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## Remarks on the Funding of the Environmental Law Journal

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## FOREWORD

### REMARKS ON THE FOUNDING OF THE ENVIRONMENTAL LAW JOURNAL

JOSEPH C. SWEENEY\*

As you know, in December the Fordham faculty voted to extend Journal status — which includes academic credits and financial stipends — to the Environmental Law Report, officially recognizing the publication as a law *journal*. A day of celebration is in order as the Fourth Board of Editors of the Fordham Environmental Law *Report* passes on their duties to the new Board of the Environmental Law *Journal*. It was only your hard work in publishing the Environmental Law Report — through dreary hours of footnoting drudgery — that you were able to convince Faculty skeptics that you had the commitment necessary to sustain a Fordham Journal.

When the first group of zealots, led by John Tsavaris, Derek Adler, Michael Guzzo, Julie Moran and Phil Hirschorn agitated for this journal back in 1987, the Faculty was opposed to any new journals. Dean John D. Feerick came to the rescue and offered to fund a symposium out of which the first issue was to be drawn. The Dean's offer, however, was not picked up, and in response to the student's plea, I transformed a talk I had given on Environmental Protection into an article. Nonetheless, we have always been fortunate — and blessed — to have the strong support of the Dean.

Finally, after several false starts, Volume 1 No. 1 of the Environmental Law Report appeared in February 1989 because of the blood, sweat and tears of Bruce Aber and his Board of Editors. Since then, six books have appeared under the Editors-in-Chief Brita Forsberg, Cynthia Carney Johnson, and Andrew Newman.

We cannot rest on these past achievements. Our job for the future includes the hard work of study, analysis and writing to produce a Journal that can be relied on as being fair and accurate. Because a legitimate law school Journal sells *ACCURACY*, the need for countless footnoting assignments becomes apparent. In addition, we must convince the Faculty that it is urgent for our school to have a full time professor of environmental law — one from whose basic work an adjunct faculty can develop their specialties.

Because the field of Environmental Law is still in its initial stages, your work is performed in the dawn of this intellectual discipline. In point of fact, when I was a law student, the only place in the law

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school curriculum where the student encountered issues which we call "environmental" was in the Torts course under the heading of *Nuisance*. Most of the cases were brought by private citizens who faced enormous court-created hurdles to get even minimal restraints on commercial polluters who had persuaded courts and legislators of their *right* to pollute the environment.

Thus, public awareness of environmental damage, which in turn has led to political action, is a product of only the last thirty years. In 1962, Rachel Carson published the most effective environmental tract ever — her book "Silent Spring" captured a large audience suddenly aware that Spring had become *silent* because of the millions of songbirds killed by DDT. That same year, the eyeball-to-eyeball confrontation of the US and USSR in the Cuban Missile Crisis of 1962 opened the minds of most people to the dangers of Nuclear War and Nuclear Testing in the atmosphere. An end to most of this kind of weapons testing was brought about in the Nuclear Test Ban Treaty of August 1963.

However, in the late 1960's, agitation about environmental problems joined other issues — the Vietnam War and the drive for racial equality — to discomfort politicians of both parties. Nevertheless, the new Nixon administration found that concern for the environment was the *least* divisive of its problems, and in 1969, Congress enacted and the President signed the National Environment Policy Act (NEPA) to give a high priority to environmental concerns whenever the US government proposes action which could effect the human environment.

To administer federal programs dealing with the environment, the Federal Environmental Protection Agency was created in 1970. Unfortunately, the highest levels of the EPA have sometimes been occupied by politicians *hostile* to the work of the agency. But at present, the EPA seems able to enforce the laws as Congress intended.

This history has brought us to Fordham's interest in Environmental Law. In 1970, Dr. Ludwik Teclaff, now Professor Emeritus, began to teach a course in Environmental Law. (He would later attend the 1972 Stockholm Conference on International Environment as an expert in water law.) Thus Fordham Law School actively recognized and taught a course in the field continuously since 1970. And when enthusiastic students formed the Fordham Environmental Law Council in 1970, we saw the birth of the *Newsletter*, a pamphlet occasionally published by the Council.

Thus, our celebration tonight rests on the shoulders of many nameless men and women — zealots for Environmental Law. We salute them, and *all* those whose names are recorded in the six issues of the Fordham Environmental Law Report.

So, farewell to the Report, and three cheers for the Journal!