

Animal property rights and wild law

Radical as completely rethinking property law may seem, on a wider evaluation of the costs and benefits, it seems fully justified. The challenge that now faces us is how to begin the process of undoing the property systems that impede a proper relationship with the land, and to build a **workable alternative** in its place.

- Cormac Cullinan, *Wild Law*, p. 145.

My attitude is simply that if we accept conceptually that our governance systems ought to be consistent with, firstly, the Great Jurisprudence, and secondly with any Earth Jurisprudence that our society may develop, then we will need to develop **legal and other mechanisms** to achieve this.

-Cormac Cullinan, *Wild Law*, p. 113.

In addition to developing a vision of Earth Jurisprudence, we can also begin **changing our existing governance systems from within.**

- Cormac Cullinan, *Wild Law*, p. 160.

Common ground

- As a check on human intervention in natural areas that is destructive of habitat, a nonhuman animal property rights regime (structured along the lines I suggest) could secure the maintenance of ecosystem stability and ensure the vital interests of nonhuman animals are respected. The key moral demands of environmentalism and animal rights can be met by extending the scope of property ownership beyond the human species.

- John Hadley, 'Nonhuman Animal Property Reconciling Environmentalism and Animal Rights,' *Journal of Social Philosophy*, 36, 3, 2005



“Animal rights and ecological holism is like oil and water, they don’t mix.”

Tom Regan *The Case for Animal Rights*



MEDIA MONITORS



back



Weekly Times

20-Apr-2011

Page: 1

General News

Market: Melbourne

Circulation: 70500

Type: Rural

Size: 718.28 sq.cms

--W----

Page 1 of 2



KANGAROO COURT

By **PETER HUNT**

AUSTRALIAN native animals could be given property rights to protect their habitats under a radical plan.

While some landholders may dismiss the idea as a joke, the nation's peak farming organisation said it was a threat that must be taken seriously.

University of Western Sydney academic John Hadley, who is at the

forefront of a global push to give animals property rights, believes farmers should be forced to negotiate with the legal guardians of Australia's native animals before clearing their land.

"Under an animal guardianship system, landholders who want to modify habitat on their land would have to negotiate with a guardian acting on behalf of a designated group of animals," Dr Hadley said in his article on a new academic website

The Conversation.

"Ideally, guardians would be registered with an independent tribunal and be qualified to make environmentally and ethically-informed decisions."

National Farmers' Federation president Jock Laurie said the proposal had to be treated seriously.

- **Continued Page 2**
- **Rule's View, Page 27**
- **Editorial, Page 28**

Guardianship

It is no answer to say that streams and forests cannot have standing because they cannot speak. Corporations cannot speak either; neither can states, estates, infants, incompetents, municipalities or universities. Lawyers speak for them, as they customarily do for the ordinary citizen with legal problems....

On a parity of reasoning, we should have a system in which, when a friend of a natural object perceives it to be endangered, he can apply to a court for the creation of a guardianship...

-Christopher Stone "Should Trees Have Standing"
Southern California Law Review 45, 1972



Gives animals a 'voice'

Overtures the institutional view of habitat as vacant or empty vegetation

Who will be the guardians?

Liberal property rights theory

- The moral significance of traditional justifications for property rights - liberty, labour mixing, and first occupancy - tied to rational agency .
- Traditional property theory grounded in Natural Law theory



The intellectual nature alone is requisite for its own sake in the universe, and for all others its sake.

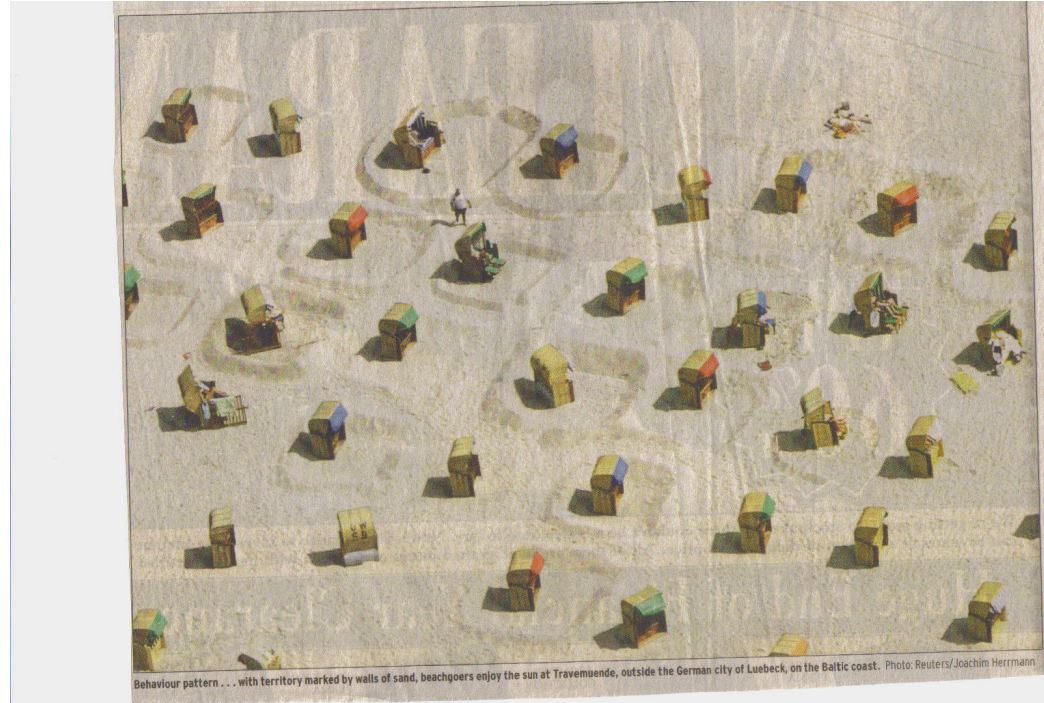
Now, of all the parts of the universe, intellectual creatures hold the highest place, because they approach nearest to the divine likeness.

Aquinas, *Summa Contra Gentiles*, 3, II, CX11

Territorial boundaries



Sorry Charles, but according to my GPS-receiver,
I'm still in my own territory...



A familiar means of determining ecologically sensitive areas

Ecologists to determine boundaries

Justification: Biodiversity loss due to habitat modification



1700 species listed as nationally threatened.
357 of these are non-plant species

- In concurrence with previous studies of global and national scales, we found that habitat loss is the primary driver of imperilment for threatened species in Australia. Extensive livestock grazing, broadscale land clearing, and urbanisation are widely recognized as having major and widespread impacts upon native biodiversity in Australia, with the situation expected to worsen with projected future increases in human population and consumption .

- Evans et al. The Spatial Distribution of Threats to Species in Australia. Bioscience, 61, 4, April 2011

Objections



- Duplication of existing system
- Corruption
- Conflict with existing owners
- Identification of animal owners
- Possessive individualism
- Feral species

Questions for lawyers

- Relationship between guardianship and current legal status of animals
- Is a new legal status for animals a prerequisite for a guardianship system?
- Legal personhood or quasi personhood
- Favre's concept of equitable self-ownership for animals
 - Conceptual space between equitable title and legal title.