

THE ENVIRONMENTAL LAW SOCIETY AND THE INSTITUTE FOR LEGAL RESEARCH
present

“CAN THE COMMON LAW PROTECT THE GLOBAL COMMONS?”



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Frustrated by the U.S. government's failure to act to combat global warming and climate change, several states are seeking to use the federal common law of nuisance to require major electric utilities to reduce their emissions of greenhouse gases. Last year a federal district court dismissed their lawsuit on the novel ground that it raised a political question unsuited to judicial resolution. Yet early in the 20th century, the U.S. Supreme Court used federal common law to issue its own injunctions limiting emissions of air and water pollutants and requiring cities to build sewage treatment plants and garbage incinerators. Examining this history, Professor Percival explores why the Court has largely abandoned the federal common law of nuisance and the difficult issues raised by new efforts to employ it to protect the global commons.

Robert Percival is the Robert F. Stanton Professor of Law and Director of the Environmental Law Program at the University of Maryland School of Law. He joined the Maryland faculty in 1987 after serving as senior attorney for the Environmental Defense Fund. Prof. Percival served as a law clerk for Judge Shirley M. Hufstedler of the U.S. Court of Appeals for the Ninth Circuit and for U.S. Supreme Court Justice Byron R. White. Prof. Percival also served as a special assistant to the first U.S. Secretary of Education.

Prof. Percival is internationally recognized as a leading scholar in environmental law. He is principal author of the country's most widely used casebook in environmental law, *Environmental Regulation: Law, Science & Policy*. He has written extensively on several topics, including environmental law, regulatory policy, federalism, presidential powers, and legal history.

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