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The Consciousness of Trees

Margaret Davies

Abstract The legal protection of significant urban trees operates in between heritage law and the imagined wild of native vegetation law, constructing a human–nature continuum in a culturally inflected urban ecology. Such laws implicitly recognize trees as habitat for humans as well as for birds, mammals, reptiles, and microbes, and also explicitly value trees as common rather than simply private resources. Protective tree laws to some degree also respond to the symbolic over-determination of trees in the human imaginary. This paper will consider trees as part of the legal and cultural imaginaries of urban life and then raise the question of the ontological status of trees as actors and agents that engage materially in political and legal contests. A tree, I argue, is not simply a passive juridified object, but one that addresses or interpellates human beings: it relates and constructs, and sometimes it actively resists our interventions. This view raises a number of provocative questions: Can we think of trees as agents? Can we therefore regard trees as engaged in law-creation? And what becomes of our concepts of law and property when a tree is understood as being a subject, rather than as an object?

Keywords trees, property, subject–object, materiality, networks

A TREE STORY

I begin with a story. In August 2013, a tree in Adelaide's Eastern suburbs was felled. It was a huge *Eucalyptus camaldulensis* or river red gum, one of the most iconic trees of southern and eastern Australia. Only around 100 years old, the tree had died very prematurely and was accordingly cut down by its owners. The fact of its death was not, in the end, surprising or particularly interesting. The manner in which it died, however, is quite instructive. The tree had stood for many years in an open space behind the suburban post office, but by the mid-1980s a collection of shops – the Burnside Village – had been built on one side of the tree, and the Council had paved a car park on the other side.¹ New laws protecting significant urban trees were enacted in 2000 and it thereby gained a certain legal status: any damage to it had to be approved by the relevant authorities.² In 2007 the Council sold the car park to the owners of the Burnside Village (the Cohen Group) as part of a

large-scale plan for redevelopment, but required that this, and several other significant trees, would be retained in any development process. The Cohens accordingly made plans to redevelop the shopping centre, and eventually had a development approved which enclosed the tree in an impressive glass canopy overhead, and a concrete casing below. Once the rebuilding was complete the tree was somewhat like an enormous pot plant, though its roots were enclosed only on the sides.

Looking back over the various arborist reports from the development application, it seems that this was a risky venture for the tree and, as it happened, for the Cohen Group. A very large sum of money was spent making the spectacular roof, but the tree died anyway – after the immense effort and imagination that went into trying to preserve it, it had to subsist in an environment with low humidity, insufficient ultraviolet light (as it turned out), no rain, and little wind. It had in stages been removed from its natural ecological setting and incorporated into an all-too-human site – an up-market shopping mall. The shopping centre atmosphere, engineered to be safe and comfortable for humans, proved to be terminal for the tree. It was “considered dead” and removed about two years after the completion of the building works.

My purpose in telling this story, which has many more twists and turns than I can represent here,³ is as a point of departure for thinking about the symbolic, imaginary, and ontological aspects of trees, specifically in an urban setting. A full analysis would unpack the vast and complicated human networks, cultural imaginaries, technological innovations, and regulatory systems in which the story is embedded. However, in an effort to illustrate both the complexity and the interconnectedness of these various systems, I will confine myself in this article to some preliminary thoughts.

The next section of this paper considers the cultural production of trees as significant objects. There is a great deal that could be said on this topic, and my comments will be limited and shaped by the Burnside tree story and the insights it generates concerning the tree–human interface. I include here a discussion of the property status of trees, which is, of course, also a cultural construct. The following sections raise the question of the ontological status of trees as actors and agents, which have real effects in political and legal contests. A tree – and nature generally – addresses or interpellates human beings. A tree may relate to us, it may construct our environments; sometimes, it actively resists our interventions. The final section turns briefly to the ways in which the multiple dimensions of human relationships with trees may reorient our understanding of property. In recent years, property scholarship has generated significant alternatives to a property paradigm that was (through the 19th and 20th centuries) obsessed with private property, exclusivity, and the near invisibility of the actual object of property. My aim is to contribute to this literature by foregrounding the object and by reconceptualizing its relationships and communities. Of course, although I start with a tree, the analysis does not end there.

ECO-CULTURAL ATTACHMENTS

As demonstrated by the Comments pages in local newspapers,⁴ the story of the Burnside tree became a focal point for a large number of cultural tropes – for instance around greed and consumerism killing nature, the perception that the advice of the experts flouted plain common sense, that lawyers somewhere had to be making money out of the misery, that the tree was the tragic victim of a power struggle between Council and developer, that the rules being applied to developers were different to the rules for individuals, and that the affluent Eastern suburbs were somehow not part of the “real” world. Most if not all of these theories about the tree were in this instance unfounded, but each of them buys into familiar narratives about power and class. Beyond the conspiracies, some commentators expressed outrage at the very existence of such a tree in an urban space given the occasional danger to human life they represent. (There are hundreds of similar trees in the surrounding suburb.) Others saw the decline of the tree as unimaginably sad, and to be prevented at all costs. The debate flared briefly into an intense controversy, and then ceased entirely once the tree was removed.

The broader context here, undoubtedly shaping the views that were expressed and the emotion generated, is that trees are symbolically overloaded. Trees have many sacred meanings, they represent life and regeneration,⁵ they can have national and ethno-cultural meanings, they are the focal point for rituals, and of nostalgia. They are also used symbolically in less emotive but nonetheless powerful ways – as representations of reasoning pathways, or of taxonomies, and virtually any form in which an initial unity divides and subdivides into a plurality (or, of course, the other way about – for instance a plurality of ancestors in a genealogical tree that ends with a self as a single organism). In the Australian context the eucalyptus and in particular the red gum are central to both Aboriginal and colonial tree lore.⁶ For non-Indigenous culture, a wide spectrum of ideas about trees and forests as dangerous, magical, nurturing, or as economic resources, have been developed and represented in many classics. In *Seven Little Australians*, for instance, Judy was unforgettably and traumatically killed by a falling gum branch. By contrast, in May Gibbs’ *Snugglepot and Cuddlepie*, we see the bush from the point of view of a pair of baby gum nuts and their blossom friends. From this perspective trees have little or no individualized presence, but are integral to an ecosystem imagined somewhat like a human urban environment, with its homes, shops, picture cinemas, entertainments, and highways.⁷ Clearly the bush is essential to the various nuts, blossoms, birds, ants, lizards, and big bad banksia men who inhabit it, but the trees are the medium for life rather than recognized as distinct forms existing for themselves.

The cultural significance of trees is extremely old, however. Tree mythology and symbolism can be traced to the most ancient pagan and Christian sources, and two images are particularly resonant here – the tree as *axis mundi* and as *imago*

mundi.⁸ A sacred or culturally significant tree may be figured as being at the *centre* of the world/universe as its axis and possibly connecting the earth to the heavens (somewhat like Enid Blyton's Magic Faraway Tree, itself reminiscent of the Norse mythological tree Yggdrasil, an ash linking earth to the heavens.⁹) Alternatively, the tree may *represent* the entire world/universe. Both images are reflected in the medieval "Tree of Justice" – an actual tree in many rural communities where local justice was dispensed, but which intersected with broader notions of right and wrong, and with emerging national legal orders.¹⁰ The symbols of *axis mundi* and *imago mundi* were also deployed in the Burnside Village development process – the tree would "become the symbolic and physical centre of the development, around which social, community, and shopping activities will occur."¹¹ Later, when the tree first appeared to be in decline, a fact sheet was released, stating that the tree "represents the growth of the Centre over the past 40 years."¹²

In addition to the centrality of the eucalyptus in the Australian imaginary, the story of this tree – this endangered and precious urban tree – also brings into play a number of cultural dichotomies. We can of course think of the tree as sited at the edge of human constructions, human law, and human relationships and about efforts to bring it into the centre of human activity (literally and not coincidentally, this centre is a shopping centre). Such a line of thought invokes and in some ways reinforces familiar Western distinctions between urban and rural, culture and nature, the human and the non-human. It is, however, perhaps unproductive to dwell too much on these distinctions, though they undoubtedly inflect how we can conceptualize this issue. The death and removal of the tree only seems to reinforce our intuitive sense that such a tree is ontologically and necessarily out of place in a shopping mall – it belongs to nature, to a rural setting, it tolerates city life but is not of it. But of course a different tree, and possibly even this one, could have survived, given different circumstances. Insisting that the tree belongs elsewhere or alternatively that the mall should never have been extended seems only to reinforce a bright line distinction between nature and culture, or between urban and rural, which our daily life constantly negates.

At the other end of the nature–culture spectrum, there is also a tendency to anthropomorphize trees, including this one. This is hardly surprising, since trees are commonly figured as quasi-human – the "ents" in J. R. R. Tolkien's *The Lord of the Rings* are one of the more famous examples from 20th-century literature. The Burnside Village tree was singled out from its ecological surroundings and somewhat individualized by its legal protection – the law protects individual trees, not the urban forest as a collective, though of course one of the ultimate aims of the law is to optimize the forest in its co-existence with the city. As essentially an individual, such a tree can attain an almost human status in its significance to the people who interact with it, and in this case it was even characterized as family by its owners when the decision was made to remove it: "[It's a bit like] a favourite member of the family that's been in intensive care for a long time and the doctor

has to finally come to a decision, brain dead, remove all the things so that's what we're doing."¹³ Such a sentiment evokes very familiar feelings that emotional bonds to trees can be very strong. But there are also symbolic layers to this association, deriving, as Maurice Bloch argues "from the fact that [trees] are good substitutes for humans."¹⁴ Indeed, reflecting on a work like Simone Weil's *The Need for Roots*,¹⁵ we could also suggest that trees and humans seem interchangeable, a perception underlined by their apparent morphological similarities: "The [...] associations between, for example, sap and blood, leaves and hair, limbs and arms, bark and skin, or trunk and the human body should not be taken as merely analogical, for they establish a kind of identity between signified and signifier."¹⁶

The ownership story of trees in law is usually simple enough – as fixtures on land, they are simply owned with the land. But these bare facts are overlaid with far more complex relationships and in particular by the fact that property does not precede the law and is *given* (not recognized) by a political community. Whereas some writers in the classical liberal traditions argued for a natural right of property that needs to be protected and preserved by a political/legal process,¹⁷ the more contemporary view is that property is entirely a construction – or even a gift – of the community.¹⁸ In some instances that community, quite justifiably, demands its share in the object of property.¹⁹ For trees in metropolitan Adelaide, that share is expressed in the development laws.²⁰ In addition to these formal controls, of course, the community itself, or sections of it, may exert a less definable but nonetheless significant political pressure over the destiny of community resources.

Nick Blomley has recently examined in detail the idea that property is a performance.²¹ From this point of view, property is not something that exists simply in the world as a thing which can be described by a model or theory, but nor is it simply a construction, illusion or myth. As Blomley argues, property is created or performed through material practices in the world (building a fence, deciding a case, planting a vegetable garden, buying and selling) but these practices are informed dynamically by ideas that are held about property, not only by lawyers and scholars, but by the general community. There is no "reality" of property that is separate from its representations and models. There is only the ongoing production of property through a matrix of material and ideational processes. Moreover, the performance of property also brings owners into being as subjects of property – in performing ownership in a particular way, we bring ourselves into existence as property subjects much as the performance of gender brings us into being as gendered subjects.²² Thus, both subjects and objects of property are created as such by material and discursive actions and interactions. Performative "truths" are not necessarily brought about only by the actions of humans, or even through relationships between humans (as in the now-classical account of property) – such truths are also produced by actions that connect humans to the material (and ideational) world, constituting the subjects and objects of property.²³

Thinking about a protected object like the Burnside tree in these terms is illuminating, because it situates property as the product of a large number of interactions, norms, and values, rather than as something pre-relational or pre-social. It clarifies that “property” is not referring only to the land, the shopping centre, or the tree, but also to the legal relationships between several parties – the state, the public, the owners, the council, and even the tree itself. It allows us to conceptualize the non- or quasi-legal interactions that go into shaping and limiting these property relations and their social and affective dimensions. It provides additional theoretical support to the highly dynamic and contingent view of property held by many contemporary property theorists.²⁴ And it also potentially leads us towards a more dynamic understanding of the subject–object relationship in property – a better understanding, in fact, of the role that “objects” play in the construction of proprietary relationships.

PHENOMENAL TREES

The efforts at protection and the demise of the Burnside tree generated a range of emotional attachments and interrelationships disruptive to the subject–object and person–property distinctions. I now turn to this question of the subject–object relationship, which can be thought through in several quite different ways. One significant matter concerns the nature of the relationship between trees and human society, and in what way it makes sense to speak of the tree as not only shaping but also as resisting human intervention. Although a tree, like all physical objects, escapes full comprehension, familiar Kantian and post-Kantian habits of thought direct us to think of the tree’s *social* identity as interpreted and juridified by human intervention. Moreover, in a physical sense, the tree’s most radical vulnerabilities – the risk of being felled, for instance – are consequential on human existence. The “social life” of the tree is seen to be essentially a life defined by human society. In an urban context this seems almost obvious, at least in comparison to the bush or forest, which in the Western and colonial imagination are “outside” the human and therefore more “natural.” But understanding the tree as integral to an urban ecosystem may lead us in other directions, where law and property are actually (as well as ideally) patterned on the co-existence of different materialities, which include but are not limited to human existence. Such a line of thought may lead us away from individual trees and individual owners towards more complex forms. It may evoke, for instance, Aboriginal cosmology and law, where, as Christine Black describes, authority is essentially located in the land, and “the emphasis is not on answering abstract questions of existence; rather, it is on understanding how humans were patterned into a certain tract of land.”²⁵ While such forms cannot be simply imported into non-Indigenous conceptual systems, we may nonetheless draw some inspiration from the interconnected and above all located world that they represent.

One way of thinking about the subject–object, or human–tree, relationship is phenomenologically, as in this poem by Rainer Maria Rilke:

That through which birds throw themselves, is not
intimate space, whose existence enhances form.
(In the open, exposed, you are denied,
and vanish, never to return).

Space reaches from us and translates things:
to truly know the being of a tree
throw your inner space about it, from its source
within you. Surround it with restraint.
It has no boundaries. First in the formative embrace
Of your renouncing is it truly tree.²⁶

Regular, geometrical or Euclidean space, the vast and formless space outside the self that extends into the cosmos, the space “through which birds throw themselves,” is not the space in which a subject can exist – you would vanish in it. You are nowhere and nothing in such space. Rather, space is sent from the self, thrown from the self around the tree – its space is *your* space. You envelop the tree with your inner space, but this takes place in a restrained movement, one that differentiates or “renounces” the tree, and brings it into being for the first time – being for you, for knowledge, and for the human world.

Here, consciousness of the tree and of all outer space is dependent on inner space – the intentional direction of inner meaning onto the world as it appears to us.²⁷ Experience and knowledge of the tree is a function of inner meanings, projections from the self, and the flow between culture and nature is essentially unidirectional – from the human to the tree. The tree appears as a flickering on the wall of Plato’s cave and, to emerge from the cave, the philosophical task is to understand the internal processes and structures that give it shape and meaning. The tree is constituted in this process as available to human consciousness.²⁸

This movement of will and intentionality from self to object in the world is in some ways reminiscent of the first step in Hegel’s description of property, which involves projecting the self into an object in the external world.²⁹ The object is “external absolutely” and has no ends of its own, no rights, no freedom, no self-consciousness: it is this character of pure externality which, for Hegel, makes every object available for appropriation. And yet, contra Hegel, Rilke’s phenomenal tree is *there*. It *is*. It is not simply being *for* (me, other humans, perception and representation). Its very solidity and thing-ness resist appropriation and representation and promise an internality or inscrutability that, however inaccessible, appears to address us. This is made clear in another context by John Frow’s discussion of a poem about a pebble, which “to the end [...] will look at us/with a calm and very clear eye.”³⁰ As Frow says:

to be so purely a thing, so deeply withdrawn from capture by others, is to pass into that mode of irreducibility and unknowability that we call the subject. Its look is the very form of that present-to-self which cannot, as such, be an object for another. This is the paradox of any fascination with the thingness of things: that things posited in themselves, in their distinctness from intentions, representation, figuration, or relation, are thereby filled with an imputed interiority [...].³¹

Property theory often bypasses the phenomenal thing in its efforts to conceptualize the arrangement of relations between persons as proprietors and non-proprietors.³² This is especially true of property theory which focuses on the bundle of rights image of property – here the thing is largely irrelevant to the conceptualization of property, since it is just the object around which various rights and excludabilities circulate. The Burnside tree story illustrates well the difficulties of relating to an object as a material presence through both regulatory protections and property law. These discourses encourage a pulling back from the materiality of the object; they reduce it to categories of size, location, species, and landscape value. In any dispute or legal process, it is these characteristics that will be emphasized.

Where the thing takes centre-stage in property theory, it often remains a constituted, represented, or juridified object.³³ In very different ways, Margaret Radin's "property for personhood," Craig Arnold's "web of interests," and a number of environmental approaches emphasizing the significance of place and ecology provide strong counter-narratives to the invisibility of the thing.³⁴ The thing *as* a thing (in itself, for itself, as a material presence, and as in process, etc) has little place in an entirely objectifying concept of property, but can property be re-imagined and practiced in such a way as to emphasize the thing in its own significance? Can the material tree be given a place in its own legal story?

BETWEEN IT AND YOU

As we have seen, the "imputed interiority" which Frow finds in the pebble carries a kind of subjectivity, that is, an apprehended, if not intentioned subjectivity. Regardless of its own lack of intentionality, such an object may therefore address, interpellate, and relate. We can clarify the nature of this relationship by reference to a famous passage in Martin Buber's *I and Thou*. Buber begins with perceiving the tree simply as an object in the world, an "it":

I contemplate a tree.

I can accept it as a picture: a rigid pillar in a flood of light, or splashes of green traversed by the gentleness of the blue silver ground.

I can feel it as movement: the flowing veins around the sturdy, striving core, the sucking of the roots, the breathing of the leaves, the infinite commerce with earth and air – and the growing itself in its darkness.

I can assign it to a species and observe it as an instance, with an eye to its construction and its way of life.

I can overcome its uniqueness and form so rigorously that I recognize it only as an expression of the law – those laws according to which a constant opposition of forces is continually adjusted, or those laws according to which the elements mix and separate.

I can dissolve it into a number, into a pure relation between numbers and eternalize it.

Throughout all of this the tree remains my object and has its place and its time span, its kind and condition.³⁵

In this initial perception, Buber's tree is pure object, a thing perceived and understood in terms of its aesthetic and objective characteristics. As an object, an "it," Buber's tree can produce certain emotional impacts on the observing subject, and can also be reduced to measurable qualities such as size, color, form, species, and location. It can therefore be analyzed within the frame of the laws of "nature." Such indeed are the objective qualities by which a legally designated "significant" tree is described in South Australia – it must have a circumference measured 1 meter above ground level of 3 meters,³⁶ and, in deciding whether it can be damaged or not, development panels have regard to matters such as the aesthetics of the tree, whether it is used by wildlife, its species (whether locally indigenous or not), and whether it forms a "notable visual element to the landscape."³⁷ Such trees have an essentially external and instrumental existence – they may be *significant* "its" but they are still nothing more than objects.

Yet beyond the law (if there is such a place), a tree can also become a "you," meaning that it subsists in a reciprocal relation with a person. It becomes a "you" basically by a dialogical process – it draws a person in, who then responds to its interpellations.³⁸ Buber continues by saying:

But it can also happen [...] that as I contemplate the tree I am drawn into a relation, and the tree ceases to be an It. The power of exclusiveness has seized me.

This does not require me to forego any of the modes of contemplation. There is nothing that I must not see in order to see, and there is no knowledge that I must forget [...]

Whatever belongs to the tree is included: its form and its mechanics, its colors and its chemistry, its conversation with the elements and its conversation with the stars – all this in its entirety.

The tree is no impression, no play of my imagination, no aspect of a mood: it confronts me bodily and has to deal with me as I must deal with it – only differently [...]

Does the tree then have consciousness, similar to our own? I have no experience of that. But thinking again that you have brought this off in your own case, must you again divide the indivisible? What I encounter is neither the soul of a tree nor a dryad, but the tree itself.³⁹

The “encounter” is not with a soul or any kind of tree spirit, but rather with the whole tree, including all of its objective qualities, which have become, however, part of a “you” – “the tree itself” – not just the sum of its external, measurable, parts. Buber raises the question of whether the tree has consciousness, and immediately negates this as a question he can answer. Nonetheless, the tree is a thing in itself, for itself, and a dialogical other.

I pause at this point to mention a poem by Indigenous poet Oodgeroo Noonuccal, which could have been written for the tree enclosed by the Burnside Village redevelopment, but which actually predates it by around 40 years.⁴⁰ Noonuccal’s poem addresses an urban gum tree, with “hard bitumen around your feet,” and suggests that such a tree should be in the forest among the birds. The tree is compared to an overworked cart horse, “wronged” and “listless.” The poem concludes with a question – “fellow citizen,/ What have they done to us?”

In some ways this poem does speak to and reinforce the distinctions between nature and culture, the collective and the individual, which I have referred to – it locates the proper place of the tree in a forest, and personifies the tree. However, the end of the poem reveals the tree to be a metaphor for continuing colonialism. As a “you” rather than an “it,” the municipal gum shares the Indigenous subject/speaker’s condition. They are “fellow citizens,” a literal identification of person with tree, rather than a mere comparison. The human–non-human divide and the nature–culture divide are therefore supplanted in a commonality of citizenship and in the “you-ness” of the tree. In this way the poem also points towards an Indigenous world view where the land, the trees, the law, the people, and the stars are not separate entities, individuals in their own spheres, but part of an entire system.⁴¹

Buber’s exegesis of the tree speaks to a conflict in the Western consciousness in how we engage with the outside world. There is potentially an “it-ness” and a “you-ness” to everything that is not ourselves, though some objects are normally at the extremes of “it” and “you.” The detritus surrounding me in my study is more it than you, though each piece of paper, each paper clip, each pen and each used coffee cup, is there for a reason – a reason of mine – and so is not entirely object. Each of these items, unlike many “natural” objects, has a distinctively human history – they have been imagined, designed, fabricated, used by human subjects, and for entirely human purposes.⁴² Such objects interpellate, relate, and define. At the other

extreme, my partner, family, friends, colleagues and neighbors are more obviously at the “you” end of the spectrum. And yet, since they are still “not-me,” they are objects in a way – external, though never “pure externality,” to use Hegel’s term. (Though, as we have seen, nor is the tree.)

BEYOND SUBJECT AND OBJECT

The distinction between a self-contained individual and an environment has collapsed, and this is not only because of the forced mendacity of either side of the distinction.⁴³

The distinction between subject and object is traditionally replicated in law as the distinction between the human and the non-human. Humans are subjects and have fairly extensive powers, duties, obligations, and rights – that is, we have rights attributed to all humans as “human rights,” as well as various positive law rights, obligations and duties. Positive rights and obligations may be distributed according to criteria in addition to that of being human, such as how old we are, whether we have been imprisoned for a serious criminal offence, whether we hold a particular public office, or as an employee whether we have a delimited statutory right (such as the right to enter a property to read the electricity meter). Entities other than humans, such as states and corporations, have legal personality and some associated rights: these are entirely artificial constructions and not based on any “natural” or “human” qualities.⁴⁴ In theory, objects and institutions are valued and regulated in a different way to human beings (in practice sometimes leading, it must be said, to better outcomes for non-human objects than for human subjects).

For many decades, the supposed individualism and separate identity of each human has been challenged by many strands of thinking about human interconnectedness and our responsiveness to systems of meaning.⁴⁵ Even more recently, this network thinking has expanded to physical objects, space, and the environment in general.⁴⁶ This change in emphasis clearly expresses more than a conceptual undecidability between, for instance, human-subjects and tree-objects. It is not *only* a case of terms in a dichotomy, or poles of a distinction switching places, or being mutually constitutive in a signifying or epistemological sense,⁴⁷ though that always remains an operative analytical consideration. Rather, the “onto-epistemological”⁴⁸ shift in theory reaches for something different – both a relational view of human and physical worlds, and a performative understanding of knowledge where meanings are produced by social–material iterations.⁴⁹ So, for instance, Actor Network Theory describes a flat, non-hierarchical, system of associations in which a plurality of human and non-human “actants” interact, creating meanings and agencies from a vast complex of human and non-human entities.⁵⁰ Even more radically, Karen Barad’s “agential realism” posits that all entities, as subjects and objects, are themselves produced by interaction or, as she puts it,

intra-actions. Intra-action is action between entangled entities which are produced as distinct by the action – they do not precede it as individualized things.⁵¹ In this view, the action is basic, not the thing. It is an *onto-epistemology* because the thing and the meaning emerge at once.⁵² Matter and meaning are entangled⁵³ (and quantum physics comes to the macro world). We have already seen how, in Blomley’s view of property, subjects and objects of property are brought about by reiterative performances. This is relatively easy to comprehend because law, and its subjects, objects, and relationships, are so commonly understood as immaterial, a construction or fabrication, though with a connection to the material world – the innovation here is to see legal relations, legal subjects, and so forth, as constituted by actions, rather than by an abstract or transcendent “law.” By contrast, Barad’s onto-epistemology locates the performativity of intra-action broadly across the entire material world, from subatomic particles, to human entanglements with physical things, to the cosmos.

Thus, it makes sense to ask, if the tree does not have consciousness as we know it, or at least not a consciousness accessible to a human mind, does it nonetheless play a role? Is it not an “actant” in the sense suggested by Actor-Network Theory⁵⁴ – that is, not an intentional agent, but nonetheless a node in a complex network of relationships? Or, following Barad, perhaps even before it became an individualized entity, is the tree not a thing produced by an extremely large number of agential intra-actions in human systems, ecosystems, and physical systems? Imputing interiority to the tree is only one of many heterogeneous actions which help to form and alter the world. The tree also acts and reacts to its environment – it grows, it provides habitat, produces fruit, it photosynthesizes, it shades, flowers, and so forth.

Thinking about this purely through the lens of such network approaches, it is quite feasible to see the tree as entirely networked, never “closed” as an entity or object, and productive of relationships – it plays its own distinct part in a network (or several differentiated networks) consisting of humans and human systems, animals, the atmosphere, space, objects. There is no doubt that trees are incredibly active and interactive, though often on a different time scale from humans, in vast planetary networks as well as in the most localized contexts, as Owain Jones and Paul Cloke explain:

collectively [trees] have a bewildering range of skills and/or uses, and they are embedded in a plethora of relationships, both with humans and other non-humans. Equally with humans, they are embedded in a vast range of cultural, social, technological and economic networks, as well as being highly visible in local, national, and global disputes over the “environment.” They operate in their own ecological time which is rather different from the typical time scales of human-centred analysis [...].⁵⁵

Or, in the words of David Suzuki and Wayne Grady: “No tree is an island; it is a communal citizen and derives the same benefits from co-operation, sharing, and mutual effort that any living creature receives from participating in a fully functioning ecosystem.”⁵⁶ Suzuki and Grady are here speaking primarily of the *ecological* role of trees: calling them “communal citizens” is essentially a metaphorical gesture in this context, but it leads to an important point. The place of trees as major ecological players in both human and non-human contexts make “communal citizenship” an intriguing and highly suggestive association – in a legal sense citizenship is a status limited to humans, defined by human law. Nonetheless, it is worth noticing that trees do play an essential role in human communities and are an integral part of both our survivability and our sociality.

Trees therefore, are entangled with human communities, whether in particular localities or – at the least – as the lungs of the planet. Over the past two decades there has been much discussion about property and community.⁵⁷ Several different concerns have been raised: the place of private property in the establishment and maintenance of a stable community; the forms of property that are owned by communities – in particular limited commons or types of community land title; and the ways in which quite distinct private and community interests may be managed in relation to particular resources, such as heritage buildings, quasi-public spaces like shopping malls (and their trees), land with remnant vegetation, and so forth. Most of this discussion, however, concerns the *community of humans* and, like much property discourse, it downplays the materially based community which subsists between humans and non-humans, or between the subjects and objects of property. Extending the notion of community into human–thing relations has implications for property because the objectified thing loses its object status and achieves a kind of subjectivity. It is the subject around which human objects organize themselves.⁵⁸

CONCLUSIONS: TREES, STANDING, AND OWNERSHIP

To summarize, we have a tree. It has more or less died and been cut down. We must not forget that, before it was a tree, it was a seed, though never only a seed but all of the dispersed nutrients, sunlight, air, water and so forth which contributed to its composition. It was thus not always a tree, but is part of the (in a human time frame) endless cycles of life. Its living relationships are with birds, mammals, insects, and reptiles, but it also uses nutrients, releases oxygen, creates biomass, and engages in a multitude of other ecological exchanges. It is atmospheric, literally and figuratively.⁵⁹ It has participated in human history. In the case of the Burnside tree, those histories are designated as colonial, federal, 20th- and 21st-century histories, but other trees will have participated in Aboriginal stories and life cycles for centuries. It exists in space, but also shapes space, landscapes, streetscapes, even, in the end, shaping architectural space. It has become an actor in human space and human society. Its tree qualities are therefore not only biological and ecological –

the tree also assumes the symbolisms and stories, including the legal stories, of human society. It acts in those stories, as support for a child's swing (perhaps), as an obstacle in the car park, as a potential danger to the public, as a juridified "significant" tree, and as a centre-piece in a magnificent commercial precinct. It is "known" and objectified as a scientific, legal, and aesthetic object. It is a phenomenon constituted by human intentionality, and is even potentially a "you" if drawn into a reciprocal relationship with a person. It may be in itself, or for itself in some registers but, like everything and despite appearances, its being is dynamic and interactive, even after its death. Most importantly, it is not of a separate "natural" realm that is somehow distinct from the "cultural" or social.

In all this, it is useful but ultimately insufficient to try to find a fundamental way of understanding such a tree, whether that be through networks, mesh-works, performances, webs, intra-actions, or any combination of these.⁶⁰ Any such effort, though helpful as an explanatory device, will always be limited by other factors – that the tree is just there, for instance (the ultimate realist point!); that it is pre-existed by a multitude of cultural meanings; that in and around it are a plurality of shells of semi-congealed and sometimes more solidified systems of meaning, never reducible to each other; and that the insertion of perspective always changes things – to the baby gum-nut or perhaps more plausibly the lizard or insect, the tree is like air, invisible as a thing but an essential medium for life. Like the question of whether the tree has consciousness, such a "perspective" is of course a matter beyond human cognition, though not beyond human imagination.

It is not possible to extrapolate simply from the potential "you-ness" of a tree and its reciprocal relationships with a human world, to the idea that such an entity ought to be a bearer of rights or of any kind of legal status based on human legal status. Claims for such rights in relation to ecological systems are not normally based on the view that they are *like* humans and human societies, but rather upon other goals: recognizing the intrinsic value of the environment in an interconnected human/non-human world; acknowledging that nature has its own "fundamental rights"; and/or giving the environment a formal place in law.⁶¹ Clearly there are many ways in which nature could be protected and it is of course legally possible to designate trees or other entities as rights-bearers. It may be useful in some circumstances to do so. Such an extension of rights would (arguably like all rights) serve mainly instrumental, strategic, and symbolic purposes – the basic purpose being to protect the environment from human beings⁶² – rather than reflecting a natural order.

There are, however, much deeper conceptualizations that can be imagined beyond rights, conceptualizations that bring into play the dynamic interdependence and relatedness of all human and non-human things as both subjects and objects. As Buber shows (and indeed as Stone also discussed in his famous article⁶³) the tree is addressing us, and we can listen to it. But the change that needs to occur has perhaps as much to do with a kind of pre-figurative and performative theory and

praxis, as it has to do with straightforward legal reform. (Though the latter can certainly also be encouraged, where possible, and may be a means to the broader end). As John Law and John Urry state, “The issue is not simply about how what is out there can be uncovered and brought to light. [...] It is also about what *might be made in the relations of investigation*, what might be brought into being.”⁶⁴

As I have suggested throughout the article, the tree (though not only the tree) is an illustration and extension of several re-orientations already occurring within property theory. These include the following factors: that property is not recognized but is rather the gift of a political system; that it arises from multiple, reiterative, performances; that although an inanimate thing a tree or other object may also have its own interior significance and being; that it that it nonetheless bears the traces of human constructions and stories; that it is both subject and object in a large number of dynamic relationships; and that it is from beginning to end an integral part of human community, though not as an intentional actor.⁶⁵ I do not see any of this as underpinning a new theory or new metaphor of property. Above all else, property is *diverse*,⁶⁶ and plural in the sense that it is incommensurable with itself. Nonetheless, and well beyond any individual tree or trees in general, these thoughts ought to be enough to promote further property thinking which acknowledges the plurality, the contingency, the malleability, of property as a legal institution, as well as its attentiveness to things as the resources of social life.

Law is not a mirror. It does not reflect a pre-existing social reality, but rather responds, constructs and manages a socio-political dynamics, and more than that, it emerges as a distinct institutional form from the consolidated pathways laid down by nature–culture. To say that the objects or things of property are part of human community, that they may in certain circumstances be as much subject as object, that property itself is a gift of society and does not have an essential form, does not in itself change anything – none of this repudiates the foundations of property law which, after all, is quite comfortable with fiction, fabrication, abstraction, and an entirely relational dynamics. Nonetheless, it may point to a different future for property and, indeed, for law.

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1. For a much more detailed telling of this story, including reference to council documents and other sources, and an analysis of the relevant law, see Margaret Davies and Kynan Rogers, "Tale of a Tree," *Flinders Law Journal* 16 (2014): 43–73.
2. The Development Act 1993 (SA) provides a range of protections to many species of trees over a certain size. Trees were not originally protected in this act but, under amendments enacted in 2000, trees with a minimum circumference measured 1 meter above the ground were designated as "significant" and subjected to development controls. The requisite circumference has varied over the years from 1.5 meters to (now) 3 meters, with a lower level of protection for trees with a circumference of 2 meters. See generally Paul Leadbeter, "Controls on Urban Tree Removal in South Australia: An Example of Restricting Property Rights for the Greater Community," in *Law as Change: Engaging with the Life and Scholarship of Adrian Bradbrook*, ed. Paul Babie and Paul Leadbeter (Adelaide: Adelaide University Press, 2014), 23–41. Such regulatory schemes vary considerably: the South Australian and ACT models involve legislative protection for all trees over a certain size measured by trunk circumference (SA) with certain species exempted, or height and canopy spread (ACT). The UK model protects specific trees with Tree Protection Orders, while many other jurisdictions rely to varying degrees on local councils to define the circumstances under which trees will be protected.
3. But see Davies and Rogers, "Tale of a Tree."
4. For example, Comments on Emma Altschwager, "Burnside Village's Dead Gum Tree to be Chopped Down," *Easter Courier Messenger* (August 2, 2013), on file with the author.
5. For a summary of the sacred meanings of trees, see Pamela Frese and S. J. M. Gray, "Trees," in *The Encyclopedia of Religion*, Vol. 15, ed. Mircea Eliade and Charles Adams (New York: Macmillan, 1987), 26–32.
6. For an account that brings together the science and aspects of the cultural attachment to red gums, see Matthew J. Colloff, *Flooded Forest and Desert Creek: Ecology and History of the River Red Gum* (Collingwood: CSIRO Publ., 2014); see also "Country," a special issue of *Journal of the Association for the Study of Australian Literature* 14 (2014).
7. Peter Bernhardt and Robert Holden, *Gumnut Town: Botanic Fact and Bushland Fantasy* (Sydney: Royal Botanic Gardens, 1992).
8. Carole Cusack, *The Sacred Tree: Ancient and Medieval Manifestations* (Newcastle upon Tyne: Cambridge Scholars, 2011), ch. 1; see also Lawrence Sullivan, "Axis Mundi," in *The Encyclopedia of Religion*, Vol. 2, ed. Mircea Eliade and Charles Adams (New York: Macmillan, 1987), 20; Frese and Gray, "Trees."
9. Della Hooke, *Trees in Anglo-Saxon England* (Woodbridge, Boydell, 2010), 14–16.
10. See, for instance, Robert Jacob, "The Historical Development of Courthouse Architecture," *Zodiac* 14 (1995–96): 30–43; Rick Mohr, "Territory, Landscape and Law in Three Images of the Basque Country," in *The Geography of Law: Landscape, Identity and Regulation*, ed. William Taylor (Oxford: Hart, 2006), 23–4 (discussing the oak tree at Guernica).
11. Burnside Village, "Registration of Interest" (2005) (City of Burnside Council Meeting Agenda, 11 September 2012) Item 14.1, Attachment L, 172.
12. "Fact Sheet: River Red Gum at Burnside Village" (2012), document on file with the author. At this point it was not at all clear that the tree would die – in fact, it was hoped by all involved that it was merely adjusting to its new circumstances.
13. Pat Cohen, quoted in ABC News online, "Burnside Shopping Centre Gum Dead and Will be Removed" (August 2, 2013, 1:55pm AEST).
14. Maurice Bloch, "Why Trees are Good to Think With: Towards and Anthropology of the Meaning of Life," in *The Social Life of Trees*, ed. Laura Rival (Oxford: Berg, 1998), 39, 40.
15. Simone Weil, *The Need for Roots: Prelude to a Declaration of Duties towards Mankind* (London: Routledge, 2002).
16. Laura Rival, "Trees, from Symbols of Life and Regeneration to Political Artefacts," in *The Social Life of Trees*, ed. Laura Rival (Oxford: Berg, 1998), 1, 10, describing research by C. Calame-Griaule on trees in African folktales. See also Pascale Bonnemère, "Trees and People: Some Vital Links.

- Products and Agents in the Life Cycle of the Ankave-Anga of Papua New Guinea," in *The Social Life of Trees*, ed. Laura Rival (Oxford: Berg, 1998), 113–31, 126.
17. In particular, John Locke "Of Property," in "An Essay Concerning the True Original, Extent, and End of Civil Government (The Second Treatise of Government)," in *Two Treatises of Government*, ed. Peter Laslett (Cambridge: Cambridge University Press, 1988), 285–302.
 18. For example, Felix Cohen, "Dialogue on Private Property," *Rutgers Law Review* 9 (1954): 357–74; Joseph W. Singer, *Entitlement: The Paradoxes of Property* (New Haven and London: Yale University Press, 2000); Gregory Alexander and Eduardo Peñalver, "Introduction," in *Property and Community*, ed. Gregory Alexander and Eduardo Peñalver (New York: Oxford University Press, 2010), xviii. See also Rhys Aston and Margaret Davies, "Property in the World: On Collective Hosting and the 'Ownership' of Communal Goods," *Law Text Culture* 17 (2014): 214–42.
 19. See generally, Underkuffler, *The Idea of Property: Its Meaning and Power* (Oxford: Oxford University Press, 2003).
 20. These include aesthetic and environmental values; e.g. Burnside Council Development Plan (Consolidated 30 January 2014), Principle of Development Control 84.
 21. Nicholas Blomley, "Performing Property: Making the World," *Canadian Journal of Law and Jurisprudence* 26 (2013): 23–48. For discussion of the concept of law as performance in other contexts, see Margaret Davies, *Delimiting the Law: 'Postmodernism' and the Politics of Law* (London: Pluto, 1996), 134–9; Karl Klare, "Legal Culture and Transformative Constitutionalism," *South African Journal on Human Rights* 14 (1988): 146–88, 170; Margaret Davies, "The Law Becomes Us: Rediscovering Judgment," *Feminist Legal Studies* 20 (2012): 167–81, 173–5; Sara Ramshaw, *Justice as Improvisation: The Law of the Extempore* (Abingdon: Routledge, 2013).
 22. Blomley "Performing Property, 36."
 23. My summary also draws on the work of Karen Barad, which is discussed below.
 24. Kevin Gray, for instance, says that property is "organic, interactive, socially-defined, normatively resilient, and extremely relative"; Gray, "Property in a Queue," in *Property and Community*, ed. Gregory Alexander and Eduardo Peñalver (New York: Oxford University Press, 2010), 165–95, 193; see also Thomas Grey, "The Disintegration of Property," in *Property: Nomos XXII*, ed. Roland Pennock and John Chapman (New York: NYU Press, 1980).
 25. Christine Black, *The Land is the Source of the Law: A Dialogic Encounter with Indigenous Jurisprudence* (London: Routledge, 2014), 15; see also Irene Watson, *Aboriginal Peoples, Colonialism and International Law: Raw Law* (London: Routledge, 2014), 12.
 26. I am very grateful to Brodie Beales for this translation.
 27. Cf. Edmund Husserl, *Cartesian Meditations: An Introduction to Phenomenology*, trans. Dorion Cairns (The Hague: Martinus Nijhoff, 1970).
 28. As an aside, I note a crude reversal of the end of this poem when read literally in the context of the Burnside tree. Having had architectural and juridified space thrown around it, it was surrounded not by restraint but by bountiful commercialism. Rather than being unlimited, it became entirely terminal, and not till it was held captive did it become literally absent. The ongoing existence and shape of the roof means that it will always be present as negation, a form — I hesitate to use the word "spirit" — that subsists as emptiness, or suggestion.
 29. "A person has as his substantive end the right of putting his will into any and every thing and thereby making it his, because it has no such end in itself and derives its destiny and soul from his will. This is the absolute right of appropriation which man has over all 'things'"; G. W. F. Hegel, *Philosophy of Right*, trans. T. M. Knox (New York: Oxford University Press, 1952), 41.
 30. Zbigniew Herbert, "Pebble," quoted in John Frow, "A Pebble, a Camera, a Man Who Turns into a Telegraph Pole," *Critical Inquiry* 28 (2001): 270–85, 272.
 31. Frow, "A Pebble, a Camera," 272.
 32. See the excellent discussion of "person—person" property in Nicole Graham, *Landscape: Property, Environment, Law* (Abingdon: Routledge, 2011), 136–47.
 33. For instance, Henry E. Smith, "Property as the Law of Things," *Harvard Law Review* 125 (2012): 1691–726.
 34. Margaret Radin, "Property and Personhood," *Stanford Law Review* 34 (1981–82): 957–1015; Craig Arnold, "The Reconstitution of Property: Property as a Web of Interests," *Harvard Environmental Law Review* 26 (2002): 218–363, esp. 296–7, 302. The extensive literature specifically addressing environmental concerns includes Eric T. Freyfogle, "Good-bye to the Public—Private Divide," *Environmental Law* 36 (2006): 7–24; James P. Karp "A Private Property Duty of Stewardship" *Environmental Law* 23 (1993): 735–762; William Lucy and Catherine

- Mitchell "Replacing Private Property: The Case for Stewardship," *Cambridge Law Journal* 55 (1996): 566–600; Graham, *Landscape: Property, Environment, Law*.
35. Martin Buber, *I and Thou*, trans. Walter Kaufmann (New York: Simon & Schuster, 1970), 57–8. See also W. W. Adams "The Primacy of Interrelating: Practicing Ecological Psychology with Buber, Levinas, and Merleau-Ponty," *Journal of Phenomenological Psychology* 38 (2007): 24–61, 30–2.
 36. Individual trees may also be declared to be significant: Development Act 1993 (SA), section 4.
 37. For example, City of Burnside, *Development Plan*, clause 84.
 38. Martin Buber, "Dialogue," in *Between Man and Man* (London: Collins, 1961).
 39. Buber, *I and Thou*, 58.
 40. "Municipal Gum" in Kath Walker, *My People: A Kath Walker Collection* (Milton, Queensland: Jacaranda Press, 1970), 49. Kath Walker later adopted an Aboriginal name, Oodgeroo Noonuccal. Unfortunately I have been unable to secure copyright permission to reproduce the entire poem here, but it is widely available online.
 41. Black, *Land is the Source*, 28 (speaking of the connections between land – tree and grass – to the human body and the cosmos).
 42. Cf. Frow, "A Pebble, a Camera," 274–6; Bruno Latour, "Why Has Critique Run Out of Steam? From Matters of Fact to Matters of Concern," *Critical Inquiry* 30 (2004): 225–48, 235–6; see also Tim Ingold, "Toward an Ecology of Materials," *Annual Review of Anthropology* 41 (2012): 427–42.
 43. Andreas Philippopoulos-Mihalopoulos, "Atmospheres of Law: Senses, Affects, Landscapes," *Emotion, Space, and Society* 7 (2013): 35–44, 36.
 44. Gunther Teubner says, "The invention of the legal person was law's great cultural contribution to the organizational revolution in which attribution of action was expanded beyond natural people": Teubner, "Rights of Non-humans? Electronic Agents and Animals as New Actors in Politics and Law," *Journal of Law and Society* 33 (2006): 497–521, 501. For an extended discussion, see Ngaire Naffine, *Law's Meaning of Life: Philosophy, Religion, Darwin and the Legal Person* (Oxford: Hart, 2009).
 45. These strands include psychoanalysis, feminism, Marxism, communitarianism, and many others. For a recent legal iteration (but based on several decades of her own research), see Jennifer Nedelsky, *Law's Relations: A Relational Theory of Self, Autonomy, and Law* (New York: Oxford University Press, 2012).
 46. In fact, the environmental understanding of the interdependence of humans and the planet is not particularly recent, though it has perhaps only in the past 30 years been taken up by mainstream theory.
 47. In (early) Derridean deconstruction, distinctions such as nature—culture or subject—object are seen as fragile and often held apart by ideological, political or epistemological force. They can also break down or switch places at key moments of understanding because the terms are not pure or essences, but defined against each other; e.g. Jacques Derrida, *Margins of Philosophy* (Brighton: Harvester, 1982), 1–27; Rodolphe Gasché, *The Tain of the Mirror: Derrida and the Philosophy of Reflection* (Cambridge, MA: Harvard University Press, 1986), 121–76.
 48. Karen Barad has coined the term "onto-epistemological" to describe (essentially) the fact that matter and meaning are not separable; generally Karen Barad, *Meeting the Universe Halfway: Quantum Physics and the Entanglement of Matter and Meaning* (Durham: Duke University Press, 2007).
 49. John Law and John Urry, "Enacting the Social," *Economy and Society* 33 (2004): 390–410, 397; Barad, *Meeting the Universe Halfway*, 49.
 50. For example, Bruno Latour, *Reassembling the Social: An Introduction to Actor-Network-Theory* (Oxford: Oxford University Press, 2005); Tim Ingold has proposed a more dynamic and nuanced metaphor, the "meshwork" as "entangled lines of life, growth, and movement" rather than a "network of connected points"; Tim Ingold, *Being Alive: Essays on Movement, Knowledge, and Description* (London: Routledge, 2011), 63.
 51. Barad, *Meeting the Universe Halfway*, 33; Ingold proposes a similarly dynamic approach; Ingold, "Toward an Ecology of Materials."
 52. Even more specifically, Barad says this is an onto-ethico-epistemology because of the responsibility inherent in entanglement; Barad, *Meeting the Universe Halfway*, 392–4.
 53. Indeed, Barad's term "onto-epistemology" might equally be extended to any performative view of knowledge, since the performative brings together knowing and being/doing – material iteration with a conceptual feedback loop.
 54. Latour, *Reassembling the Social*.
 55. Owain Jones and Paul Cloke, *Tree Cultures: The Place of Trees and Trees in their Place* (Berg: Oxford, 2002), 54; for ecological specifics of the river red

- gum, see Matthew Colloff, *Flooded Forest and Desert Creek: Ecology and History of the River Red Gum* (Collingwood: CSIRO Publ., 2014), ch. 4 “Ecosystem Functions.”
56. David Suzuki and Wayne Grady, *Tree: A Biography* (Vancouver: Greystone, 2004), 6.
 57. Gregory Alexander and Eduardo Peñalver, ed., *Property and Community* (New York: Oxford University Press, 2010). See generally Jane Holder and Tatiana Flessas, “Emerging Commons,” *Social and Legal Studies* 17 (2008): 299–310; Kathryn Milun, *The Political Uncommons: The Cross-Cultural Logic of the Global Commons* (Farnham: Ashgate, 2011); David Harvey, “The Future of the Commons,” *Radical History Review* 109 (2011): 101–7; Davina Cooper, “Opening Up Ownership: Community Belonging, Belongings, and the Productive Life of Property,” *Law and Social Inquiry* 32 (2007): 625–64; Anne Bottomley, “A Trip to the Mall: Revisiting the Public/Private Divide,” in *Feminist Perspectives on Land Law*, ed. Hilary Lim and Anne Bottomley (Abingdon: Routledge-Cavendish, 2007), 65–96.
 58. Cf. Michel Serres, *The Parasite*, trans. Lawrence Schehr (Minneapolis: University of Minnesota Press, 2007), 226.
 59. Cf. Philippopoulos-Mihalopoulos, “Atmospheres of Law.”
 60. “There is nothing that is not, actually or virtually, included in open ecology. And nothing that is not, actually or virtually, connected to everything else in some form of connection that enables everything to become everything else”; *ibid.*, 37.
 61. For example, Christopher Stone, “Should Trees have Standing? Toward Legal Rights for Natural Objects,” *Southern California Law Review* 45 (1972): 450–501; cf. Gary Francione, *Animals as Persons: Essays on the Abolition of Animal Exploitation* (New York: Columbia University Press, 2008); Bert Koops, Mireille Hildebrandt and David-Olivier Jacquet-Chiffelle, “Bridging the Accountability Gap: Rights for New Entities in the Information Society?,” *Minnesota Journal of Law, Science and Technology* 11 (2010): 497–561; Teubner “Rights of Non-humans?”
 62. Teubner, “Rights of Non-Humans,” 521.
 63. Stone, “Should Trees Have Standing?,” 471.
 64. Law and Urry, “Enacting the Social,” 396 (emphasis added).
 65. I might add that not only are trees *part of* our human *oikos* (home, ecology, economy) but also they are *entirely* home for a multitude of lizards, insects, animals, and organisms that live primarily within their protection; Aston and Davies, “Property in the World,” 236–7.
 66. John Page, *The Implications of Property Diversity* (PhD thesis, University of Queensland, 2014), on file with author.

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