

On the history and legacy of the Grammont Act, France's first animal protection law

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I - Animal Law in France Before the Grammont Act

This year marks the bicentennial of the Cruel Treatment of Cattle Act of 1822, known as the Martin's Act, Britain's first animal protection law.¹ The celebration of this anniversary brings the opportunity to reflect upon the history of animal law throughout Europe, and in particular, this essay examines the French analogue of the Martin's Act, the Grammont Act (Loi Grammont).

The Grammont Act owes its name to General Jacques Delmas de Grammont (1796 - 1862), a Member of Parliament in the French Second Republic. As a soldier, de Grammont became horrified by the suffering of war horses, and later, by the abusive treatment of carriage horses in the street. This poor treatment of animals that de Grammont witnessed inspired his ground-breaking efforts against animal cruelty. And though he still presided over bullfights in Bayonne, de Grammont's views on animal protection were progressive for his time, leading to notable improvements.

The first national law on animal protection in the modern French legal system, the Grammont Act, adopted July 2, 1850, criminalised abusive treatment of domestic animals in the public sphere. Prior to this Act in France, the United Kingdom had already passed their first animal protection law, the Martin's Act of 1822, subsequently replaced by the Cruelty to Animals Act of 1849. The Martin's Act criminalised the mistreatment of domestic animals, and the practice of animal fighting, with the penalty of a fine or imprisonment. The Martin's Act prohibited the beating, mistreatment, or avoidable suffering of

the following animals: horses, mares, geldings, mules, asses, oxen, cows, heifers, steers, sheep, or other cattle.

Although this Act only outlawed cruelty against animals, and did not address animals' general welfare, the Martin's Act provided a model for animal advocates in neighbouring jurisdictions to follow. In France, the Legislature was relatively behind the UK in the passage of early animal welfare laws, while still making some modest progress. As an example of such progress, an 1843 Paris city ordinance prohibited the hitting of horses with the handle of a whip.² Moreover, the French Animal Protection Society (La Société Protectrice des Animaux - SPA) was created two years later, in 1845. Following the enactment of the Grammont Act, de Grammont was named as the head of the SPA,³ though the record shows he does not appear to have been very active, subsequently, in the organisation.

II - The Enactment of the Grammont Act

The next foundational moment for animal protection in France came in 1850, when the National Assembly—the equivalent of the House of Commons in the UK—took up the question of animal cruelty. The composition of the chamber, elected in May 1849, following the peasant uprisings of June 1848, was very conservative.⁴ The National Assembly voted for the Grammont Act in 1850, in this political context between rural communities and the government, and with a small majority of votes. The fact that the Legislature back then was more concerned with regaining social control over rural communities

¹ <https://www.martinsact200.co.uk/>

² <https://www.leparisien.fr/societe/spa-qui-etait-le-general-grammont-premier-defenseur-des-animaux-06-10-2019-8167017.php>

³ Ibid.

⁴ Ibid.

than expressing empathy for animals largely explains the limitations of the Grammont Act.⁵

The reasons for the adoption of the Grammont Act were multiple. De Grammont first argued that abused animals were less productive, and that a law protecting animals could result in improved economic prospects. Secondly, de Grammont argued that the mistreatment of animals could contribute to the spread of diseases. And lastly, de Grammont argued that condemning brutality towards animals would have a positive impact on society as a whole, since it would improve morality by punishing violent behaviour.⁶ Penalising cruelty towards animals was a form of social regulation, as a general opinion at the time was that compassion towards animals was synonymous with complying with social norms.⁷

De Grammont's proposal was to punish any person who abused animals in public or in private, and he provided a specific list of examples of animal abuse. However, an amendment by a Member of the National Assembly, M. Desfontaines, reduced the scope of the Act by penalising animal abuse committed in public only, which preserved the rights of owners to use and abuse their property in private,⁸ while safeguarding human witnesses from the sight of such cruelty.⁹

As it was finally adopted in 1850, the text of the Grammont Act states: 'Those who have exerted public and abusive mistreatments towards domestic animals shall be punished with a fine from five to 15 francs, and violators may be subject to jail time of one to five days. The penalty of imprisonment will always be applied in cases of multiple offences. Article 483 of the Penal Code will always be applicable' (translated by the au-

thors).

The penalties for animal abuse provided under the Grammont Act applied under three conditions. First, wrongdoing must include abusive treatment of a domestic animal. In this regard, the Grammont Act did not target the frequency of the mistreatment but only its intensity and excessiveness. Second, the mistreatment had to have been carried out in public. Finally, for the law to apply, the perpetrator of the abusive treatment had to have been the animal's owner, or a person entrusted with the custody of the animal on a permanent or temporary basis.¹⁰ This Act had numerous shortcomings. The terms employed were too vague to enforce its application. For example, the word 'ceux', which refers to 'those' who commit public and abusive mistreatments, was not precise enough; shortly, judges considered that the Grammont Act could only penalise animals' owners or keepers.¹¹

However, the passage of this act was still a milestone in the fight for animal protection in France. Even though the Grammont Act did not improve animal welfare in a significant way, the Act nevertheless established special treatment for animals, treatment different from that of mere property. Before the Grammont Act, the French criminal code punished animal abuse but only under the condition that the abuse had caused economic damage to the animal's owner, to the same extent that destruction of property was criminalised by the law. The Grammont Act recognised, for the first time, that animals are a specific class of property, by considering acts of cruelty towards domestic animals to be harmful to animals themselves, apart from considerations about the animals' economic value.

III – Enforcement Challenges

A first enforcement challenge of the Grammont Act was that animal abuse typically occurred out of the police's sight.¹² A second issue was that

5 Pierre, Éric. « Réformer les relations entre les hommes et les animaux : fonction et usages de la loi Grammont en France (1850-1914) », *Déviance et Société*, vol. 31, no. 1, 2007, pp. 65-76.

6 <https://hal-unilim.archives-ouvertes.fr/hal-00815448/document>

7 <https://www.radiofrance.fr/franceculture/podcasts/la-transition/proteger-les-animaux-pour-se-proteger-soi-meme-9385716>

8 <https://www.leparisien.fr/societe/spa-qui-etait-le-general-grammont-premier-defenseur-des-animaux-06-10-2019-8167017.php>

9 André, De la protection des animaux, 1899, Faculté de droit de l'Université de Paris Hesse, p. 90.

10 André, De la protection des animaux, 1899, Faculté de droit de l'Université de Paris Hesse, p. 118.

11 <https://hal-unilim.archives-ouvertes.fr/hal-00815448/document>

12 André, De la protection des animaux, 1899, Faculté de droit de l'Université de Paris Hesse, p. 121.

the police limited the enforcement of the Grammont Act mainly to Paris and other big cities of France¹³. In the three years following the enactment of the Grammont Act, 43% of the violations of the Act were recorded in Paris,¹⁴ suggesting that the Act was under-enforced in the rest of the country.¹⁵

Moreover, bullfighting organisers never complied with the Grammont Act. Spanish-style bullfighting, which involves the stabbing and killing of bulls, and sometimes the killing of horses, was introduced for the first time in France at the beginning of the Second Empire (1852-1870). This type of spectacle increased in popularity in the latter half of the 19th century in France and started to expand north. Bullfights were so lucrative that fines were not a deterrent, so the bullfight organisers preferred to pay modest fines rather than cancel their events. At the end of the 1890's, when brought before the courts for violating the Grammont Act, proponents of bullfighting argued that arenas are not public spaces; that horses and bulls involved in the show did not suffer abusive mistreatment; that bulls, not humans, were responsible for the deaths of horses; and that bulls were not domestic animals. The judges sided with bullfighting organisers.

In 1894, however, the Minister of Justice challenged bullfighting before the Court of Cassation, which finally declared bullfighting illegal under Grammont Act. Despite multiple similar decisions taken by the highest court ruling on the unlawfulness of bullfighting in France, local district courts in the south of France still sided with the defendants and bullfighting continued.¹⁶

In practice, French courts had broad discretion

13 <https://www.leparisien.fr/societe/spa-qui-etait-le-general-grammont-premier-defenseur-des-animaux-06-10-2019-8167017.php>

14 Pierre, Éric. « Réformer les relations entre les hommes et les animaux : fonction et usages de la loi Grammont en France (1850-1914) », *Déviance et Société*, vol. 31, no. 1, 2007, pp. 65-76.

15 André, De la protection des animaux, 1899, Faculté de droit de l'Université de Paris Hesse, p. 121.

16 Pierre, Éric. « Réformer les relations entre les hommes et les animaux : fonction et usages de la loi Grammont en France (1850-1914) », *Déviance et Société*, vol. 31, no. 1, 2007, pp. 65-76.

in applying the Grammont Act. In several cases, judges did not punish certain actions that seemed to correspond to the definition of domestic animal abuse. For instance, on November 10, 1860, the Court of Cassation—the highest court in France—sided with a defendant who had publicly beaten and injured a horse with a pitchfork. The court found the defendant innocent, justifying their decision on the grounds that the injury the horse had sustained was minor and that the horse was disobeying when it was beaten.¹⁷

III - Animal Law After the Grammont Act

Over time, the animal protection movement in France won more victories. In 1881, the Secretary of Instruction, Jules Ferry, agreed to display 30,000 posters for the SPA, paid through the Ministry of Education's budget, in all public schools in France.¹⁸

In 1959, the Michelet Decree (le décret Michelet) repealed and replaced the Grammont Act. The Michelet Decree punishes anyone who unnecessarily mistreats, in public or private, a domestic, tame animal, or an animal kept in captivity. The text also provides that an animal seized by the authorities could be transferred to an animal protection charity. By extending the scope of the legislation to abusive treatments committed in the private sphere, and to tame animals as well as animals kept in captivity, the Michelet Decree finally takes into account the intrinsic interest of animals not to be abused. However, the Michelet Decree carves out an exemption regarding the use of bulls 'when an uninterrupted, local tradition can be invoked'.

In the continuity of this Decree, a 1963 law prohibits acts of cruelty towards domestic animals, tame animals, or animals kept in captivity. This Act increases criminal penalties, up to two to six months in prison, and fines of 2,000 to 6,000 francs, regardless of whether the abuse to animals has been committed publicly or in private.

In 1976, French farming legislation, known as the

17 André, De la protection des animaux, 1899, Faculté de droit de l'Université de Paris Hesse, p. 69.

18 <https://www.leparisien.fr/societe/spa-qui-etait-le-general-grammont-premier-defenseur-des-animaux-06-10-2019-8167017.php>



Rural Code, by way of article L.214-1, recognises animals as 'sensitive beings'. The law states, 'Every animal is a sensitive being and must be placed by its owner in conditions compatible with the biological requirements of its species'. However, the scope of this law is limited, applying only to farm animals, whilst animals remain under the status of 'property' as per the Civil Code. Only in 2015 did the Civil Code qualify all animals as 'sensitive beings', although still regulating them under property laws.

In the present day, many animal advocates refer to the Grammont Act as a milestone in French animal law. Sadly, De Grammont's original concern remains: despite condemning public cruelty towards animals, our society still largely accepts the hidden mistreatment of privately held animals. Compared to Grammont's time, a vastly larger number of animals today are forced to endure deplorable conditions of life and death. Each year, approximately 1.4 trillion animals—80 billion farmed terrestrial animals, over 300 billion farmed aquatic animals, and 1 trillion wild

fish—are slaughtered in the world.¹⁹ In French slaughterhouses solely, 3 million animals are killed every day. Animals are also transported in disastrous conditions. Today, acts of cruelty committed in public against individual animals often arouse popular indignation, and rightly so, but society has remained largely indifferent to the mass-scale mistreatment of farm animals, committed behind closed doors, out of public view.

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¹⁹ <https://www.l214.com/animaux/chiffres-cles/statistiques-nombre-animaux-abattus-monde-viande/> and FAOSTAT