

Preface

The last couple of years has seen a significant growth in the number of lawyers in Australia becoming interested in "animal law". To give but a few examples: Brian and Ondine Sherman founded Voiceless, the fund for animals, which soon established an important legal presence through the efforts of Katrina Sharman; Geoffrey Bloom taught the first animal law course at the University of New South Wales in 2005 and courses have been taught at several other establishments;¹ the New South Wales Law Society Young Lawyers group has been particularly active in the animal law area; Graeme McEwen of the Victorian Bar has set up a barrister's group with over 100 members who offer *pro bono* assistance in animal welfare matters; in 2008 the Australian Law Reform Commission journal *Reform* was devoted to the law as it relates to animals; this year also saw the launch of Australia's first animal law journal, the *Australian Animal Protection Law Journal*, conceived and created by John Mancy and supported by Voiceless. The Brisbane group BLEATS has recruited a significant number of Queensland lawyers, including Senior Counsel, to act *pro bono* for the RSPCA in that State and has sought to persuade local magistrates to impose tougher sentences on those convicted of animal cruelty.

The task facing these lawyers who have become involved in helping protect animals is an enormous one. The post-war emergence and growth of factory farms has meant that animal cruelty has become big business. The vicious circle for the many millions of animals subjected to this cruelty is perpetuated by the perceived need to produce cheap meat for the consumer and the concealing of large scale industrialised cruelty behind closed doors. The amount of money made and the associated influence of those making the money means that law makers respond to industry pressure to make the practitioners of cruelty immune from legal sanctions. Government departments anxious to appear to be "doing something" about animal cruelty produce enormous volumes of acts, regulations, codes, guidelines and newspeak. The industry response is to pretend to the public that it is actually concerned about the welfare of the animals it owns. The most egregious example is the "live export care" website run by live animal exporters, which says (for example) "everyone involved in the Australian livestock export industry...cares deeply about the welfare of Australian animals"² A truer statement might be "we care about animal welfare where in so doing we put a dollar in our pockets". I think that most right-minded people would recognise that this and other such fronts are a mendacious sham. What lawyers can do is contribute to telling people the truth - that animal agribusiness virtually has a licence to do what it likes to those creatures

1 see S White (2008) The emergence of animal law in Australian universities *Reform* 91, 51

2 see <http://www.liveexportcare.com.au/WeCare/>

in its charge – and a lot of what it does is very nasty indeed.

While factory farms are a major contributor to the growth in the number of animals subjected to cruel conditions and procedures, all is not well where animals are farmed “free range”. For example, the death rate for sheep and lambs increased dramatically during the drought of 2002-03 to about 9%. Given the national sheep flock at that time numbered some 98 million animals, that figure represents 8.82 million dead animals dying (presumably) of starvation or thirst during that period alone.³ Clearly the financial relief provided by government to farmers affected by the drought did not do much to help these animals.

Lawyers can act as an effective counter to the government and industry smokescreen and also provide a credible voice in publicising the cruelty in agribusiness. While few people and groups can afford to take the risk of instigating legal action against the offenders, lawyers' views and analyses can be influential in the corridors of power. That influence can extend to embarrassing those public servants and politicians who should be enforcing the law which is intended to protect animals, including those exploited by agribusiness. Although lawyers can identify ways in which the law can and should be reformed to improve the plight of these animals, they can also emphasise the necessity for any such reform to be associated with proper enforcement.

The development of the interest in "animal law" has occurred in parallel with other developments which are relevant to the lot of farm animals. One such development is the increasing awareness of the damage inflicted on the planet by many human activities. The increase in the number of farmed animals, with its associated direct and indirect output of greenhouse gases, together with its wasteful use of precious resources, such as water, and its degradation of the environment, has been the subject of much high-level and influential critical comment.⁴ The environmental impact of the further increase in the demand for meat by the increasingly-prosperous inhabitants of China and India will simply not be sustainable. Another development is the now convincing link established in many scientific studies between meat consumption and various cancers, in particular that between processed meat eating and colorectal cancer.⁵ Finally, it is becoming apparent that various unsavoury practices in animal farming, such as feeding herbivores with contaminated rendered animal products (which led to the outbreak of bovine spongiform encephalopathy and new variant Creutzfeld-Jakob disease in the UK), feeding intensively-farmed animals (particularly pigs) large amounts of antibiotics and the confinement of millions of chickens in Asia in dreadful conditions (with

3 see “Australian Wool Industry 2004” (2004) published by ABARE (Australian Bureau of Agricultural and Resource Economics); <http://www.abareconomics.com>

4 see “Livestock's Long Shadow” (2007) published by the Food & Agriculture Organisation of the United Nations: <http://www.fao.org/docrep/010/a0701e/a0701e.htm>

5 see “Food, Nutrition, Physical Activity and the Prevention of Cancer: a Global Perspective” (2007) published by the World Cancer Research Fund and the American Institute for Cancer Research: http://www.aicr.org/site/PageServer?pagename=res_report_second

resultant spread of bird 'flu) are indicative that underneath the surface of intensive animal farming are several disasters waiting to happen. These are just a few examples of other processes and pressures which will make the cruel exploitation of animals for their products increasingly unacceptable for a variety of reasons.

This handbook is produced against this backdrop. It describes a muddled mess of second rate law, poor and amateurish enforcement and a cynical failure by governments and public servants to grasp the nettle of large-scale animal cruelty in agribusiness. I hope it may be useful as a tool to those who want to help those who are truly unable to help themselves.

The book was reprinted in April 2009. I took the opportunity to update the references to statute law and those references are current as at 10 March 2009.

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March 2009