

Foreword

AS PAUL EMOND NOTES in the retrospective essay that opens this special issue, the leaders of the early environmental law movement in Canada have passed the torch to a new generation of environmental law activists, practitioners, and scholars.¹ Many of the environmental problems that animated the early environmental law movement have also given way (in the public minds of the advanced industrialized democracies at least) to a new generation of environmental problems. These new problems are typically more pervasive, invisible, insidious, and intractable than the stationary, point-source industrial pollution that provided the archetype for environmental law in the 1970s. As a result, environmental law activism, reform, and research have had to strike out in new directions to gain traction over these new—or at least newly recognized—problems.

In these pages, a new generation of environmental law scholars, mostly from Osgoode Hall Law School, grapples with this new generation of environmental law problems. Ben Richardson confronts the problem of the “unseen polluters” of the financial sector—the banks, mutual funds, and pension plans that finance polluting companies—and urges us to expand the conventional menu of environmental regulatory instruments by reforming the law of fiduciary duties to harness, regulate, and foster socially responsible investment.² Dayna Scott takes us downstream, literally and figuratively, to the “unseen pollutees” of an Aboriginal community living with chronic pollution from Ontario’s Chemical Valley. She tackles the emergent problem of “gender-bending” chemicals with a combination of new socio-legal perspectives on risk,

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1. D. Paul Emond, “‘Are We There Yet?’ Reflections on the Success of the Environmental Law Movement in Ontario” (2008) 46 Osgoode Hall L.J. 219.
 2. Benjamin J. Richardson, “Putting Ethics into Environmental Law: Fiduciary Duties for Ethical Investment” (2008) 46 Osgoode Hall L.J. 243; see also Benjamin J. Richardson, *Socially Responsible Investment Law: Regulating the Unseen Polluters* (Oxford: Oxford University Press, 2008).

precaution, chronic legally permitted pollution, environmental justice, and community-driven research and activism.³ Lynn Johannson and I explore another neglected facet of environmental law: the relationship between official environmental regulation and voluntary standardization.⁴ Finally, Katie Black and James Wishart, two new and capable environmental law scholars from the University of Ottawa, examine how the novel problem of the regulation of transgenic crops might be resolved by applying the ancient common law doctrine of cattle trespass.⁵

These articles represent only a tiny fraction of the exciting new directions in, and daunting new challenges for, Canadian environmental law. When we consider the magnitude and urgency of the contemporary challenge of redirecting human society toward social and ecological sustainability, we can take inspiration from the energy and accomplishments of the activists and scholars that have preceded us. As Paul Emond reminds us, we are standing on very broad shoulders indeed.

Stepan Wood
Guest Editor

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3. Dayna Nadine Scott, "Confronting Chronic Pollution: A Socio-Legal Analysis of Risk and Precaution" (2008) 46 Osgoode Hall L.J. 293.
 4. Stepan Wood & Lynn Johannson, "Six Principles for Integrating Non-Governmental Environmental Standards into Smart Regulation" (2008) 46 Osgoode Hall L.J. 345.
 5. Katie Black & James Wishart, "Containing the GMO Genie: Cattle Trespass and the Rights and Responsibilities of Biotechnology Owners" (2008) 46 Osgoode Hall L.J. 397.