

Chicago-Kent Law Review

Volume 69

Issue 4 *Symposium on the Ecology and the Law*

Article 1

June 1994

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Chicago-Kent Law Review

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Recommended Citation

Chicago-Kent Law Review, *Table of Contents - Issue 4*, 69 Chi.-Kent L. Rev. i (1994).

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CHICAGO-KENT LAW REVIEW

VOLUME 69

1994

NUMBER 4

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Ralph Brill 843

SYMPOSIUM ON *ECOLOGY AND THE LAW*

FRED P. BOSSELMAN AND A. DAN TARLOCK
SYMPOSIUM EDITORS

THE INFLUENCE OF ECOLOGICAL SCIENCE ON
AMERICAN LAW: AN INTRODUCTION

Fred P. Bosselman 847
& *A. Dan Tarlock*

THE DANCE OF NATURE:
NEW CONCEPTS IN ECOLOGY

Judy L. Meyer 875

This article discusses five new and emerging concepts in modern ecology and considers how their application could alter our approach to environmental management, regulation and legislation. The concepts discussed are: (1) that natural systems are continuously changing; (2) that linkages are extensive in a landscape; (3) that indirect effects are significant; (4) that populations show the first signs of environmental stress; and (5) that organisms modify the environment. Ecology is a global discipline that considers the interrelationships between organisms (including humans) and physical, chemical and biological aspects of their environment. As such, its concepts are of relevance to the field of environmental law.

ADAPTATION OF ENVIRONMENTAL LAW
TO THE ECOLOGISTS' DISCOVERY
OF DISEQUILIBRIA

William H. Rodgers, Jr. 887

Professor Rodgers' article discusses how advances in the science of ecology undermine five bedrock practices of conservation land acquisition: methods of comprehensive rationality, concepts of the fee simple absolute, condemnation practices, set-aside theories of protected lands, and the parcel-by-parcel approach to acquisitions.

SOME PRINCIPLES OF CONSERVATION BIOLOGY,
AS THEY APPLY TO ENVIRONMENTAL LAW

Reed F. Noss 893

Conservation biology begins with the recognition that traditional approaches to conservation have failed and that a new, scientifically grounded strategy is needed.

This new strategy should be consistent with the nonlinear, cross-boundary realities of nature. Conservation biology is a mission-oriented discipline, in that it is based on the value assumption that biodiversity is good and ought to be preserved. Following this assumption, a distinct trend in conservation biology is a shift in the burden of proof from those who would protect nature to those who would despoil it. But while conservation biologists and other applied scientists accept the need for this shift, other forces in society resist it, and environmental law has not firmly incorporated it. Because nature is too complex to be understood fully, scientists need a set of working hypotheses or principles from which to proceed in the face of uncertainty. Some emerging principles of conservation biology are offered here, including general principles, principles of reserve design and management for imperiled species, and principles for ecosystem management.

**CONSERVATION BIOLOGY AND THE LAW:
ASSESSING THE CHALLENGES AHEAD**

Robert B. Keiter 911

The current legal system—based as it is upon politically defined boundaries, private property rights, a consumptive ethic, and single-resource management—runs counter to basic precepts of biodiversity conservation. Implementation of an effective biodiversity conservation policy will require a reordering of traditional priorities governing management of the public lands, a significant expansion in the existing system of preserved lands, and a meaningful commitment to management at the ecosystem level. While some changes might be accomplished administratively, major reform will ultimately require congressional action.

SUSTAINING ESD IN AUSTRALIA

Helen Endre-Stacy 935

Sustainable development in Australia has progressed since the federal government's 1989 response to *Our Common Future*. Ecology's insights of the blurred spatial and temporal boundaries in nature can help the legal praxis of ESD. This article draws upon these insights to suggest theoretical and legal institutional responses to environmental degradation.

**DECIPHERING "SUSTAINABLE
DEVELOPMENT"**

Christopher D. Stone 977

The vagueness in "sustainable development" springs less from intellectual tensions than from deep-rooted geopolitical conflicts between rich and poor nations. Rather than to disparage the term, we should recognize it as an invitation to make worthy advances in international diplomacy.

THE CHARLES GREEN LECTURE

**PRESIDENT CLINTON'S NATIONAL
INFORMATION INFRASTRUCTURE INITIATIVE:
COMMUNITY REGAINED?**

Henry H. Perritt, Jr. 991

In this article, Professor Perritt examines the relationship between communities and the new computer technology that has resulted in the national information superhighway. He addresses the role that the law and lawyers play in that relationship, focusing on what the law can do to minimize alienation of community members and what it can do to resolve novel problems created by technology. He explores ways in which electronic technology can facilitate dispute resolution by maximizing efficient, effective communication. Finally, Professor Perritt discusses the need for better integration and standardization of technology in order to maximize the benefits that technology can provide.

NOTES

REGULATING PUBLIC MONOPOLIES IN FURTHERANCE OF THE EEC FREE COMPETITION GOAL: ARTICLE 90 AND THE TWO-STEP APPROACH

Dana L. Romaniuk 1025

This note explores the EEC Commission's controversial use of Treaty Article 90 to eliminate public undertakings' exclusive rights. It discusses the Commission's present approach, and how the commission exceeds its regulatory role through this approach. The note concludes that the Commission should adopt—and the Court of Justice should return to—the two-step approach, which focuses on the distinction between the “existence” and “exercise” of the exclusive rights.

REGULATION OF NUCLEAR WASTE AND REACTOR SAFETY WITHIN THE COMMONWEALTH OF INDEPENDENT STATES: TOWARD A WORKABLE MODEL

Robert K. Temple 1071

This note summarizes the present physical and regulatory condition of nuclear reactor safety and nuclear waste in the former Soviet Union, concluding that conditions are deplorable and regulations are lacking. The note offers guidance for resolving both reactor safety and nuclear waste problems by identifying sources of technological and economic aid, and by examining the practices of international and European Community regulatory and assistance agencies.

RACE-CONSCIOUS CHILD PLACEMENT: DEVIATING FROM A POLICY AGAINST RACIAL CLASSIFICATIONS

Myriam Zreczny 1121

This note assesses the constitutionality and practical repercussions of considering race in child placement proceedings. After examining placement agency policies, judicial decisions, and sociological studies, the principal conclusions are that race-matching policies and preferences cannot endure strict constitutional scrutiny, and that such policies are often at odds with both a child's best interest and a forward-looking society. Therefore, race-conscious child placement is both legally and practically impermissible.

CHICAGO-KENT LAW REVIEW

Chicago-Kent College of Law Illinois Institute of Technology

PUBLISHED BY THE STUDENTS OF
CHICAGO-KENT COLLEGE OF LAW
ILLINOIS INSTITUTE OF TECHNOLOGY
565 WEST ADAMS STREET, CHICAGO, ILLINOIS 60661

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