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Citation: 14 Hastings W.-Nw. J. Env't'l L. & Pol'y 17 2008



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Thu Nov 13 16:49:45 2014

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Professor Joseph L. Sax, Visionary Lawyer

A. Dan Tarlock*

Along with all law professors and lawyers, many of them students of Joe's, who teach and practice in the areas of environmental protection and natural resources management, I have been inspired by Joe Sax. I first encountered him in the form of his seminal 1964 article in the Yale Law Journal, *Takings and the Police Power*, and then in person during his first U.C., Berkeley visit and he has been a constant, major influence throughout my career. His scholarship, countless speeches and lectures and many dinner conversations and encounters across the country have served for more than four decades as a persistent inner voice telling me to think an issue or position through again because it is much more complicated and nuanced than I first thought and, in Bernard DeVoto's now quaint phrase, to "run it through the typewriter again"—and again and again before exposing a piece of scholarship see the light of day. And, as is the case with so many others, I have had to live with the reality that I will never equal the power or depth of the analysis that Joe has maintained in his scholarship from the beginning of his career to the present.

Behind the many substantive contributions that Joe has made to environmental, property, water and land use law is a vision of the role of law and especially courts in the legal system that has justly garnered him international recognition including his most recent and well-deserved honor, the 2008 Blue Planet Award. Joe has consistently combined an appreciation of how our changed perceptions of nature call for new legal regimes to implement a new relationship between humans and the natural environment with the highest level of legal analysis. His scholarship has constantly taught us to look for the seams in legal regimes designed to fulfill the admonition of Genesis to go forth and

* Distinguished Professor of Law, Chicago-Kent College of Law, A.B. 1962, LL.B. 1965, Stanford University.

subdue the earth to see how law can help us make the transition to its stewards. He has both transcended and honored the "tough law" tradition of his law school alma mater, the University of Chicago School.

Today, many in the legal academy argue that the secret to how the legal system works (or should work) lies outside the law in disciplines such as economics, political science or sociology. Joe reflects an older, and I think better, tradition which recognizes that law is the product of many external forces which must be understood. His scholarship reflects the recognition that law can draw on many sources as it responds to changing conditions. However, because law must do the heavy work of deciding which behavior to encourage and reward and which to discourage and sanction, all law, backward or forward looking, must be grounded in legitimate principles of fairness, and judicial reform must stay within the limits of the accepted functions of courts. His vision of the public trust as a tool to promote more deliberative and transparent natural resources decision making is visionary and forward looking at that same time that it is grounded in historic limitations on the enjoyment of property and consistent with the relationship between the judiciary and the other constitutional branches of government. This is the reason that his justly celebrated original contribution to domestic and international environmental law has traveled the world and landed in places from Hawai'i to South Africa.

Congratulations Joe, and thank you for all that you have given the legal profession. Do not move from your word processor.