

## Victorian Women Lawyers and Lawyers for Animals

### *Animal Law Breakfast*

*Thursday 18 August 2011*

**Venue:** Maddocks, 140 William St, Melbourne

**Time:** 7.30-8.00 standing breakfast; 8am – 9am panel discussion

**Panellists:**

Ruth Hatten (Voiceless – the Animal Protection Institute)

Graeme McEwan (Vic Bar & BAWP)

Nichola Donovan (Facilitator)

#### **Text of Nichola's introductory speech:**

I'd like to acknowledge the traditional custodians of the land on which we are meeting this morning: the Wurundjeri people of the Kulin Nation. They kept this ecosystem in good shape for around 40,000 years, which is both mindblowing and very humbling, when you stop to think about it...

Good morning everyone. My name is Nichola Donovan, and I am the current president of Lawyers for Animals. We at LFA are honoured to be co-hosting today's event with Victorian Women Lawyers, whom some of you might recall, generously co-hosted another educational event with us last year. To Alexia Staker, and others who worked so hard on this event for VWL: thank you from LFA – we do hope this partnership is becoming a habit!

On behalf of both LFA and VWL, I'd like to warmly welcome you: our audience and our two guest speakers, to our inaugural Animal Law Breakfast. We are especially grateful that you all made the effort to attend at so early an hour, and we hope you enjoyed the healthy and guilt-free vegan breakfast arranged by VWL and prepared by Maddocks' in-house caterers. We'd like to thank Maddocks Lawyers – in particular, Simone Holding – for generously allowing us the use of this wonderful venue and providing such delicious food.

'Animal law' as a collective term is used to describe all laws applicable to non-human animals. It includes laws intended: to prevent cruelty; to govern the transport, import or export of live animals and animal products; to permit the shooting or protection of wildlife; to govern the production and slaughter of farm animals; to allow certain kinds of experimentation on animals; and to regulate the breeding, care and killing of companion animals - and that's not all! So you begin to see that animal law is a rather broad field, touching on several discrete areas of law, among them criminal, civil, environment and property law.

As you probably know, today is an historic day in Australia's animal rights history, as, for the first time, a vote is expected in the House of Reps on private members' Bills to prohibit live export. It would be foolish of me to harbour real hope for these Bills – not when both Labor and the Coalition are refusing even to grant a conscience vote to their members – but whatever the outcome, today, we know that we are closer to ending this shameful practice than ever

before.

I'd like to open this event by drawing inspiration from the words of British Enlightenment philosopher and legal scholar, Jeremy Bentham, a leading thinker in animal rights who also, notably, championed equal rights for women. In 1789 – just one year after The First Fleet sailed into Botany Bay and the same year the French Revolution began – Bentham published these words, which (I think) encapsulate the motives of the animal rights movement:

*'The day has been, I am sad to say in many places it is not yet past, in which the greater part of the species, under the denomination of slaves, have been treated by the law exactly upon the same footing, as, in England for example, the inferior races of animals are still. The day may come when the rest of the animal creation may acquire those rights which never could have been withholden from them but by the hand of tyranny. The French have already discovered that the blackness of the skin is no reason a human being should be abandoned without redress to the caprice of a tormentor. It may one day come to be recognised that the number of the legs, the villosity [or hairiness] of the skin, or the termination of the os sacrum are reasons equally insufficient for abandoning a sensitive being to the same fate. What else is it that should trace the insuperable line? Is it the faculty of reason or perhaps the faculty of discourse? But a full-grown horse or dog, is beyond comparison a more rational, as well as a more conversable animal, than an infant of a day or a week or even a month, old. But suppose the case were otherwise, what would it avail? The question is not, Can they reason? nor, Can they talk? but, Can they suffer?'*

222 years later, in Australia, the basic right of all 'sensitive beings' not to suffer, is only accorded to some non-human animals under limited conditions. It is still very much the exception, rather than the rule. Animal laws have a habit of giving with one hand, and taking away with the other.

In Victoria, for instance, Section 9 of the *Prevention of Cruelty to Animals Act* defines cruelty as – amongst other things – the performance or omission of '*an act with the result that unreasonable pain or suffering is caused, or is likely to be caused, to an animal*'.

However, Section 6 of the *Act* says that it does not apply to:

*the keeping, treatment, handling, transportation, sale, killing, hunting, shooting, catching, trapping, netting, marking, care, use, husbandry or management of any animal... (other than a farm animal ...) which is carried out in accordance with a Code of Practice;*

and further that the *Act* does not apply to:

*any act or practice with respect to the farming, transport, sale or killing of any farm animal which is carried out in accordance with a Code of Practice.*

I strongly suspect that the content of these Orwellian-named 'Codes of Practice for the Welfare of' particular animals – and their distance from real welfare – will be discussed by our guest speakers, whom we are honoured to have with us, today.

**Ruth Hatten** is Legal Counsel & Communications Officer of Voiceless - the Animal Protection Institute, based in Sydney. She made the transition to vegetarianism rather early in her life: between the ages of 11 and 15, and she is now proudly vegan. Ruth is the legal brain behind the highly educative Voiceless Law Talk email updates – to which I recommend all lawyers with an interest in the field, subscribe. Before working for Voiceless, Ruth spent seven years practising in construction law, most recently at Clayton Utz. She is also the indulgent guardian of two cats.

**Graeme McEwen** of Counsel, is the founder of the Barristers Animal Welfare Panel (BAWP) and earlier generously assisted in the establishment of Lawyers for Animals. He is the past president of Animals Australia and is especially renowned for his representation of the anti-duck-shooting campaigner, Laurie Levy, in the seminal 1997 High Court case on political communication: *Levy v. Victoria*. He is also a respected author and speaker, recently publishing an e-book on the BAWP website: 'Animal Law: Principles and Frontiers'. At the Bar, Graeme specialises in commercial law and he also lectures part-time in Animal Law at Melbourne University. Like me, Graeme is one of a few eccentric lawyers who push the boundaries, by trying to take their dog with them, whenever possible.

I'll now call on Ruth and Graeme to speak for up to 15 minutes, each, after which there will be a short period for questions, before we close. If you need to leave before the conclusion of proceedings, today, don't worry, we'll understand. A reminder to please ensure your mobile phones are switched to 'silent'. And now, please join me in welcoming Ruth Hatten...

**SUBSEQUENT FORUM QUESTION NICHOLA ASKED RUTH & GRAEME:**

In Austria, animal lawyers have unsuccessfully sought a guardianship order for a chimpanzee. What do you feel are the prospects for achieving animal guardianship laws that will allow humans to advocate for non-human animals in the Courts; and how important is it for animals to gain a voice in the Courts before animal justice can prevail?