’ with dat arm yet. Let good Mas’r see yer teeth, Molly. See dat Mas’r – teeth all reg’lar, all good – she’m young gal yet. Come out yer Israel. Walk aroun’ an’ let the gen’lm’n see how spry you be. [...] Little Vardy’s on’y a chile yet; make prime gal by-and-by” (A Slave Auction, 1859, p. 77)

Today, with respect to animals, relevant characteristics might include leanness of muscle and protein, or fat content. With the emergence of the science of biology, we become blind to the face of the animal as just another characteristic that might exist or not, or has existed and then been removed.

Similarly, economics supports knowledge about the disassembly of animals, specifically, the concept of labor as related to the concept of wealth. Foucault notes that from Adam Smith, labor’s productivity was shown to be based upon exterior conditions, including such things as industrial progress and accumulation of capital, rather than

personal ability (1970b, p. 225). And of course, this seems to be true. Someone may work very hard every day, and still live in an abysmal shack of a home, if the worker does not possess the necessary technology or skills for maximizing income from time traded for it. As Foucault noted, time is an absolute measure (1970b, p. 224). Since man cannot change time due to its absolute nature, then man must create knowledge and related power structures that allow for the maximization of economic benefit and the accumulation of wealth in the time available. The discursive formations about *beings as property* spring from such knowledge. Today, they include an understanding of animals as divisible property, comprised of parts, which can be hoisted up to disassemble. The disassembly line of animals in slaughter houses is something like the assembly line, only in reverse. It requires an understanding of living beings as parts to hoist up and disassemble. This understanding allows parts of animals to be removed, aggregated, and rendered fungible with other parts that are of like kind, saleable *en masse*, as objects rather than beings. This story also allows man to force their production in unnatural numbers and unnatural sizes, regardless of the consequences to the intangible *being* housed in those bodies. That animals are understood as fungible property is reflected in the language used by the U.S. Department of Agriculture, where animals are aggregated by poundage and dollar value upon slaughter, rather than by number of beings slaughtered (U.S.D.A., 2010). This knowledge perpetuates and generates stories about animals that allow their bodies to be manipulated for maximum wealth accumulation.

Of course, animals were slaughtered and used as things (chattel) such as for food prior to the period that Foucault refers to here. However, the maximization of production

of the animal as wealth producing thing – for instance, the rapid rise in confined animal feeding operations (CAFO's) and the use of growth hormones (such as rBGH for dairy production) exist to extract the maximum amount of usable product from the animal body as possible – is a relatively new phenomenon. This new phenomenon reflects the power of the discourse of lines, because the knowledge that wholes may be rightly pieced and parsed is captured and conveyed by the discourse of lines. Man self-conceptualizes that he (or she) may disassemble other beings, including separating the physical beings into parts, and separating the intangible being from the tangible body.

As shown in earlier chapters and as noted above, knowledge changes. Some beings that were formerly the object of ownership stories, for example, became the conveyers of such knowledge and power associated with that knowledge. In short, they began to speak from not a place of exclusion, but rather from that of the fellowship of the discourse (Foucault, 1970, pp. 227). Beings that once had no ownership interests in their wages or their bodies came to have both. Disperse statements concerning the ownership of beings, that certain beings had no interests in their own bodies, etc. still existed, of course. These statements comprise discursive formations that still exist, though the object of those stories has changed. Animals are presently understood to be a legitimate object of such stories.

The very concept of man requires man, which again is an invention of man, to organize and order the world, to be a knower of the world, with man as the source of all knowledge about it (Foucault, 1970b, pp. 318 - 319). The concept of man is a philosophy

unto itself, faulty though it may be,<sup>27</sup> committed to analyzing everything in man's experience to render the "truth of all truth [...] discoverable" (p. 341). A commitment to a belief that this is possible is the great folly and danger of reason. What passes for knowledge is created, sanctified as a science, and that, in turn, creates power. However, power is not seen as power, but rather it is hidden as science (Taylor, 1984, p. 152), which purports to spring from reason. Since science hinges upon reason, and reason is understood to be the pathway to the "truth" about our world, then power related to such knowledge is entrenched. Man, inquisitor of himself, understands himself by studying himself – including the way he conceptualizes everything else. Indeed, the concept of man relies upon stories about his self-conceptualizations. Though acceptance of heliocentrism relieved man from the belief that he and his world were the center of the universe, man essentially reclaimed the spot through stories about man that passed as knowledge, cloaked as anthropologisms (Foucault, 1970b, p. 348).

Parallel stories about others that support an understanding about the concept of man in an elevated or center-most state are rooted in anthropologisms, and their powers cloaked as sciences. For example, the science of slavery, the science of slave mastery, the science of home-making, and domestic science were all, at one time or another, recognized as bona fide sciences. For example, the science of slavery rests upon the idea that some persons are slaves by nature, rather than by rule of law (Bartlett, 2001, p. 135). The science of slave mastery was discussed by Aristotle:

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<sup>27</sup> Or, as Foucault noted, philosophy is "in a sleep [...] of Anthropology" (1970b, p. 341).

For some are of opinion that the rule of a master is a science, and that the management of a household, and the mastership of slaves, and the political and royal rule [...] are all the same. Others affirm that the rule of a master over slaves is contrary to nature, and that the distinction between slave and freeman exists by law only, and not by nature; and being an interference with nature is therefore unjust (Aristotle, *Politics*, Book One, Part III).

The master is not called a master because he has science, but because he is of a certain character, and the same remark applies to the slave and the freeman. Still there may be a science for the master and science for the slave. The science of the slave would be [...] [one] who made money by instructing slaves in their ordinary duties. And such a knowledge may be carried further, so as to include cookery and similar menial arts. For some duties are of the more necessary, others of the more honorable sort; [...] There is likewise a science of the master, which teaches the use of slaves; for the master as such is concerned [...] with the use of them. Yet this so-called science is not anything great or wonderful; for the master need only know how to order that which the slave must know how to execute. (Aristotle, *Politics*, Book One, Part VII).

The science of home-making and domestic science were both taught in schools, seminaries and colleges and the knowledge of those sciences were contained in textbooks (see e.g., Pirie, 1915; Beecher & Beecher Stowe, 1870). Some interesting parallels exist

with the conceptualizations of women during that time as evidenced by those writings and the conceptualizations of animals. For example, the science of home economics cast woman as “house animals” that have “no place in the open” like little rabbits (Gilman, 1904, p. 270 – 271). Women were understood to be economically dependent upon men, though their labor allowed men to create wealth; therefore, they were just like horses (Gilman, 1899, p. 13).

These sciences perpetuated the stories that conveyed and housed knowledge-power about slaves and about women that opened this chapter. The truth-telling powers of these stories have evaporated. However, the same stories springing from the same discursive formation about the animal persist. The power-knowledge about animals is carried along by the science of meat and meat products, the science of nutrition, agriscience, and the many other disciplines in which the animal appears as an object in service to man or existing for the purpose of man, viz. in support of the concept of man.

The concept of man possesses a will to knowledge – about man (again, in the neutral sense), his transcendental being, his place in the universe, and his supposed influence upon it. This will to knowledge is an expression or manifestation of power (Foucault, 1970a, p. 219). The concept of man has an inordinate fascination with itself. *Man* is understood by many human beings – at least according to some of the language emanating from human beings – to be the most favored being on Earth to the Creator. In such accounts, “man” is the star of his or her own story, and its biggest fan. Stories have been created about other beings to support man’s self-conceptualization, including the discursive formation concerning the ownership of other beings and the discourse of lines

that conveys knowledge/power associated with disassembling them. With the change of each story, however, a narrower group of beings remains that can be the object of such stories.

Despite this narrowing class, the *concept of man* remains the chief story of modern times. The story about animals is an important story, because it is utterly in service to the concept of man. If the death of the concept of man is imminent as Foucault noted as a possibility (1970b, p. 387), then it may be predicated upon the change of supporting stories in service to that chief story, though no prediction can be offered on the point. We know that knowledge changes, though it is not always in service to logic. However, we can observe that the stories about slaves and about women have changed from their former places of dominance, replaced by stories that were once subjugated. The former stories are no longer recognized as stories that contain truths.

These changes do not portend any change with respect to how animals are understood. However, we can observe the mere fact that they have changed. The point is underscored that this discussion should not be construed as an assertion that the concept of man was intentionally created by male human beings or that the concept of man refers only to adult male human beings. The concept of man emerged because conditions allowed it to emerge and the interplay between events in existence at that time permitted its emergence. Its appearance is a consequence of social consciousness, rather than an individual or group of individuals' intentionality.

The story of the concept of man teeters upon somewhat less support than it once did. And, of course, if the story changes, it will not change by force, but by words. But

how would the chief story of modern times change by words? This would happen through language itself. As Foucault noted, the re-unification of language that has been heretofore fragmented into bounded areas may already foreshadow a shifting in knowledge away from the concept of man (Foucault, 1970b, pp. 385 – 386). As Foucault noted,

Man [...] was constituted only when language, having been situated within representation and [...] dissolved in it, freed itself from that situation at the cost of its own fragmentation: man composed his own figure in the interstices of that fragmented language (1970b, p. 386).

Consider the following example. The statement “a woman is the chattel of her husband” is not understood to be a true statement today. There are two fragmented discourses here, viz., that of chattel and that of woman. Today, *woman* is understood to be a wholly included subset of the term *man*. This could only occur by the re-unification of fragmented language. If woman was understood to be chattel and if she was also understood to be man, then at least a subset of chattel – that which is woman – must also be understood to be man. However, we know that man is not chattel. Therefore, if the understanding of *man* relied upon the truth of the statement that “woman is chattel,” then it would rely entirely upon the split of language – that is, the fragmentation of language – and woman must not be considered *man*. Understanding woman as included within the term *man* foreshadowed the falling away of an understanding of woman as chattel. The language was unified – woman was understood to be man; since man is not chattel, then woman may not any longer be chattel.

### **Parallel discourse about women**

The concept of modern woman is addressed to show that the subsumption of one story (the story about woman, as presented in the introduction to this chapter) into another (the story about man (in the non-gendered sense)) by the reunification of language entrenched the story about the animal by perpetuating language that led to the conceptualize of other beings as ownable, pieceable property.

The concept of modern woman is important is a subset of the concept of man. As discussed already, the concept of man today encompasses all of humankind. The concept of man is a particular way of knowing, supported by stories it tells about itself and disciplinary knowledge it develops about itself. The concept of man and the concept of woman were fragmented by language, but those stories have been unified. The modern woman has been subsumed as *man* (in the non-gendered sense.) Woman comprises a subset of man. The stories in support of the concept of man pass as knowledge. This knowledge includes the discursive formations that other beings are ownable, which is conveyed both by the discourse of lines, viz. that whole beings are parsable, and the discourse of law, viz., that animal beings are chattel, and chattel is ownable property.

As noted earlier, human conceptualizations of themselves are created by language. Many of those conceptualizations were created by or from the concept of man. The focus here is on the form of knowledge itself, created by power-knowledge (Foucault, 1977, p. 28), which is to say how we might know the things that we know. This form delimits the possibilities of how we conceive things. So, for example, once the covertures of marriage were lifted from women so that they could acquire property, they

could do so. However, to acquire property, they needed to conceptualize objects of ownership and the rights to ownership in the manner prescribed by the discourse of lines. And so women, once liberated from the “truth” of the discourse noted in the opening of this chapter, became participants in a reality that was created by language, the accretions of knowledge and apparatuses of power of which were already in place.

To reject that lines superimposed upon a living being represent ownable, parsable interests is to utter error within the way of knowing that emanates from the concept of man (in the non-gendered sense). The discourse of lines and the discourse of law, both operate as power-knowledge that have created an understanding of beings as ownable, parsable objects. Human beings – including women, of course – engaged in economic activity participated in this discourse, which delimited the possibility of knowledge that they might have had otherwise. If language moves through us, rather than is created by us, then persons – including women – came to understand their world through these limited possibilities.

So, modern woman became a beneficiary of the concept of man by being understood to be *man*, and included within the *concept of man*. Modern woman speaks the language emanating from the concept of man (in the non-gendered sense), including the altogether pervasive “truth” that wholes were parsable and ownable by the superimposition of lines upon bodies. Loyalties were purchased textually.

Indeed, loyalties are often purchased textually. To teach a language is to assimilate a people. Conversely, to kill a language is to kill a people. Consider the efforts by the United States to “Americanize” Native Americans in the late nineteenth and early

twentieth centuries. Native children who were sent to schools such as the U.S. Training and Industrial School in Carlisle Barracks, Pennsylvania were forbidden from speaking their own language and were punished for doing so. Captain Pratt, who operated that school, is remembered for saying

A great general has said that the only good Indian is a dead one [...]. In a sense, I agree with the sentiment, but only in this: that all the Indian there is in the race should be dead. Kill the Indian in him, and save the man (Pratt, 1892).

One of the methods employed to accomplish this goal was banning the native languages and forcing the Native American children to learn English (Pratt, 1892).

The Indians under our care [on the reservations] remained savage, because [they are] [...] away from association with English-speaking and civilized people [...]. It is a great mistake to think that the Indian is born an inevitable savage. He is born a blank [...]. Left in the surroundings of savagery, he grows to possess a savage language [...] and life. [...] Transfer the savage-born infant to the surroundings of civilization, and he will grow to possess a civilized language and habit. [...]

The school at Carlisle is an attempt on the part of the government to do this.

Carlisle has always planted treason to the tribe and loyalty to the nation at large. [...] (Pratt, 1892).

Some statements formerly understood to be true about women detached from women entirely and became not true (e.g., “a woman is the chattel of her husband”), while those same understandings remained attached to animals (“animals are chattel of man”). Women speaking the language of the concept of man necessarily became loyal to the concept of man, because that became their reality.

Today, of course, women work in the disciplinary boxes such as the sciences, philosophy, and politics associated with our understanding of the animal. Those languages are bounded, fragmented, and not unified. Within this particular reality, women must engage the thinkers of their discipline, which were, historically, mostly men. Men have been talking for a very long time about animals while the women’s voices were often not recorded, muted, or otherwise suppressed by the rules of their society. Today’s woman engages in discourse about animals within the disciplinary boundaries largely created and conceptualized by man. Consider the institution of academics. In philosophy, law, and in the sciences, the question of the animal is discussed within the constraints of the disciplines from whence it springs. For example, people discuss what the animal is, whether it has rights if it cannot understand duties, and the meaning of animals’ lack of ability to speak in human languages. Such discussions apply ideas that spring from the concept of man to the question of the animal. So, for instance, Martha Nussbaum is a female academic who has discussed the question of the animal, and she asserts that animals are due justice based upon their capabilities (Nussbaum, 2006). This is an argument made within the confines of the disciplinary language. She is understood to speak from “an office of authority to speak” by virtue of

her having followed the rules that have allowed her to do so and that have legitimized her statements (e.g., obtaining advanced academic degrees, holding an academic position, using words understood to be correct within her discipline). However, to argue that animals should be due entitlements based upon justice according to their capabilities is to recognize that the concept of justice – which is “knowledge” perpetuated from the concept of man – is applicable to the animal. While her argument might be very good or very bad, it occurs within the confines of the discourse of the discipline, and it is presented in relatively specialized language. Much of what she says requires an understanding of this particular specialized language, without which the argument itself would be impenetrable. In short, Nussbaum and other women engaged in questions about the animal within the confines of a particular discipline are women who use language that emanates from the concept of man. They are, in fact, speaking as *man* (in the non-gendered sense.)

We are left with a peculiar situation then. The woman herself could be absent from the concept of modern woman. We may be paradoxically left with a missing woman. We might be satisfied with the explanation that woman refers to the female human being and since we can see female human beings, woman must not be missing. However, to accept such an explanation may require us to regard her as merely a biological female being subsumed within our understanding of the concept of man. That is, it requires us to regard her as a creation of the concept of man, because she speaks the language of the concept of man, including the discourse of lines and the knowledge that it

conveys that animals are parsable personal property and objects of ownership. As Adams notes, “[Our] cultural discourse [...] [includes the] message [...] that the objectification of other beings is necessary part of life” (1990, p. 14). Similarly, Mary Daly wrote, “Women have had the power of *naming* stolen from us. We have not been free to use our own power to name ourselves, the world, or God” (1973, p. 8). We do not know what a reality would look like, if such a reality could be created by language created by (rather than adopted by) women. Modern woman may be female human being and man, but she may not woman being, if such a thing could exist, since she did not form the language that created the space of knowledge by which things are understood. Again, this assertion is not an association of the dominant discourse with male human beings. Rather, the dominant discourse springs from the concept of man, of which women comprise a subset. Of course, women need not speak a language distinct from males in order to be woman. They could certainly share in a form of life experience that has a similar focus (e.g., a sense of justice). However, women did not initially create the discourse of lines or the discourse of law, both of which have vast power-knowledge apparatuses associates with them. What they might have created in the absence of one or both remains speculation.

This possibly absenteeism is analogous to the absent referent animal from dinner plates (Adams, 1990, pp. 41 - 42). The animal *being* itself is absent on plates that hold the dead bodies of the animal. As discussed earlier, the word *animal* conveys little than its otherness. When we hear the word animal, we know that the referent is not a human being. The label is a de-conceptualization of the other’s being-ness. This is because that by the time parts of the animal appear on dinner plates, around feet or waists, or under

behinds, the animal has become so abstractly other that the animal itself that once inhabited un-severed pieces is utterly unknown, unknowable, non-existent, and absent. Imagine a leather portrait frame. We are literally invited to put an entire other image into the frame made of a piece or pieces of a being or beings sewn and glued together. We are invited, in fact, to reconstitute it with something that is not other. Consider again Nobel laureate J.M. Coetzee's Elizabeth Costello character, who articulates the point:

Is it possible, I ask myself, that all of [the people that I see] are participating in a crime of stupefying proportions? [...] [E]veryday I see the evidences. The very people I suspect produce the evidence, exhibit it, offer it to me. Corpses. Fragments of corpses that they have bought for money.

It is as if I were to visit friends, and to make some polite remark about the lamp in the living room, and they were to say, 'Yes, it's nice, isn't it? Polish-Jewish skin it's made of, we find that's best, the skins of young Polish-Jewish virgins.' And then I go to the bathroom and the soap-wrapper says, 'Treblinka – 100% human stearate' (2001, p. 69).

This work has not compared disperse statements related victims of Holocaust. However, in passing, it is notable that this is a discursive formation whose speakers often indicate a propensity to protect its use against encroachment of (or being applied to) other referents (see e.g., MacDonald, 2006, pp. 433 – 434). Plainly stated, those who speak from an "office of authority to speak" about the Holocaust, sometimes object to Holocaust language being applied to referents that were not victims of the World War

Two era Holocaust. We might observe, as a final point to this fleeting note, that Coetzee's language through his Elizabeth Costello character seems to provide a point of resistance to that protectionism.

And so it is that animals are unknown, unknowable, non-existent, and absent. We might say that this is also true with respect to the referent *woman*. After all, the conflation of woman and animal is prevalent in modern times (Adams, p. 16, 1990; Adam, 2004). Additionally, animal words are commonly used for woman: bird-brained, sex kitten, old bat, bunnies, beavers, foxy, good stock, "Why buy the cow if he can get the milk for free?" The *concept of modern woman* frames absence, and it is reconstituted with the not-other, *man* (in the non-gendered sense). And how has she been reconstituted? The language of the concept of man (e.g., the discursive formation concerning the ownership of other beings and the discourse of lines concerning the partitionability of whole beings) existed when woman was an object of stories that are no longer considered "true." She adopted that language, and in the adoption, became assimilated, even as she was partitioned.

The discourse of lines along with the discourse of law requires an understanding of beings as parts of wholes, both tangible divisible property, as well as intangible divisible property. In our present way of knowing, property is understood to be a tangible or intangible thing that is capable of being owned. A tangible piece of property is generally something that we can touch. An intangible piece of property is something abstract. Ownership is simply the right to exclude others from the thing owned. So, if we say that we own a parcel of land, we are saying that we have the right to exclude all

comers from that land. Likewise, intangible property may be owned. For example, to own a trade secret is the right to exclude others from misappropriating the secret. So it is possible to own a physical object, such as land, and it is possible to own an intangible object, such as an idea. However, in order for an intangible to be owned, a physical representation for the intangible must exist or it must be reducible to a physical representation. For example, if a trade secret for soda pop was known to a person, that may or may not appear as a written recipe. But, it is capable of being reduced to paper, which would be a physical representation of the intangible. Additionally, the intangible represented by the tangible may be divided in ownership.

Indeed, the power-knowledge of the discourse of lines has *determined the form* by which we may conceive of beings that are objects of the discourse of lines. Recall that Foucault noted that “power-knowledge [...] determines the forms [...] of knowledge” (1977, p. 28). The discourse of lines as applied to tangible beings is done in the abstract – upon *representations* of the actual thing, such as maps or drawings, rather than upon the actual physical thing being divided. The abstraction is where the power lies, and that power trumps any assertion challenged by physical manifestations of the discourse of lines, such as fencing. Indeed, for example, many years must pass before ownership of lands wrongfully fenced can transfer from the owner indicated by the abstract representation of the discourse of lines on paper (like a plat map) and the person who fences the property. Seven to ten years is not uncommon for a successful quiet title action in cases of adverse possession.

This abstraction is also present in our understanding of the bifurcation of animals as both *beings* and as *personal property*. The discourse of lines determines the *form* of knowledge about animals, viz. that their physical bodies are partitionable, and that their bodies are partitionable from their beings.

For example, when ownership of an animal is asserted, it is asserted in the tangible and in the intangible, though no tangible representation of the intangible exists. Despite this lack of tangible evidence of ownership of the intangible being of the animal, the ownership interest is understood to encompass both the animal's body and its being. Ownership in the animal impliedly conveys an understanding that both the tangible body and the intangible being are owned, though the being itself is not reducible to tangible representation. Accordingly, no separate ownership interest may exist for the intangible *being* apart from the tangible *body*. Indeed, to assert ownership over the body of a wild animal requires the snuffing out of the being first (see e.g., *Pierson v. Post*, 1805). Because no tangible representation exists of the intangible property of the being of the animal, it is not divisible in our way of knowing. This non-divisible nature of the intangible property of the *being* of the animal is inconsistent with the "truth" of the discourse of lines, which conveys the story of partitionability. While we may conceptually partition the animal into property and into being, and the physical body of the animal may itself be partitioned, the being may not be partitioned, because it is in fact not partitionable. We are conceptually blind to the non-partitionable part of the animal that is the animated being, because the discourse of lines cannot apply to it. An animal body,

devoid of animation - that is to say, devoid of life – can be an object of the discourse of lines. But the being is lost in the discourse. It is the absent referent (Adams, 1990).

The indivisibility of the being of the animal renders knowledge of it inconsistent with the discourse of lines. This is a resistance to that way of knowing. Knowledge of it is, in short, an error. We become conceptually blind to it. Knowledge of the being is therefore subjugated in favor of the dominant discourse. The characteristic incomprehensible by the discourse of lines is therefore ignored as a possibility within our way of knowing, when the discourse of lines in conjunction with the discourse of law applies to the animal.

### **A Wildly Speculative Theorist with a Visionary Dogma**

Consider again the words of Henry Clay: “I know that there is a visionary dogma which holds that negro slaves cannot be the subject of property” (p. 28). Clay, of course, did not ascribe to any such dogma, and we can fairly imagine his bemusement of such a prospect. But this “visionary dogma” came to pass with the abolition of slavery. Indeed, this “visionary dogma” could also come to pass for animals, viz. that animals cannot be the subject of property, though no prediction is made on the point. After all, we cannot predict how what passes for “truth” emerges, nor how it might fall.

That animals are primarily understood to be property to which the discourse of lines and the discourse of law applies is simply a way of knowing. It is not the only way of knowing, but it is the present way of knowing. Together with the apparatuses of power associated with that way of knowing, this knowledge may seem as if it is permanent. At

one time, the same argument was made about slavery. Specifically, the argument was that the capital invested in them was simply too great to lose:

A[n] [...] impediment to [...] abolition is [...] found in the immense amount of capital which is invested in slave property. [...] The total value, then [...] of the slave property in the United States is twelve hundred millions of dollars. This property is diffused throughout all classes and conditions of society. It is owned by widows and orphans, by the aged and infirm, as well as the sound and vigorous. It is the subject of mortgages, deeds of trust, and family settlements. It has been made the basis of numerous debts contracted upon its faith, and is the sole reliance, in many instances, of creditors within and without the slave States, for the payment of the debts due to them. And now it is rashly proposed, by a single fiat of legislation, to annihilate this immense amount of property! —to annihilate it without indemnity and without compensation to its owners! Does any considerate man believe it to be possible to effect such an object without convulsion, revolution, and bloodshed? (Clay, pp. 27 – 28).

As this work has shown, however, other ways of knowing that were at various times considered untoppleable have, in fact, toppled, having been subjugated by the rise of discourses that were once suppressed, made possible by the events that then existed to render those new ways of knowing as knowledge.

It is possible to craft a normative position *within* our present way of knowing without abandoning a Foucaultian illumination concerning the changeable nature of knowledge and the consequent normative neutrality that we must understand it. Does this

involve adopting an understanding that some way of knowing is more “right” or more “wrong”? Within our way of knowing, yes. But, recall that Foucault said,

[M]y point is not that everything is bad, but that everything is dangerous, which is not exactly the same as bad. If everything is dangerous, we always have something to do. So my position leads not to apathy but to a hyper- and pessimistic activism. I think that ethico-political choice we have to make every day is to determine which is the main danger (Rouse, p. 115, *citing* Foucault interview).

Recognition that all knowledge is changeable, created by language emanating from man (in the non-gendered sense of the word), compels the ever questioning of power and the knowledge that lies behind it. For example, though the “moral orthodoxy” in western thought is that *if* animals possess any moral standing, it is inferior to that of humans (Garner, 2002, p. 8). This moral orthodoxy rests upon perceived differences between humans and animals, or upon the belief in a natural hierarchy of beings (Steiner, 2005). But we have to ask why such a thing is understood to be true. It is understood to be true because the man (in the non-gendered sense of the word) understands himself to be the center. We may question that knowledge and the power that goes along with it, for example, the power associated with the discourse of lines and the discourse of law as they relate to animals. We can recognize that the transmigration of souls, the rationality of animals, and their destruction as against God’s will are all subjugated discourses that serve as points of resistance to the moral anthropocentrism that comprises the “truth” *du jour*. Though these points of resistance may still be anthropocentric, they offer competing

versions of knowledge that – though considered “error” in the main – convey an understanding about animals that does not necessarily challenge the human-centered aspect of our dominant way of knowing, while at the same time may alter our conceptualization of animals. These positions are still anthropocentric. Consider, for example, the transmigration of souls. The knowledge conveyed by this understanding against harming animals is based upon an understanding that harming animals will result in distancing one’s self (that is, one’s *human* self) from God in the birth-rebirth cycle (Davidson, 1995, pp. 913 – 916). This discourse often encompasses a belief that the path to God is only possible to those souls that currently inhabit *human* form (see e.g. Davidson), which, of course, is a human-centered perspective. Note, also, that this discourse shares the discursive formation regarding the hierarchy of beings, which is called the “chain of beings” for Aristotle. Both convey understandings of humans as superior (and closer to God) than animals.

Of course, stories that convey a position describable as benignly anthropocentric towards animals have in many cases been subjugated, rendering them merely as points of resistance against the “truth” of the day. Some contemporary examples include recognition that animals are subject-of-a-life (Regan, 1983), have inherent value (Regan, 1983; Nussbaum, 2006); are created by the same God as humans (Linzey, 2009); and question the threshold need for sentience as a condition for moral consideration on par with that of humans (Steiner, 2005; Sorabji, 1993). Likewise, the academic discipline concerned with the question of the animal has emerged. It may yet create a new language about animals, which may spur a new way of knowing about them. New language about

animals – perhaps those that share a discursive formation with subjugated discourses – could alter our understanding about them. For example, if animals were not labeled as property, then they would not be property. As Clay noted, “That is property which the law declares to be property” (p. 28). The reverse, it seems, would be true within any particular way of knowing, too, viz. “That is not property which the law declares to be not property.” If animals were no longer understood to be property, and if this understanding were reflected in the language attached to them and the stories with truth-telling power about them, then we might understand them in other ways. Perhaps an understanding of them might emerge as existing for their own purpose, independent from any human interests in them at all – a story whose truth is known only to them and to their Creator, even if only a creator through words.

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