



Fast Facts

Two-thirds of Georgia's land area is privately owned commercial forest. This land use is highly protective of natural resources, particularly in comparison with other alternative uses.

Before there were any "environmental protection laws," common law property rights were the basis for innumerable court decisions that effectively protected natural resources from abusive misuse by reckless landowners.

One of the very first "environmental" court cases from the U.S. Supreme Court was *Georgia vs. Tennessee Copper Co.* (1907), in which Justice Oliver Wendell Holmes found for Georgia because Tennessee had allowed the Tennessee Copper Company's smelters to kill Georgia farmers' crops with air pollution.

For More Information:
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Protect Property Rights, Protect Natural Resources

What's at Stake?

Georgia is blessed in its natural environment with a wide variety of landscapes, literally from the mountains to the sea. While it lacks extensive fossil fuel resources, it boasts fertile soils in a variety of types that support an array of crop choices and forest types. Its water resources are among the world's more abundant, even during periods of drought. Georgia is also fortunate in having a legal heritage of common law property rights, a system of protecting each property owner's right to use and enjoy his or her property. That system rests on an equality of rights among owners. Each owner is secure from abuse by another owner's actions, no matter how large that neighbor's landholdings may be.

Property rights are often described as a "bundle of rights." There are different rights enjoyed by property owners. Some differ based on the property itself and others differ according to the use to which the property may be put, but the rights of each property owner are, as stated above, equal. A neighbor who owns one acre has the same right to be free from nuisances and other trespasses as those who may own hundreds of acres.

Property rights are essential components in determining and maintaining the value of property. The state's most abundant mineral resource is fresh water. Access to that water, from streams or lakes or from groundwater aquifers, is a vital property right enjoyed by most Georgians. In a case decided over a century ago, by the Georgia Supreme Court, it was found that the value of the property right to water connected to a particular piece of land can be found by comparing the value of that land to a similar piece of land without access to that water.

A property owner who chooses to cut and sell timber or dig and sell a mineral from the land has a right to do so. And if that person's neighbor prefers to leave the trees and rocks alone, that right is also assured. Each owner must respect the rights of the neighbor, regardless of the use to which the land is put – as long as that use is legal and does not impair the neighbor's use of his or her land.

If the timber cutting or the mining or road construction or any number of other "land disturbing activities," all of which are perfectly legal in themselves, are conducted in ways that harm the value of a neighboring property, like one downstream, then the person who is harmed has a right to recover his or her loss.

Challenges

Every legislative session produces bills that threaten property values by reducing the duty of property owners to protect the interest of their neighbors' land. These changes can be reducing stream buffer protections or making owners of contaminated sites less liable for damages.

Next Steps

Our state leaders must maintain constant vigilance in order to protect property values.