



Animal law in Australia

An integrated approach (2nd edition)

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“Thinking matters.¹ ... a dog is not like a lamp or a toaster...”²

If you were to think this book is simply about THE LAW you would be so wrong. It is a text for Law students and others who have an interest in Animal Law but it is also about philosophy, history, ethics and the future³ including food security and pest control. It provides plenty of food for thought (pardon the pun) about numerous matters affecting animals and our relationship to them.

Do animals have rights? If so, do legal obligations follow? If there is a breach of these obligations what is the consequence for the animal? Trying to get one’s head around this takes time and is a task in itself. But don’t let that put you off. While this book is interesting and informative it is often confronting and sometimes funny.

Did you know that during “the European Middle Ages, from the 13th century through to the 17th century, animals were often put on trial in both criminal and ecclesiastical courts”?

“In 1516 in France, locusts were destroying vineyards. An ecclesiastical court imposed a form of injunction requiring the swarm to leave the vineyard within six days or be excommunicated.”⁴

“In 1386, again in France, a pig killed an infant. It was arrested, along with its six infant piglets that had also partially eaten the child. The pig was convicted ... and

sentenced to death ... the piglets were pardoned ‘on account of their youth and the influence of their mother’s bad example.’”⁵

This book is a mighty read in terms of its content but not its style.

The text is not just about animal rights and the many philosophical views from Aristotle to John Locke which reflect on their status within society.⁶ It considers⁷, animals in the broad social, political and legal framework of current and previous times—animals as companions⁸, as entertainment⁹, as food¹⁰, in science¹¹, in international law¹² and so on.

Animals as property¹³ (or not) is an underlying theme. It includes discussion about whether animals are capable of being distributed in family law property settlements or should be considered as fur-babies¹⁴ in the ubiquitous ‘custody’¹⁵ debate.

“In *Desanctis v Prichard* 803 A 2d 230 [2002] ... the Pennsylvania Superior Court ... stated (at 232):

In seeking shared custody and a visitation arrangement, (the) Appellant appears to treat Barney, a dog, as a child. Despite the status owners bestow on their pets, Pennsylvania law considers dogs to be personal property ... (The) Appellant is seeking an arrangement analogous in law, to a visitation schedule for a table or a lamp. This result is clearly not contemplated by the statute.”¹⁶

The law in relation to animals is confusing, often contradictory and always thought-provoking. Read this book and it may help you

answer the question—Is a dog a lamp? Is a dog like a table? Noting that “contemporary thinking about the status of animals within human society is neither consistent nor unanimous.”¹⁷ ■

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1. Animal Law in Australia: An integrated Approach at p 3
2. Ibid at p 3
3. Chapter 13
4. P 16
5. P 16
6. Chapters 1 & 2
7. With reason, case law and commentary
8. Chapter 5; including when is an assistance animal not an assistance animal? See Victorian Law Reform Commission Report (2008) *Community Law Reform: Assistance Animals*.
9. Chapter 7. “Like St. Francis of Assisi, Pythagoras was said to have preached to animals. Unlike St. Francis, Pythagoras considered beans to be taboo...” p 7 referencing earlier texts – B. Russell, *History of Western Philosophy*, Allen and Unwin, London, 1961 p 52 and J Maclean Todd, *Voices from the Past: A Classical Anthology*, Readers Union, London, 1956, pp 102-3.
10. Chapter 9
11. Chapter 11
12. Chapter 12
13. Chapter 6 pp 137-140
14. My words
15. Then called “residence” and now called “live with” orders in family law
16. Pp 137-142
17. P 34