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# Law and Ecological Ethics Symposium: Introduction

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# LAW AND ECOLOGICAL ETHICS SYMPOSIUM

Each new day seems to present a fresh ecological disaster or threat. There is a crude Newtonian dynamic at work. For each new technological action, there seems to be an equivalent adverse reaction on the delicate equilibrium of ecosystems. Whether it be the ravages of acid rain or the slaughter of wild animals, there are constant and painful reminders of the fragility and finitude of ecological systems. More pertinently, such issues force the legal community to address its role and responsibilities in preserving and promoting the delicate ecological balance. In this regard, this symposium on law and ecological ethics is timely; the need to establish adequate and fruitful theoretical bases for political and legal action is paramount.

Although the ecological debate is perennial, the contribution of the legal community was for so long undistinguished. However, ten years ago, Christopher Stone<sup>1</sup> and Lawrence Tribe<sup>2</sup> injected a powerful dose of inspirational theorizing into environmental law scholarship. Both authors demanded a fresh approach to thinking about and responding to rampant environmental devastation; they advocated an extension of moral and legal rights to non-human entities. The intervening decade has underlined the seriousness of the predicament and the urgent need for coherent ecological philosophies. The modest ambition of the four symposiasts is to advance that debate. Despite their disagreement over appropriate directions for reform and progress, there is agreement that the ecological crisis is as much about ideas as action.<sup>3</sup> They share John Stuart Mill's view that there will be no great improvement in the general ecological condition until great changes take place in our modes of thought.<sup>4</sup>

The symposiasts agree that it is inappropriate to extend rights discourse to the ecological debate. As a self-styled "shallow ecologist," P.S. Elder argues that conventional legal and ethical theorizing, albeit in a more rigorous and invigorated form, can resolve ecological dilemmas; "careful analysis and tireless political action are both badly

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<sup>1</sup> *Should Trees Have Standing — Towards Legal Rights For Natural Objects* (1972), 45 S. Cal. L. Rev. 450.

<sup>2</sup> *Ways Not To Think About Plastic Trees: New Foundations For Environmental Law* (1974), 83 Yale L. J. 1315.

<sup>3</sup> See Perelman, *The Global Mind: Beyond Limits To Growth* (1976).

<sup>4</sup> Mill, *Autobiography and Other Writings* (1969) at 142.

needed."<sup>5</sup> The other contributors are less sanguine. Directing his attention to the current demand for a greater recognition of animal rights, Mark Sagoff teases out the contradictory and confusing moral basis for such claims. Indeed, he concludes that "[t]he liberationist . . . must be willing, in principle, to sacrifice the authenticity, integrity, and complexity of ecosystems to protect the rights . . . of animals."<sup>6</sup> Sagoff opts for a more holistic concern for nature. In a more radical essay, John Livingston contends that rights are a peculiarly human pre-occupation; to give rights to animals would only serve to extend human structures of power and domination. For him, the call for animal rights is humanistic imperialism at its hypocritical worst. Moreover, he maintains that environmental destruction "may have no remedies in the Western cultural tradition."<sup>7</sup> Finally, Paul Emond makes a modest, but constructive attempt to lay a "new" basis for environmental law. Inspired by, but ultimately rejecting, the ideas of Stone and Tribe, he argues that rights are essentially hollow. In place of the prevailing anthropocentrism, he advocates a co-operative approach: "dominance, control, and the ethic of need and greed must give way to empathy, tolerance and the ethic of care and share."<sup>8</sup>

In his own way, each author reaffirms the belief that there is nothing so practical as a good theory. If we are to stave off or respond sensibly to ecological disasters, we must radically re-think our own self-image. We cannot persist in our homocentric arrogance: we need nature much more than it needs us. In transforming ecological philosophy, we must strive for a gracious humility. A radically revised ecological vision of ourselves as humans-on-earth is the first step to putting the world on a better and more secure footing. Environmental despoilation is not simply the result of acid rain, but the way we think about acid rain. This symposium is devoted to the amelioration of that situation. The words of Paul Shepard eloquently define the challenge:

The conventional image of man, like that of the heraldic lion, is iconographic; its outlines are stylized to fit the fixed curves of our vision. We are hidden from ourselves by habits of perception . . . If nature is not a prison and earth a shoddy way-station, we must find the faith and force to affirm its metabolism as

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<sup>5</sup> Elder, *Legal Rights For Nature: The Wrong Answer To The Right(s) Question* (1984), 22 Osgoode Hall L. J. at 294.

<sup>6</sup> Sagoff, *Animal Liberation and Environmental Ethics: Bad Marriage, Quick Divorce* (1984), 22 Osgoode Hall L. J. at 304.

<sup>7</sup> Livingston, *Rightness or Rights?* (1984), 22 Osgoode Hall L. J. at 320.

<sup>8</sup> Emond, *Co-operation In Nature: A New Foundation For Environmental Law* (1984), 22 Osgoode Hall L. J. at 346.

our own — or rather, our own as part of it. To do so means nothing less than a shift in our whole frame of reference and our attitude towards life itself.<sup>9</sup>

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<sup>9</sup> "Introduction: Ecology and Man — A Viewpoint," in Shepard and McKinley, *Subversive Science* (1969) at 2-3.

