

Tree Thieves



By Brian Madigan

Now, you might think that I'm talking about people who steal trees. I'm not. I'm talking about trees that steal property for you!

Obviously, these are good trees to have! What they do is this. They take property that belongs to your neighbour and give it to you. They don't do it overnight, it takes a decade, but it works.

It doesn't work with a dog or cat. If you have a pet that goes next door and brings something that your neighbour owns back to you, you're stuck. You have to give it back. Your neighbour still owns whatever it was.

So, tree thieves can come in handy!

It takes a little bit of time, but they go next door, and basically stay there. After 10 years, while your neighbour is enjoying the shade, provided surreptitiously by the tree thief as a "foil", you acquire ownership rights to a portion of property that formerly belonged to your neighbour.

Here are the rules:

- 1) open,
- 2) continuous, and
- 3) undisputed.

These rules relate to "possession" of the property. As the tree leans over into your neighbour's yard, it can't simply take up air space. It has to interfere in some way with the boundary of the property at ground level.

So, let's assume that it knocks over the fence, or pushes the fence back out of its way at ground level. What happens here? Most of the time, people like trees, so no one objects. No one moves the fence back to its proper original position. It is an issue that is simply ignored. It happens so gradually that no one really pays that much attention.

However, after 10 years, the rights of adverse possession (squatter's rights at common law) apply and you would be entitled to make an application to the Court to have the new property line as established by your tree thief, confirmed. All you have to do is prove that the possession of the land was **open** (in full view of your neighbour), **continuous** (uninterrupted for 10 years) and **undisputed** (no lawsuits).

In the Middle Ages, animals could be charged with criminal offences. So, if your dog stole someone's property, your dog might be charged with theft, and on conviction might be sentenced to some form of servitude or even executed.

But, according to the common law, a tree is a plant, and although it is indeed a living thing, it cannot be charged with a criminal offence. So, it really could never be punished in any way, unless you were to consider chopping it down and turning it into a hardwood floor "punishment".

Nevertheless, as society matured, it was determined that animals really should not be charged with criminal offences. Now, some people might say, particularly the animal rights activists that that was a step backward. After all, they are now being treated just like "plants".

I really don't want to get into a debate over whether plants and animals should both be charged with offences under the criminal code, or whether they should both be above the law, and completely exempt and immune from prosecution.

However, all I can really say is look at this picture. Here are some great tree thieves. It took them over thirty years to steal the property from the next door neighbour, but they did it. First they sought out some sunlight, then their limbs grew bigger, then their trunk grew bigger, then they knocked over the fence and moved the boundary line of the property over to the furthest point they could possibly toss the fence.

You know what would be neat? A tree thief that could throw things!

That would be a good project for a botanist. I'm sure that would qualify for a government grant.

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