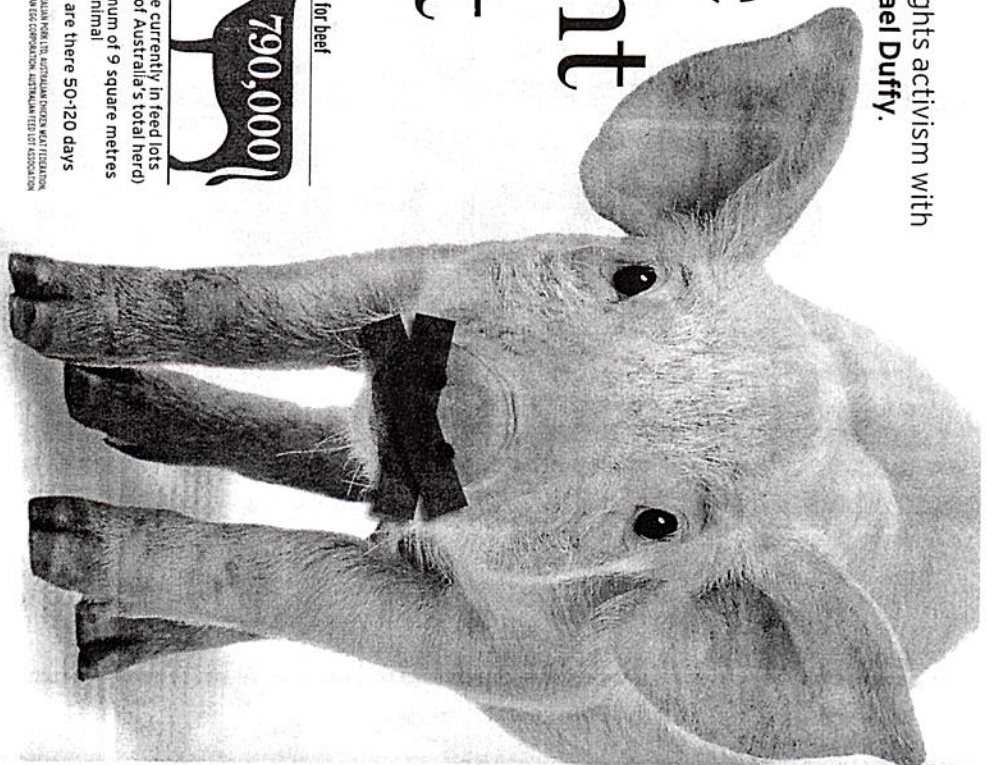


ANIMAL RIGHTS

The legal fraternity has taken up animal rights activism with payments for whistleblowers, writes **Michael Duffy**.

This little piggy went to market



I could be a factory farm anywhere in Australia producing the pigs, chickens, eggs which will eventually come to a supermarket near you. The work is poorly paid, monotonous, odorous and sometimes calls for workers to turn a blind eye to conditions which should have the place shut down.

But what if those same workers were offered up to \$30,000 to do in producers who were so cruel to their animals that they were successfully prosecuted? A workforce of potential whistleblowers inside the very complexes that animal rights activists have endeavored to break into and secretly film?

You can tell a cause is getting serious when the lawyers become involved. This is now happening with animal rights, where growing legal interests plus a healthy fighting fund – including the whistleblowers fee – look like producing a new era of court action. Animal lawyers hope this could lead to major changes to the conditions in which half a billion Australian animals live.

The modern animal rights movement was founded in the 1970s and has always been divided on just what rights animals should have. Some members have focused on welfare issues. Others have gone further, arguing humans should not kill or eat animals at all. All have agreed animals deserve better treatment than they receive, and the movement has helped bring about state laws to improve their treatment.

Some of those advocates have backed up their beliefs with cash. In July, Jan Cameron, founder of the outdoor clothing store Kathmandu, promised \$5 million to establish the Animal Justice Fund. This will be administered by Animals Australia, which represents about 40 animal welfare groups around the country. The fund will pay up to \$30,000 for information leading to successful prosecutions of producers for animal cruelty.

Glenys Ogilvie, executive director of Animals Australia, expects this will be very important. "We're concerned that so much factory farming goes on without inspection. The fund will also help to bankroll legal action, although many lawyers are prepared to undertake this sort of prosecution for free. Graeme McEwen chairs the Barristers Animal Welfare Panel, a group of more than 100 barristers from Victoria and NSW who offer their services pro bono.

He says the fund will provide the missing link in the legal armory. In my view it will be a game-changer. He sees one fruitful basis for strategic public interest litigation as section 52 of the Commonwealth Trade Practices Act, which could be used against food producers who wrongly claim their animals are well-cared for.

The use of the act would bypass some of the difficulties in bringing a prosecution under state laws. McEwen says to bring a private prosecution under NSW's Prevention of Cruelty to Animals Act, unless you are the RSPCA or the Animal Welfare League you must obtain the permission of the minister or director-general of the Department of Primary Industries.

Such a decision, McEwen notes, involves a "self-evident conflict of interest" because the ministry has to balance the concerns of animals with those of producers. Anyone taking on a private prosecution also needs to be able to fund action against a producer almost certainly backed by a well-funded industry group, and pay large costs if the producer wins. For all these reasons, really big prosecutions of animal producers have

SONS	CHICKENS FOR MEAT	CHICKENS FOR EGGS	CATTLE FOR BEEF
255,000	458m	20m	790,000
20% stall-free 60% 1-6 weeks in a stall 20% 6-16 weeks in stall Use of stalls is declining	Most in sheds With a maximum per square metre 40 days	Most in cages of 4-6 birds with 550 square centimetres per bird	Cattle currently in feed lots (2% of Australia's total herd) Minimum of 9 square metres per animal Most are there 50-120 days

SOURCE: AUSTRALIAN WOMEN FOR ANIMAL RIGHTS (AWOR) AND THE AUSTRALIAN COUNTRY WELFARE TRIANGLE

been rare, although some have been launched by groups such as Animal Liberation NSW.

But court action does occur. Jed Goodfellow, prosecutions officer for the RSPCA in South Australia, is involved in a case against people who transported 440 sheep that were not fit to travel, many died as a result. In June there was a successful prosecution of a horse breeder and trainer who starved 20 horses so much they became emaciated and four had to be killed.

Katrina Sharman is corporate counsel for Voiceless, a think tank in Sydney dedicated to animal protection founded by a businessman, Brian Sherman, and his daughter, Ondine, six years ago.

Since then Sherman has seen the inception of courses in animal law in nine universities and the publication of two textbooks on the issue. Their subjects include factory-farmed animals, pets, animals used in research, zoos and circuses, and wild animals.

"Animal law is a social justice movement," says Sherman, "so people are coming at it from different angles. From the point of view

of scholarship, it's an exciting area. For academics and practitioners it's like the next frontier, and the opportunity to make a difference."

Voiceless provides grants to other groups and runs an annual lecture series, which began this week and is being hosted by seven universities and four major law firms. The lecturer is Joyce Tischler, lawyer and co-founder of the Animal Legal Defence Fund in America. Tischler says 121 law schools now teach animal law and she estimates there are hundreds of American animal lawyers in private practice, in government agencies, working for non-profit animal protection agencies, and teaching animal law.

On her first visit to Australia, Tischler says western Europe is the world leader in providing legal protection to animals, with other countries, such as America and Australia, lagging "fairly far behind."

Many Australians involved in animal law are heartened by media and public concern over sow stalls – metal pens in which breeding pigs are kept for all or some of their gestation period of 16 weeks – and the response from the Tasmanian government and Coles.

Tasmania announced that from 2014 sow stalls would not be able to spend more than six weeks in a stall at one time, and from 2017 sow stalls would be banned, and last month Coles said it would not buy pork from producers using sow stalls from 2014.

"More people than ever are aware of animal welfare issues," says Celeste Black, a senior lecturer at the University of Sydney's law school. "Changes [in the law] will come from growing consumer awareness."

Tracy-Lynne Geysen says her company, founded in Brisbane last August, is Australia's first animal law practice. In 1997 she and some legal pals created BLEATS (Brisbane Lawyers Educating and Advocating for Tougher Sentences), now a group of more than 150 lawyers providing pro bono services for animal welfare cases. Her firm does mostly family law work, but the animal law component – currently 10 per cent – is growing. She recently attended an animal law conference at Harvard and found "animal law is huge in America, both the body of law and its application. There are hundreds of practices over there. Australia is about 20 years behind."

Most of Geysen's animal work involves pets, or "companion animals" as they are known in the law. The most common case is where an owner objects to a council declaring their dog dangerous. Other cases include vet negligence and the provision for pets in wills.

Meanwhile, other animal lawyers are pushing for changes at the macro level. Sharman would like to see a state minister for animal protection. McEwen, from Barristers Animal Welfare Panel, believes the states have done so poorly that the federal government should step in and create its own animal welfare act, to be enforced by a national authority.

"There is more than adequate constitutional power for this," he says. "Our organisation has been taking this up with individual politicians, and there is support across party lines."

Lawyer takes a stand for the voiceless

The American lawyer Joyce Tischler helped found the Animal Legal Defence Fund in 1979 because of her passion for animal protection. "Social movements abound in the 1960s, '70s and '80s," she recalls, "to protect African-Americans, farm workers, women, children, and people with disabilities. Each of these movements turned to the use of the law, and growing up in that atmosphere caused many of us to become social and legal activists. A natural outgrowth of this kind of lawyering is the animal law movement."

Like many in the movement, she was deeply influenced by *Animal Liberation*, the 1975 book by the Australian philosopher Peter Singer. "His impact cannot be overstated," she says. "We went from being mere 'animal lovers' to a movement with a strong philosophical foundation."

The fund has over 100,000 members. It provides free legal help for prosecutions of people charged with animal cruelty and lobbies for stronger animal protection laws. It encourages enforcement of existing laws through education, lobbying and strategic lawsuits.

An important 1996 district court victory, involving the treatment of chimpanzees named Barney in a zoo, established the right of animal activists to sue under the Animal Welfare Act. A recent success stopped the incineration of turtles during oil burn-offs as part of the Gulf of Mexico spill clean-up. In that case, ALDF and other animal protection groups filed a lawsuit against BP and the US Coast Guard in a federal court.

Tischler sees a big future for animal law, which after 30 years is entering the mainstream of the American legal system. "Compassionate, empathetic people wish to alleviate the suffering of others," she says. "So why should animals not be included? They suffer, they feel pain, they feel pleasure, and they are exploited in a wide variety of ways."

Michael Duffy



A matter of principle ... the US lawyer Joyce Tischler says Australia and America are lagging 'fairly far behind'.
Photo: Marco Del Grande