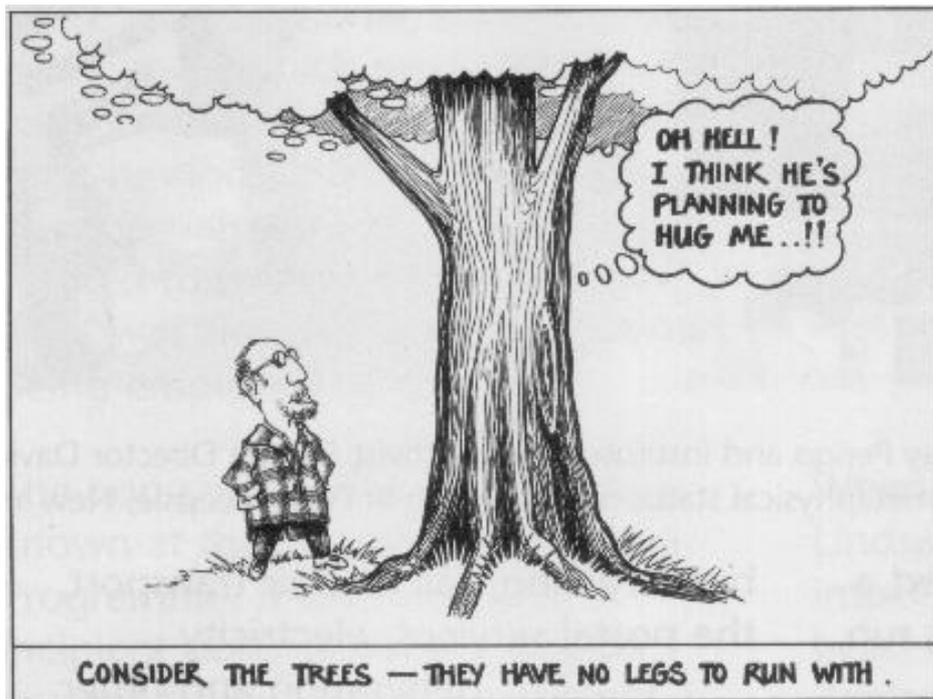


ENVIRONMENTAL JUDO

Seven easy steps to beat back the socialist wildlife

Peter Cresswell, B. Arch
Libertarianz Party Environment Spokesman



INTRODUCTION: What would 'Party X' do about the environment?

Wouldn't it be good if there were a real opposition party, one that actually supported private property instead of supporting law that does it over – one that opposed big government instead of just saying 'me too.' One that tried to beat back the socialist wildlife, instead of defending it with a tongue so forked you could hug a tree with it.



Does anyone remember *genuine* opposition any more? Nick Smith doesn't. John Key doesn't. But how about a 'Party X' that genuinely did fit that bill? Ayn Rand offers the prescription for such a party:

Party X would oppose statism and would advocate free enterprise. But it would know that one cannot win anybody's support by repeating that slogan until it turns into a stale, hypocritical platitude—while simultaneously accepting and endorsing every step in the growth of government controls.

Party X would know that opposition does not consist of declaring to the voters: "The Administration plans to tighten the leash around your throats until you choke—but we're lovers of freedom and we're opposed to it, so we'll tighten it only a couple of inches."

Party X would not act as Exhibit A for its enemies, when they charge that it is passive, stagnant, "me-tooing" and has no solutions for the country's problems. It would offer the voters

concrete solutions and specific proposals, based on the principles of free enterprise. The opportunities to do so are countless, and Party X would not miss them.

Our hypothetical Party X would need to recognise the MMP environment, but that's no reason to roll over and give up on removing the leash from around our throats. In fact, the MMP environment offers opportunities to use other party's strengths in the same way that a judo master recognises the strength of his adversary, and then uses that strength against him.

A hypothetical Party X would formulate concrete solutions and specific proposals to deregulate the environment along the principles of free enterprise — an area which I'm sure readers will agree is one of increasing urgency. One would ensure that the leash is loosened *without introducing any further tightening*; that is, to achieve specific and concrete gains in freedom, *with no new elements of coercion*.

Let me show you what I mean ...

A handwritten signature in dark ink, appearing to be 'Peter Cresswell', written in a cursive style.

Peter Cresswell, B. Arch.

LIBERTARIANZ SPOKESMAN TO
DEREGULATE THE ENVIRONMENT



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Explaining the principle on which this whole series is based

1. 'No' to Eco Taxes. 'No' to Subsidies: How about Untaxes...

"When a new source of taxation is found it never means, in practice, that the old source is abandoned. It merely means that the politicians have two ways of milking the taxpayer where they had one before."

- HL Mencken

"There's only one way to kill capitalism--by taxes, taxes, and more taxes." - Karl Marx

Helen Clark says she wants a 'sustainable' nation. Jeanette Fitzsimons says she wants a really and truly 'sustainable' nation. And Nick Smith says he wants what they're having, with a side order of bullshit thrown in.

All of them blather on about the need for 'grass roots' eco-businesses and sustainable alternative technologies, yet between them they make it near impossible for alternative technologies and grass roots businesses to thrive. All of them waffle on about subsidies for this and grants for that and assistance with the other, and at the same time they talk about "sin" taxes to discourage so called "polluters" -- like the energy companies who are trying to produce the power that keeps our lights on.

I say that's bullshit. The only thing that's truly sustainable is stuff that stands on its own two feet. Stuff that's *economically* sustainable. If a profit can't be turned on all these schemes for solar panels and wind farms and for turning banana skins into biofuel, then those schemes shouldn't exist. If they can't turn a profit, then they're a waste of the resources that Helen Clark and Jeanette Fitzsimons and Nick Smith say are so scarce.

But what new business gets a chance to turn a profit when they're buried under tax and compliance costs? We know that tax is theft. We know that how you run your company is your business. Why not let at least some companies be free of the burden and show just how their profits rise when they're not being taxed to hell and when they're not burdened by paperwork and by bureaucrats.

And why not let the current fad for green nonsense help drive this unburdening, and let the eco-warriors themselves learn at first hand that free trade and profits are always superior to subsidies and socialism.

What I suggest is that eco industries, eco businesses and eco products be made *totally tax free*, and that all these eco industries be freed as much as possible from the regulations and compliance costs imposed by the likes of the Resource Management Act (RMA), collecting and calculating GST and minimum wage laws.

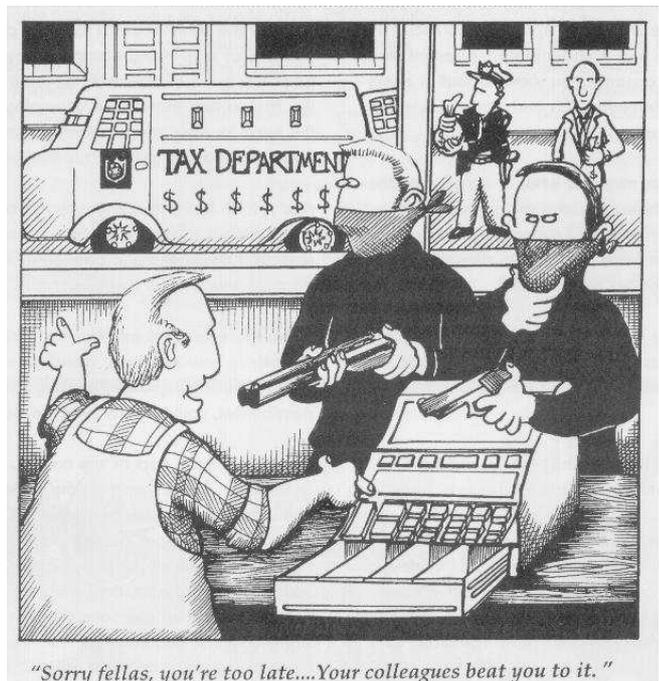
Let's say for example you're doing research and development on micro-power producers or wave turbines, or you're trying to erect and bring on stream small and economically viable hydro stations or domestic wind turbines. All are potentially viable and small alternatives to the Big Thinking state-owned and state-controlled power producers (the state always Things Big, doesn't it), but not when burdened by Kafka-esque problems with resource consents (for which the large producers maintain a large staff to make opposing submissions), by the compliance costs that weigh down every business, and by taxes on research and development and production, and on any profits that might be made down the line.

I say let's help out. Let's help out every business we can, by getting government off their back.

Let's free up "eco" businesses, and at once we liberate at least *some* damn businesses from the shackles of the grey ones (and perhaps help kick start some fashionable export industries selling to the gullible overseas, and initiate the partial removal of the RMA and other onerous laws and regulations). At the same time, we demonstrate the power to produce when the shackles of statism are removed, and we lay down a serious challenge to the prophets of sustainability that *requires them to objectively define what they mean by 'sustainability'* (something no government has ever done) so that investors and the grey ones know clearly and in advance what an eco industry actually looks like.

Sure, this don't give every business a break, but with eco *untaxes*, at least there's more freedom and no new coercion, and nothing here that the eco warriors shouldn't be chomping at the bit to sign up to.

It's a start, right.



2. Putting Property Rights Back on the Table

"The institution of the right to private property is perhaps the single most important condition for a society in which freedom, including free trade, is to flourish." – Tibor Machan

"The theory of Communism may be summed up in one sentence: Abolish all private property." --Karl Marx

For more than seven-hundred years, common law protection of private property provided the best protection for the environment yet seen. Property rights are now routinely violated, however, and that common law protection has been buried by the Resource Management Act. But there's one simple way to hasten their return... Protecting the right to peaceful enjoyment of property . . . enshrining that protection in law . . . historically and in principle that's the best protection the environment ever had – both for the natural environment and for the human environment. Property rights in streams and rivers for example coupled with common law systems of protection would at a stroke solve the 'dirty dairying' problem about which so much is said, but so little achieved. Property rights in flora and fauna and land is the best means of ensuring a genuinely sustainable nation.

We know that common law protection of property rights has been buried by statute and by regulation and by the Foreshore and Seabed Act--but it's not too late to resurrect it, and placing property rights in the Bill of Rights Act would be a start. In fact, this policy very nearly happened. Proposed by the Kiwi Party's Gordon Copeland, things were looking hopeful, until the bill had its throat cut by National's disgraceful about-turn on supporting it.

Copeland's proposal was to simply insert property rights in the Bill of Rights, repairing an omission that Bill of Rights architect Geoffrey Palmer has publicly conceded was a mistake.

Personally, I would add pressure to make the Bill of Rights, or at least this proposed new clause, superior to all other law. The explicit rejection by NZ's two main parties of even the relatively tepid proposal suggested by Copeland, however, underscores how far we are from even getting the principle of property rights on the table.

Continuing pressure to place property rights in the Bill of Rights is one means by which to get it there.

After all, the principle of property rights simply promises the protection of the right to peacefully enjoy that in which one has property. What reasonable objection can be brought to law that protects an individual's right to peaceful enjoyment? Let me stress the word "reasonable." Let's place on the back foot those who object to that right by challenging them to say for what reasons the right to peaceful enjoyment shouldn't be made superior to all other law.

We may not be immediately successful in our goal, but at least we can try and flush out the bastards who oppose such peaceful rights, and expose the reasons they do.

In the meantime, you might like to consider what would happen if property rights were placed at the heart of the likes of the Resource Management Act . . .

2a. Coming to the Nuisance

"Life, liberty, and property do not exist because men have made laws. On the contrary, it was the fact that life, liberty, and property existed beforehand that caused men to make laws in the first place." - Frederic Bastiat

The Coming to the Nuisance Doctrine is an enormously powerful principle protecting pre-existing rights, and quickly establishing rights in situations of apparent neighbourhood conflict. Promotion of the Coming to Nuisance Doctrine would simplify those neighbourhood disputes that the Resource Management Act has exacerbated, and protect property rights at the same time.

Move next door to a clean and well-run chicken farm or a pig farm for example (even if the place has been re-zoned since the farm opened), and under this doctrine you have no right to have them thrown out. Move next door to a speedway track, and you have no right to complain about excessive noise.

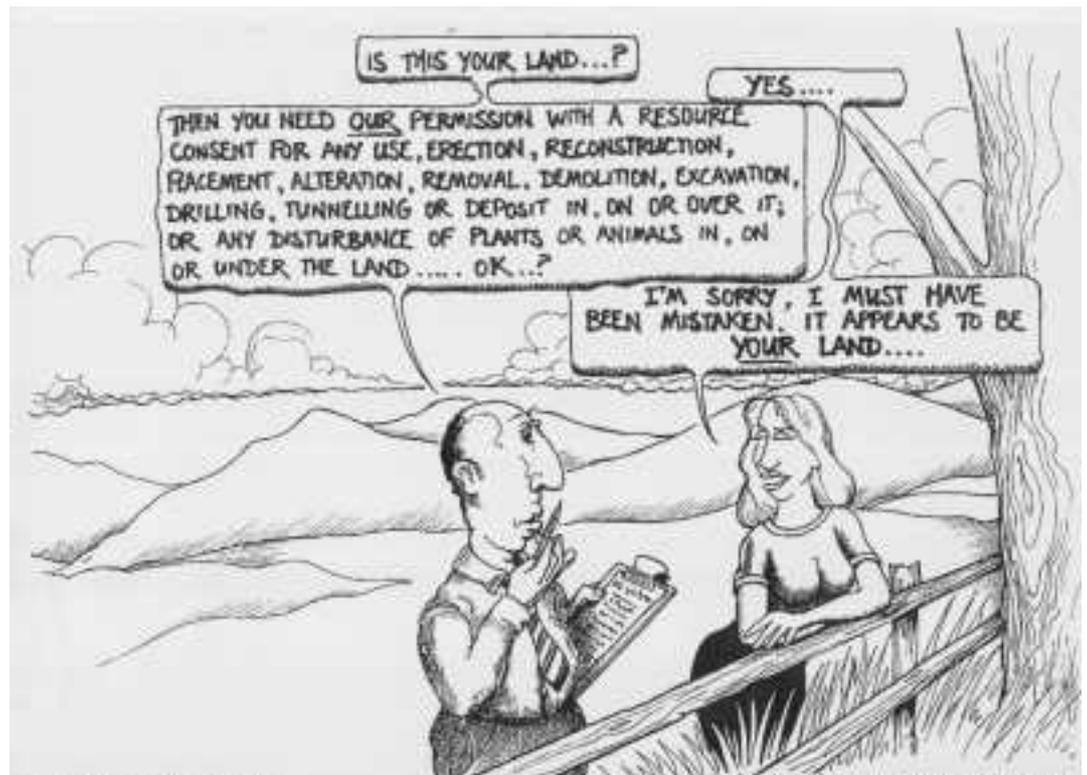
I assume you see the difference with how things presently work.

If the farm or the speedway or whatever it is was there before you chose to buy next door, and if it's well and properly run, then those pre-existing rights should and can be protected in law; and if they were you then have a strong incentive to either make a more careful choice in future about where you buy (whereas now the incentive is there to move in and force them out), or to buy out the speedway or the farm, or to buy easements or covenants over the neighbouring land.

Either way, when the coercion is removed and bargaining is all that's allowed, the tendency is for property to end up in the hands of the buyer who values it the most – ie., in its highest value use. This is not something planners can ever claim to have achieved.

What this principle will demonstrate over long use is that zoning is not only coercive, but unnecessary. Coming To The Nuisance is THE antidote to zoning. Not only that, at the same time as undercutting the zoning law established under the RMA, it would ensure that if neighbours of Western Springs speedway aren't prepared to stump up more than speedway organisers would like to go elsewhere, then the noise of fast cars and motorbikes will continue to annoy lemon-suckers like Peter Williams QC for some years to come.

You can't do
better than that.



No serious environmental policy can avoid the elephant in the room that is the Resource Management Act (RMA). For all the high-profile RMA horror stories that hit the news, as Federated Farmers president Charlie Pederson says, "it's little, not large, that suffers most RMA pain." Here's, a simple solution for removing RMA pain from the little guy, and a step towards more affordable housing:

3. Small Consents Tribunals

"When the productive have to ask permission from the unproductive in order to produce, then you may know that your culture is doomed." - Ayn Rand

That quote above? It's true, isn't it. Just ask anyone who has waited in line for a Resource Consent. But although it's practical to remove the RMA overnight (simply by codifying the basic common law principles that it has buried), it's not yet *politically* possible. Here's one way to get that particular ball rolling.

First, enact a codification of basic common law principles – principles such as the Coming to the Nuisance Doctrine and rights to light and air and the like.

Second, register on all land titles (as voluntary restrictive covenants) the basic "no bullshit" provisions of District Plans (stuff like height-to-boundary rules, density requirements and the like).

Next, and this will take a little more time, insist that councils set up 'Small Consents Tribunals' for projects of a value less than \$300,000 to consider issues presently covered by the RMA.

This means that instead of sitting around the table with pimply-faced graduates of Bruce Hucker's planning school discussing whether or not your new carport "promotes the sustainable management of natural and physical resources" – which is what happens now under the RMA – and instead of cluttering up the Environment Court with minor projects that only add to the already lengthy delays there, these Consents Tribunal should function in a similarly informal fashion as Small Claims Tribunals once did (which, of course, have now been renamed Disputes Tribunals), and their considerations would be on the basis of whose property rights were whose..

The Small Consents Tribunals would consider your small project on the basis only of the codified common law principles and the voluntary restrictive covenants on your title. Simple really. If you're not infringing your neighbour's property rights, then Bob should be your uncle. You should be able to reach agreement in an afternoon.

I think setting up such tribunals should be sensible, relatively simple, and politically achievable.

At some point it should become clear to most land owners that these restrictive covenants on their titles are not vague prescriptions coercively mandated by statute, or dreamed up by those pimply-faced planners – instead these are clear covenants that define the intersection of property rights at your boundaries, and reflect the same or similar covenants reflecting your rights at your neighbours' boundaries.

These are not council-mandated rules over which the whole 'community' can have a say, but straightforward covenants only in favour of neighbouring landowners, with whom you may negotiate to add, subtract, amend or otherwise revise these covenants, making any reciprocal deals you may negotiate with people whose business it really is.

If for example you like my tree and I like my view over that corner of your section, then we can negotiate at our leisure and have these interests registered on our titles as a covenant and an easement respectively. I record on my title your rights over the tree, and you record over your title my right to the view over the corner of your section.

Or if, for example, you want to build through the height-boundary requirements now recorded on your title, a small sum of money may buy my agreement. Over time we should slowly see emerging a network built up of reciprocal covenants between neighbouring properties reflecting the voluntary agreements over land that neighbours have freely negotiated – and in time too, as the original restrictions imposed by those District Plans have been voluntarily extinguished one at a time, it is these voluntary agreements on which the Small Consents Tribunals will be adjudicating.

Now at a stroke these Small Consents Tribunals will make affordable housing more affordable and encourage more interest in projects at this end of the market. At a stroke too it should free up the Environment Court and council offices for more important projects than these small ones, and depoliticise many neighbourhood disputes. Everyone kicks a goal.

As the success of these Small Consents Tribunals becomes more evident, as I'm confident they would be, and as their own sophistication in common law increases, then public pressure should build up to raise the financial value of projects accepted by the Tribunal first to \$400k, then to \$500k and beyond, and eventually there should be sufficient public pressure and political will built up to abolish the RMA altogether in favour of common law protections.

That's the secret of good judo: using simple means to rid yourself of a large opponent.

Today, a politically possible method of ending the [tragedy of the commons](#) -- by getting rid of the commons.

4. Privatisation: First Iwi, then Kiwi.

"It is precisely those things which belong to "the people" which have historically been despoiled- wild creatures, the air, and waterways being notable examples. This goes to the heart of why property rights are socially important in the first place. Property rights mean self-interested monitors. No owned creatures are in danger of extinction. No owned forests are in danger of being leveled. No one kills the goose that lays the golden egg when it is his goose."

--Thomas Sowell

There's something missing in this series so far, isn't there. Every proposal presented so far responds to already existing pressure in the political environment, using it to advance the depoliticisation of the natural environment. So far there's been something for nearly everyone here, something (so far) that nearly every political party could sign up to.

Nearly every party. There's been nothing yet specifically that the Maori Party could sign up to.

And there's something else missing. I've said that property rights under a common law regime provides superior environmental protection, but there's a problem there too, isn't there: To work effectively, property rights-based environmental protection needs a property-owner to stand up for it, yet *nearly half of this beautiful country and most of the seabed, foreshore and waterways still have no property rights attached.*

When land is privately owned, and someone throws garbage on it, under a common law regime the property owner has full rights to insist the garbage is removed.

Most of New Zealand's land, and almost all its water, is essentially un-owned, ie., nearly half of the country is still nominally Crown Land, with no owner in the least interested in standing up for their patch. (The Crown is not really an owner, and certainly not a manager. And since thirty percent of the country is so called "conservation estate" that is "protected" by Chris Carter and the Department of Conservation (DoC), there's very little if any protection afforded by this 'management. Here, for example, is a favourite joke told by DoC employees that reveals their own view of their efficacy: Q: "How do you get rid of possums?" A: "Give them to DoC to protect, and wait three years.")

This perhaps explains why the country's most pressing environmental problems occur in these places.

The problem of 'dirty dairying,' for example, which effects the lakes and rivers – a problem Chris Carter, the Greens, and the Parliamentary Commissioner for the Environment are going to use to place a limit on dairy farming. But the problem of 'dirty dairying' can be solved overnight once one realises that at present no property-owners exists to insist the 'garbage' is removed from their water (and the common law rights to so insist have been buried by the Resource Management Act). Private ownership of water would allow a negotiation to be done between property-owners that reflects the rights of the property-owners in their land and in their water, without either Chris Carter, Jeanette Fitzsimons or the Parliamentary Commissioner for the Environment being involved

And the problems of water draw-off for irrigation and resulting 'competition' for water in Canterbury and Southland can be solved in a similar way, using tradable water rights that reflect presently existing use.

What we've done here is remove the bureaucrat.

Competition for water is complicated by bureaucratic systems of allocation. Protection of water quality is stymied by bureaucratic systems of protection: which means there are no effective legal remedies against pollution, and no effective agent to argue on behalf of that which is being polluted. Both problems are the direct result of what's known as the Tragedy of the Commons problem. As long as a resource is either unowned or held in common ownership (which is the case with water in NZ), then the incentive for each resource user is to take as much now as they can, and whenever they can, no matter the consequences for the quality of that resource, and no matter the long-term effect on the quantity of that resource. That's the tragedy: common ownership provides no incentive for genuine 'stewardship.'

What I've proposed is clearer property rights, and greater common law protection of those rights.

So how do we do that?

Simple. Using our 'judo' principle of using our opponents' strengths to gain our goals, what do you think the easiest way would be to establish property rights in all that land that needs property rights protection. Anyone? I'll give you that clue again, shall I?

What about giving the Maori Party something to vote for?

Who's going to advocate loudest and longest for the title in all Crown land and in seabed, foreshore and waterways to be passed to those who already have an interest in it (or as I like to call it, privatisation) than the same brown roundtable who are presently riding the gravy train. If I may use the expression, that's a fair weight behind a proposal for privatisation.

So am I really advocating giving all this un-owned land away to a bunch of tribalists!?

Well, yes I am.

What have they done to deserve it? Well, nothing, really.

Nothing, that is, except develop rights in specific stretches of land and water over long historic use, and agitate loudly enough today so that they're 'on point' as the easiest way to effect this privatisation.

If we can have titles created in land where ownership doesn't presently exist, if we can extract land and water from the hands of the state and turn it into private property with covenants and easements attached that protect all existing rights, then that's as good a thing as any peaceful freedom fighter can hope to achieve, and perfectly in line with our goal of more freedom, with no new coercion.

There's just three things we need to ensure so that both freedom and prosperity are secured as this change is effected:

- The first thing is to ensure that *only Crown Land is involved*. Scrutiny will be essential to ensure no already existing private property will be in the mix.
- The second is that *tribalism must be taken out of the mix*: title must be transferred NOT to tribal leaders so they can increase their control or create new tribal fiefdoms as they've done in the last twenty years, but to the *individual members* of each iwi involved. Individualising these titles will be a boon to the owners of these titles, since unlike existing Maori land which is collectively owned (with the chief's permission required to do anything with it), individual titles can be used as collateral for a mortgage, and building on it may be done by right.

I suspect that the main opposition to this condition will come from the tribal leaders themselves when they realise they're being made redundant, and not before time—and that opposition in itself will reveal that the interests of the tribal leaders and the people on whose behalf they claim to speak are not the same, and are actually at odds with each other.

- The third thing to ensure is that, unlike existing Maori land, *all titles created must be transferable*.

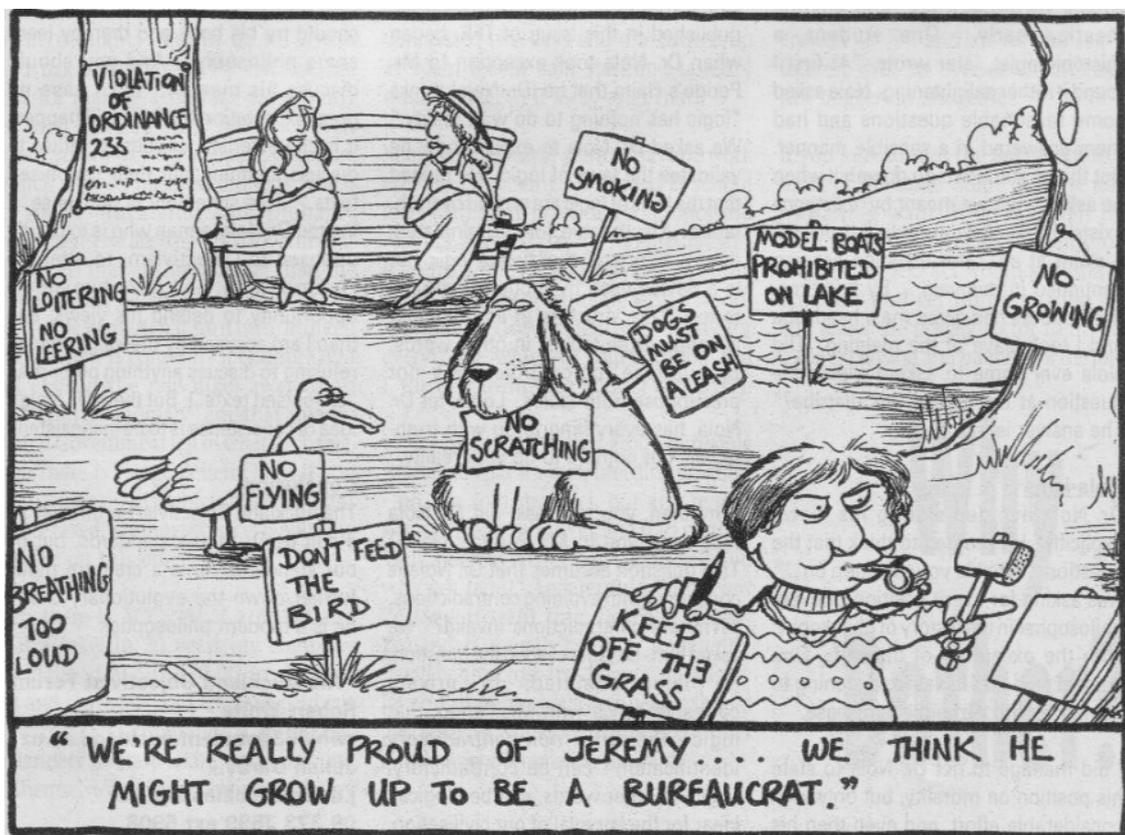
As Ronald Coase points out, as long as titles are made transferable and transaction costs are kept low, then land titles so created will tend to end up in the hands of those who most value them. The first holders of these new titles can do anything they wish with them (and making land individually owned and transferable is a necessary condition to allow the holders of these titles to borrow against them to advance their wealth), but as we're all aware the deadbeats and the astute will both quickly sell to

those who value them more than they do, and the productive who wish to will keep theirs and use it to produce something more.

The choice over where these titles end up will be entirely up to these new first-time owners. And as we saw above, when the coercion is removed and bargaining is all that's allowed, the tendency is for property to end up in the hands of the buyer who values it the most – ie., in its highest value use. This is not something planners (or DoC) can ever claim to have achieved.

Over time we would expect to see this land and water which was initially un-owned and unprotected (the main reason for problems like 'dirty dairying') used first to raise people out of poverty who are in urgent need of that boon, secondly to reduce the importance of tribalism, and finally (with covenants and easements still attached) the land and water rights will end up in the hands of those who value the land and the waterways the most: the owners who have most to gain from its protection.

In short, this is a privatisation even talkback callers can support.



And now, what I like to call ironically a 'Carbon Tax Plan.'

5. A Very Special Carbon Tax

We've all heard the litany: We're all gonna die. We're all gonna die because of man-made global warming. We "need" a carbon tax, urgently, to stop runaway global warming.

Really? How about a show of hands?

- Do we *really* have "runaway global warming" anywhere but in computer models?
- Is carbon dioxide *really* a pollutant? Doesn't it make plants grow?
- Do we *really* need a carbon tax to stop those 'nasty' emissions?

Interesting. Well, I'm proposing something to bring honesty to warmist science and warmist politics. Yes, it's a carbon tax. A *very special* carbon tax. A carbon tax that is a substitute for other taxes (yes, a condition of Libertarianz support would be the removal of another tax. Company tax for example. Or income taxes.)

But fear not, readers, there is a point to this madness.

What I'm actually suggesting is a proposal first put forward by Canadian Ross McKittrick, who was one of the fine chaps who pointed out that the infamous 'Hockey Stick' shaped temperature record promoted by the UN's body of eminent scientists was a fraud, and their claim about rapidly exploding late-twentieth century temperatures was without foundation.

McKittrick's proposal suggests *a carbon tax whose rate is linked to actual global temperatures* – specifically, it would be linked to the temperature of the tropical troposphere, which is precisely where the UN's scientists says the primary CO2 "fingerprint" is to be found.

Yes, it's a new tax, of sorts, but the proposal has a number of advantages, not least the diminution of one tax which looks like it is about to be imposed (in the form of an 'emissions trading scheme') and the removal of another that should never have been imposed.

It's a new tax that the Green Party should sign up to.

But it's a 'tax' with serious advantages to producers, since it calls the bluff of those who want producers strangled.

Because if the warmists are wrong, and temperatures go down, then it's not a tax, but a refund! But what warmist is going to be publicly able to accept the possibility that they are wrong?

Most of the advantages consist of focussing minds on the fact that proposals by the world's politicians to limit carbon emissions by fifty percent are blanket policies to strangle industry ... to say nothing of what Al Bore's proposed emission cuts of ninety percent would so.

This proposal should really focus minds on what warmists really want: do they want to attack what they say is the real problem of rising temperatures? Or do they just want to shackle and shut down industry? Do they really want "action" to fix what they say is a real problem, or do they just want government action to ban private action.

It's crucially important to keep industry free of the warmists' political shackles, and this unique carbon tax offers the prospect of doing that in the warmists' name.

Listen up, because this idea is just full of bonuses:

- First, it calls the bluff of warmists. If you really believe that temperatures are going to rise precipitately, then how could you reasonably oppose it -- surely, from the warmist point of view, that's a one-way bet, right?
- Second, it offers a genuine fiscal bonus. If the globe warms up we pony up, true, (but remember this is offset by the removal of another tax). But what happens if the globe cools as many solar researchers expect? That's right. If the globe cools, we all get a refund. "If models are right, then the tax would go up a lot," [points out economist Geoffrey Plauche], "but on the other hand, *if the tropical troposphere temperatures continue to decline -- as they have since 2002 -- then the tax would go negative and turn into a 'subsidy' on carbon emissions*. Of course, the alarmists are convinced this won't happen so it shouldn't be an obstacle to them endorsing the tax..." Like I say, let's use this to call their bluff.
- But that's not all. With carbon taxes linked to global temperature, people would begin to really focus on the actual measurements of global warming – on how the measurements are produced, what they actual temperatures are, and how closely (if at all) they correspond with predicted temperatures. They might notice too that the methods by which the surface temperatures are presently produced are seriously shonky – something in which the UN's scientists have shown little interest. After all, "shonky" is still "good enough for government work."
- There will be serious attention paid to this ongoing temperature figure, so much so that we might even see warmists forced to admit there has been no warming since 1998. We might expect to see the measurement recorded at the Stock

Exchange, and shown on the news each night right after the Dow Jones and the Nikkei, and for the same reason those figures are reported, and with the same pressures regarding accuracy and accountability.

- In a further wrinkle suggested by economist Arnold Kling and others, we would expect there to develop a futures market in the temperature indicator, with taxes, profits and predictions tied to the futures price in a way that rewards accurate forecasting instead of political horse-trading.
- Furthermore, all those computer models that predict warming (and since 1998 that's the only place we actually see any warming) – all those models would be under much closer scrutiny. And as Climate Science Coalition convenor Owen McShane points out, we'd expect to see the rise of real, non-government, climate experts to make real non-government sponsored predictions about where troposphere temperature is going, Those whose "predetermination and bias" always encourages them to predict "warmer" would soon lose their clients and their track record would be there for all to see. No doubt too these experts would be listed in the same pages as the share market and similar "real" information. As Owen says, "Augie Auer would be thrilled."
- Finally, as I said before this idea was originally proposed by Ross McKittrick (the chap who helped debunk the bogus IPCC hockey stick) so it already has serious credibility, and has received significant international attention. No harm at all in using that spotlight to help promote more freedom here.

And now, how to de-politicise the oceans ...

6. A Fishy Story

“The tragedy of the commons as a food basket is averted by private property, or something formally like it.” --Garret Hardin

“It is precisely those things which belong to “the people” which have historically been despoiled- wild creatures, the air, and waterways being notable examples. This goes to the heart of why property rights are socially important in the first place. Property rights mean self-interested monitors. No owned creatures are in danger of extinction. No owned forests are in danger of being leveled. No one kills the goose that lays the golden egg when it is his goose.”
--Thomas Sowell

NZ’s fisheries are at present what’s known as a “managed commons,” a system in which the ‘tragedy of the commons’ is limited only by bureaucratic management of property effectively held in common by all those who own quotas. The quota system is simply a system of rationing by bureaucrat, with no incentive for the bureaucrats who set the level of rationing to get it right, nor for quota holders to maintain the resource.

It’s not exactly working well. Just ask the fishermen whose livelihoods have just been destroyed by Jim Anderton’s ban on set net fishing.

The result has been politicisation of the fisheries, short term thinking from fishermen (rational in the circumstances), and pressure for even more government control of local fisheries.

I suggest we need a rethink. The best way to protect fish stocks and to protect the legitimate interests of fishermen is not through rationing or management by bureaucrats, but through property rights.

We know that when property is secure that property owners tend to look to their longer term interests: no reasonable property owner wants to destroy the goose that lays his golden eggs. When property rights are insecure however the situation is reversed: the greatest incentive with the short-term horizons created by insecure property rights is to grab what you can while the going is good.

Such has been the recent experience in NZ’s fishing industry where property rights are rationed by bureaucratic fiat, and we see claims of increasing bottom trawling and bycatch, and scary reports of decreasing fish stocks and a decimated fishery, which are all used in parliament as fuel to further restrict good fishermen.

The answer is not more politicisation, but less.

Think about it for a moment. There are extinct native birds; there are decreasing fish stocks; but there is no immediate likelihood of dairy or beef cows becoming extinct. There's a crucial difference here isn't there, one we need to step back into history to recognise. The difference is that farmers' property in their cattle is protected. That's the whole difference.

That hasn't always been the case historically, but it's only when farmers did first begin to protect their animals as property that the numbers of farmed animals began going through the roof. What we need to work out is how to do that with the fisheries.

Farmers have historically protected their property in their stock with methods such as barbed wire, brands and enclosed paddocks. Brands showed others who roaming animals belonged to, and barbed wire enclosed paddocks within which one's animals were protected by law. Both methods underscored the increase in farm production. Obviously, neither of these methods of protecting farmer's property in their stock works with fish at present (except perhaps with shellfish, for which water rights and seabed rights are necessary), but giving fishermen the opportunity to show reason WHY their ownership in a fishery should be recognised should be seriously considered.

If they have good reason and a good method by which others can recognise their rights in a fishery, then the law should protect those rights.

We can use the power of good law to promote the *technological* means by which law good law can be brought to bear on the problem. Think a bit more about the development of property rights in cattle, and how technology helped bring that about:

- The use of cattle brands was the first simple method enabling cattlemen to define ownership of their stock, which it was the law's job to protect, allowing them to plan and to grow their herds 'sustainably' in the full knowledge that their investment in the herd was protected. The better the legal protection, the longer term the investment and the planning that could be done. This is the reason that cattle rustling was treated so severely in the days when cattle still roamed the plains, and before barbed wire was invented.
- The invention of barbed wire revolutionised farming, allowing farmers to protect and define both their stock and their land across huge areas, allowing them to plan ahead and to protect both their herd and their land 'sustainably' in the full knowledge that their investment in herd and land was protected.
- Both inventions enabled the legal technology of property rights to be brought to bear to protect first the resource (by means of identifiable brands) and then the environment (by means of barbed wire).

What's needed now is the same thing to happen with the fisheries. If fishermen's own interests in fisheries and fish stocks are safeguarded, then every incentive exists for them to take the long term view.

What's needed with the fisheries is the maritime equivalent of brands and barbed wire so that fish stocks and fisheries are protected by those who have the most interest in protecting them: the fishermen themselves. What's needed is technology.

But politicians don't invent technology. They can't. The only technology they truly understand is a television camera. But what they *can* do is offer the protection of property rights to those who invent the technology we're after.

I suggest the best way to obtain what we want here is to invite the fishermen themselves over, say, a three year period to present methods either technological or otherwise by which their own interests in fish and fisheries may be objectively recognised and protected in law, and then commit to enact that protection. The politicians won't need to offer a reward to the inventor – the industry will do that themselves with the stampede of business created.

I predict an explosion in fish stocks, the depoliticisation of the fisheries, and a huge export market in the technology produced.

And now, the conclusion: a Kyoto Plan that makes private action possible...:

7. The Kyoto Plan for Tax and Regulation

Environmentalists and the world's governments are using global warming to bring back socialism and central planning. They all insist on 'action' -- but all the 'action' they propose is government action to ban private action. But we know that's never going to work. We know that socialism doesn't work at fifteen degrees, so why the hell will it work at seventeen?

Here then is one last suggestion that sums up the aim of all our seven policy planks so far. Here's a plan to explicitly clean up the *human* environment, using the language and policies of those who seek to shackle human industry in the name of the natural environment.

If you recall, when National's Simon Upton signed us up to the Kyoto Protocol in 1998, he was promising that New Zealand's government would sufficiently shackle our agriculture and industry so that by 2010 our carbon emissions would be back to 1990 levels, and we'd all be impoverished by the shackling. This was all supposed to save us and the earth's environment from man-made, climate-changing pollution, which by now was supposed to have become catastrophic.

Thank goodness for the Labour Government's incompetence and delay in introducing such a scheme (in the face of Nick Smith's constant bleating that they're moving too slowly), and for farmers who got out in protest at the ridiculous 'fart tax' that was an early effort at making something of Upton's promises.

Whether or not you accept either the science or the politics behind the whole Kyoto Protocol, what I propose quite seriously is a similar protocol to limit a far more serious and provably destructive pollutant: the pollution of big government, and the taxes and regulations by which they strangle us.

In short, I propose a 'New Kyoto': *a protocol that restricts taxes and the emission of regulations to 1990 levels by the year 2010.*

As we slide into recession, this protocol really is urgent. While the jury is still out on the possible destructive consequences of emissions of carbon dioxide, there is no doubt at all of the destructive consequences of the emission of new taxes and ever more intrusive regulations -- a plan to call a halt to their growth is long overdue.

Time to put a stop to the explosive growth in these emissions. 2010 works for me. Now would be better.

Explaining the principle on which this whole series is based ...

APPENDIX: Transitions to Freedom, or, Shall We Kill Them in their Beds?

Two bakers are talking politics. "How do you roll back the state?" asks the first. "One roll at a time," answers the second.

A poor joke, but good advice. If you're serious about rolling back the state, then you set your compass in the direction of more freedom and less coercion, and you start hacking a path in that direction through the overgrown thickets of the overbearing state one hard-fought step after another.

You want to head inexorably towards your goal, without ever taking a backward step.

You might start by preparing 'transitional policies' - policies that introduce more freedom and reduce coercion one machete stroke at a time.

Writing in *The Intellectual Activist* (July 1995), Robert Tracinski gives the necessary principle for formulating all such policies:

In judging a measure, one cannot hold it responsible for all aspects of a mixed economy - only for those aspects it changes. These changes can be evaluated by a straightforward application of the principle of individual rights: Does the reform remove some aspect of government control or does it add more control?...It is not a compromise to advocate reduced government control in one sphere even if controls in other spheres are left standing. It is a compromise, on the other hand, if one seeks to purchase increased freedom in one area at the price of increased control in another.

Ayn Rand explains Tracinski's point about the error of compromise: "When a man has ascertained that one alternative is good and the other is evil, he has no justification for choosing a mixture. There can be no justification for choosing any part of that which one knows to be evil." Why would you?

Clear enough then: Start with what you find, and design the means to work step by step towards your goal, without ever purchasing increased freedom at the expensed of increased coercion. This is what is meant by the phrase 'a ratchet for freedom.' If you're always moving towards freedom, with no new coercion introduced, then it's like working a ratchet that inexorably expands our freedom.

A principled opposition -- call them 'Party X' -- would promote such policies. An intelligent opposition would design such policies to be picked up and passed around. To be picked up and passed around (and to be worth passing around) the policy should pass what I like to call 'The Test of the Three Ps': it should be Practical, Principled, and arse-grabbingly

Provocative. Provocative enough to be passed around; Practical enough to be work;
Principled enough to move the game in the right direction.

The principle with each policy must be clear: More freedom with no new coercion.
Below are some examples of some policies that pass the test, but first, here's four proposals that fail:

- **Shall we kill them in their beds?**

How about this: presently, a strong case can be made for the proposal to kill the entire front bench of Government in their beds, along with the Leaders of all Opposition Parties and all the various Human Wrongs Commissars. Practical, and easily done (although I'd expect difficulties coordinating the overabundance of volunteers.) Certainly provocative – and strongly based on the principle of self-defence. A proposal I'm sure we could all live with, so to speak.

But as Tracinski says, we activists must beware of purchasing freedom in one sphere at the expense of increased controls in another - the subsequent police crackdown on the assassins would undoubtedly remove all the freedoms gained by such a move, and for that reason alone it should be shunned -- and I say that with some obvious sadness.

- **Flat Tax**

Here's another example of this same error. A "low flat tax" would reduce taxes for some, true, but this reduction would be purchased *at the expense of increased sacrifice by those whose present tax rates are below the chosen flat rate*. It's not the "low" part we have a problem with (at least as a temporary imposition), it's the "flat" part that would see taxes rise on those presently taxed less than the new flat rate. Far preferable is the Libertarianz transitional proposal to offer a threshold below which no tax at all is paid, along with the slow and gradual increase in the level of this threshold.

- **School Vouchers:**

The idea of school vouchers is popular (not least with the purveyors of twilight golf and the owners of Wananga o Aoteaora). Vouchers do purchase wider choice, it's true, but only at the expense of either bringing private schools even more under the Ministry's boot (as a once relatively free early childhood sector now understands), or of throwing the taxpayer's money away on bullshit. Best just to give the schools back and be done with it.

- **Cap & Trade & Fishing Quotas:**

For some reason these two are currently fashionable with some US free-marketeers, but it doesn't take much examination to realise both measures purchase the very minimum of freedom, if at all, and do so at the expense of increased bureaucracy and the effective nationalisation of industry and of fish stocks respectively – and in the case of 'cap and trade' sets a finite limit on industrial production. Even carbon taxes would be better than this. Tax credits even better.

So those are some failures. By contrast, here's two measures that do pass our test:

- **A 'Conscientious Objection' Tax Policy:**

A tax policy that recognises conscientious objectors would increase freedom and actively promote and engender the removal of controls and regulation.

Here's how it could work: The Conscientious Objection Tax Policy should allow an individual to opt out of paying for and using the government's die-while-you-wait health system, its factory schools, and its featherbedded welfare – our conscientious objector who opposes the theft required to pay for these multiple disasters agree to make his own arrangements for these (thank you very much), and in return to pay only 10% income tax!

At a stroke the objector is better off (and with no new government controls introduced), and like all good policies, the Conscientious Objection Tax Policy would have a flow-on effect, kickstarting an explosion of freedom in the currently stagnant Health, Education and Welfare pools.

Here's another intelligent transitional measure, the Transitional Drugs Policy proposed by Libertarianz drug spokesman, Dr Richard Goode:

- Why not make drug law both more rational and more free by legalising all drugs less harmful to health than tobacco and alcohol? Who could object, right? Even Jim Anderton and Jacqui Dean don't want to ban alcohol. Yet. (Although Jacqui isn't too sure about water). According to Britain's Lancet journal of medicine, under this standard we could immediately legalise for recreational use (in decreasing order of harm): Buprenorphine, Cannabis, Solvents, LSD, Methylphenidate, Anabolic steroids, GHB, Ecstasy, Alkyl Nitrites, Khat, and di-hydrogen monoxide.

On what rational basis could anybody object? More freedom, less government, safer drugs, less money going into gang leaders' pockets – and the apostles of moral panic challenged to explain the rational basis of their War on Drugs. Everybody except Jim Anderton and Jacqui Dean kicks a goal.