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ANIMAL LAW

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ANIMAL LAW
VOLUME 22 2016

CONTENTS

INTRODUCTION
CHANGING HUMANITY: FIFTEEN YEARS OF PROGRESS IN ANIMAL WELFARE AND PROTECTION 203

Congressman Earl Blumenauer
This Introduction outlines policy and societal changes in animal welfare over the last fifteen years. Covering the areas of industrial meat production and the treatment of farm animals, domesticated animals and cruelty, animal testing and laboratory animals, and protection of native species here and around the world, the Introduction documents meaningful policy achievements in each area, as well as accompanying and continuing societal efforts to improve outcomes for animal welfare in the United States and across the world. In addition, the Introduction documents current and future opportunities in the U.S. Congress and in local, national, and international policy to continue progress toward a more humane society.

REMARKS
ANIMAL RIGHTS: FROM WHY TO HOW 225

On January 9, 2016, the Association of American Law Schools hosted a panel by the Section on Animal Law in New York City. The panel featured legal professionals, scholars, and experts from various disciplines who discussed strategies for securing legal rights for animals. The panel explored what the animal rights movement can learn from other social movements, which legal approaches are available to animal advocates, and the need for non-legal strategies to change cultural attitudes. This panel moves beyond the discussion of whether animals have rights, and addresses the important questions and potential strategies for improving the lives of non-human animals.

ARTICLES
EXTRA! EXTRA! NEW HOUSING DEVELOPMENTS LEAD COYOTES TO HOMELESSNESS AND VIOLENCE WITH HUMANS 249

Joseph Simpson
As city sprawl spreads into less-developed rural regions, these new residents enjoy living close to nature but also put their pets and children at risk of encountering dangerous wildlife, such as coyotes. Cities have a variety of options, legal and otherwise, to regulate human and coyote behavior in order to reduce conflict. This Article analyzes the situation in the cities of Chino Hills and Yorba Linda, two southern California communities on the edge of Chino Hills State Park that have received local media attention for human–coyote interactions. Growing
cities can use zoning to separate coyotes from humans and avoid drawing coyotes into cities, but land-use planners will be limited due to existing uses and possible takings claims from landowners. Cities can regulate the human behavior that draws coyotes into a city, or they can regulate the coyotes themselves through relocation, hazing, or hunting. This Article concludes by encouraging municipalities to use their police power to take early action, therefore preventing coyotes from habituating to humans by regulating human behavior and city development and also adopting coyote management plans that educate their citizens.

AN ASSESSMENT OF RECENT TRADE LAW DEVELOPMENTS FROM AN ANIMAL LAW PERSPECTIVE: TRADE LAW AS THE SHEEP IN WOLF’S CLOTHING? ........................................ 277

Charlotte Blattner

Further development within the field of animal law seems to be at an impasse, lost among the potential paths presented by its traditional influences: international treaty law, domestic animal welfare regulations, and trade law. First, classical elements of global animal treaty law are limited to preservationist aspirations, insusceptible to the questions of how animals are treated or how they cope with their environment. Second, animal welfare regulation is understood as a matter confined to national territories. In cross-border dialogue, animal matters have been reduced to allegations of imperialism, which is not conducive to furthering animal interests. Third, animals are regarded as commodities in international trade law, rendering their regulation an undesirable barrier to trade. These present deficiencies deprive global animal law of its significance as a dynamic instrument responsive to global challenges, be they ethical, environmental, economic, technological, or social in nature. The objective of this paper is to demonstrate future ways out of this impasse. Recent developments in trade law, as demonstrated by four examples found within the World Trade Organization’s (WTO) ‘case law,’ mark an important development for animal law. State objectives expressed through trade law are slowly moving away from anthropocentric considerations (i.e., geared to preserve a fraction of animals for human interests) towards sentiocentric animal welfare (i.e., aimed at minimizing animal suffering and focusing on animal interests). Thereby, the quality of animal law that developed on the international scene through trade law exceeded the status quo of global animal treaty law. Although the WTO itself is an inherently inadequate forum to further animal interests, trade law bears considerable potential to catalyze more comprehensive developments in global animal treaty law—most notably by focusing on individual sentient animals, their interests, and their suffering.
LEGAL PROTECTION OF ANIMAL DIGNITY IN SWITZERLAND: STATUS QUO AND FUTURE PERSPECTIVES ........................................... 311

Gieri Bolliger

Swiss law protects not only the well-being but also the dignity of animals. Since 1992, animal dignity protection has been a constitutional principle in Switzerland, and a main purpose of the national Animal Welfare Act since 2008. The animal dignity concept is still unique in the world and represents a biocentric expansion of Swiss law granting animals a moral value, irrespective of their sentience. This signifies protection for an animal’s inherent worth, including ethical aspects that are not necessarily associated with any physical and physiological injury, such as protection from humiliation, excessive instrumentalization, and substantial interference with an animal’s appearance and abilities. Therefore, consideration of an animal’s dignity goes far beyond its pathocentric protection from pain, suffering, harm, and anxiety. This represents a milestone for animal law in general and has received much attention all over the world. Against the background of the animal dignity concept, the Swiss legislature passed a number of reforms and amendments. However, in contrast to human dignity, animal dignity is only given a relative value in Swiss law, meaning that violations of animal dignity usually can be balanced and legally justified by prevailing human interests. As a result, various highly questionable uses of animals are considered legitimate and not subject to legal scrutiny in Switzerland, and many of the essential questions are not being asked. Consequently, the far-reaching conceptual reorganization of Swiss animal law has not yet led to a fundamental change in the human-animal relationship in practice. This Article first discusses in detail the concept of animal dignity protection, its systematic embedding within Swiss animal law, and its legal implications to date. Subsequently, the Article analyzes multiple everyday ways of engaging with animals in Switzerland that are consistent with dignity protection. Highlighting a number of deficits both in the implementation and enforcement of the concept, this Article finally suggests various improvements that demand more consistency and courage in legislation, enforcement, and jurisdiction, as well as a general increase in awareness for animal dignity and its protection both in society and legal institutions.

NOTE

AMERICA’S INVADERS: THE NILE MONITOR AND THE INEFFECTIVENESS OF THE REACTIVE RESPONSE TO INVASIVE SPECIES ............................................. 397

William K. Norvell III

In response to an ever increasing level of environmental devastation caused by invasive species and the resultant concerns for ecological preservation, both the state and federal governments have passed legislation to combat this pressing issue. In this Note, the author evaluates the effectiveness of these reactive and proactive policies in the United States. The author also analyzes the successful, proactive invasive species legislation
from Australia, the United Kingdom, and New Zealand, and then contrasts them to the failing, mainly reactive laws found in the United States. Despite these shortcomings, the author concludes that it is entirely possible for the United States to transition from a reactive approach to a proactive one and recommends it do so—before it is too late.

LEGISLATIVE REVIEWS
2015 FEDERAL LEGISLATIVE REVIEW .................. 423
  Alescia Dichmann

2015 STATE LEGISLATIVE REVIEW ....................... 437
  Malorie Sneed & Jessica Brockway