The Washington Post Democracy Dies in Darkness

Christopher Stone, environmental scholar who championed fundamental rights of nature, dies at 83

By Emily Langer

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Christopher D. Stone, a legal scholar who argued in a seminal 1972 paper that trees, rivers, oceans and nature itself possess fundamental legal rights, an argument that won notice at the U.S. Supreme Court and entered the bedrock of the modern environmental movement, died May 14 at an assisted-living center in Los Angeles. He was 83.

The cause was Parkinson's disease, said his wife, Ann Pope Stone.

Mr. Stone, an emeritus professor at the University of Southern California's Gould School of Law, was regarded as a father of environmental law. A son of the muckraking journalist I.F. Stone, he trained at Harvard and Yale and entered academia just as the field began to come into its own with the passage of landmark legislation including the National Environmental Policy Act of 1969, the Clean Air Act of 1970 and the Clean Water Act of 1972.

Mr. Stone first gained renown with a 1972 article published in the Southern California Law Review and titled "Should Trees Have Standing? — Toward Legal Rights for Natural Objects." ("Standing" is a legal term for a party's right to bring suit in court.)

The question, by his own admission, might at first glance have seemed the musings of a "zany professor." But it was cited by U.S. Supreme Court Justice William O. Douglas in a noted 1972 dissent and reverberated in legal and environmental circles for decades.

"Few law professors write anything of interest to the general public. And those [who] do might, if they are lucky, capture the public's attention for a year or maybe two. Chris is the unicorn in the legal academy who at the beginning of his legal career wrote [a] law review article that remains a classic" half a century later, Richard J. Lazarus, a Harvard Law School professor, wrote in an email.

In his article, Mr. Stone posited that elements of the natural world had rights independent of any purpose those elements might serve for humanity.

For example, under existing law, a person could challenge the pollution of Lake Erie only by demonstrating that he or she had been poisoned or otherwise harmed by the pollution, explained Jan Laitos, an environmental scholar at the University of Denver's Sturm College of Law. In Mr. Stone's view, Laitos said, "Lake Erie has value by itself" and thus should have standing to assert its rights in court.

The accordance of rights to a party other than a human being, however perplexing it might seem, belonged to a long-standing legal tradition, Mr. Stone noted.

"The world of the lawyer is peopled with inanimate rights-holders," he wrote, listing "trusts, corporations, joint ventures, municipalities . . . and nation-states, to mention just a few. Ships, still referred to by courts in the feminine gender, have long had an independent jural life."

"I am quite seriously proposing," he continued, "that we give legal rights to forests, oceans, rivers and other so-called 'natural objects' in the environment — indeed, to the natural environment as a whole." These rights, he proposed, would be asserted by a recognized guardian, much as the law allows for guardians of children, incapacitated adults and others who have rights but require someone to speak on their behalf.

As Mr. Stone formulated his argument, a lawsuit, *Sierra Club v. Morton*, was making its way through the courts. At issue was a $35 million Walt Disney resort to be built in the Mineral King Valley of California's Sierra Nevada. The Sierra Club, the conservation organization, sued to prevent its construction.

When the case reached the Supreme Court in 1971, the question before the justices was whether the Sierra Club had standing. In 1972, the court ruled 4 to 3 that it did not because the club had not proved its members would suffer direct injury as a result of the resort, whose construction ultimately was abandoned. But Douglas issued a vigorous dissent, still celebrated among environmentalists, that cited Mr. Stone's paper.

"The critical question of 'standing' would be simplified . . . if we fashioned a federal rule that allowed environmental issues to be litigated . . . in the name of the inanimate object about to be despoiled, defaced, or invaded by roads and bulldozers and where injury is the subject of public outrage," Douglas wrote.

Noting, as Mr. Stone did, that entities such as corporations and ships were sometimes regarded as persons under the law, he wrote that "so it should be as respects valleys, alpine meadows, rivers, lakes, estuaries, beaches, ridges, groves of trees, swampland, or even air that feels the destructive pressures of modern technology and modern life."

The dissent attracted some ridicule — including a bit of doggerel published in the American Bar Association Journal:

If Justice Douglas has his way —

O come not that dreadful day —

We'll be sued by lakes and hills

Seeking a redress of ills . . .

How can I rest beneath a tree

If it may soon be suing me?

But the justice's argument percolated among legal scholars, as did Mr. Stone's thesis, which he expanded into a book in 1974.

"What he was basically asking was how should the natural environment be represented in court," Robin Kundis Craig, an incoming professor at the USC law school, said in an interview. "Did it have a right to be there on its own merits, so to speak, or was this really all about humans? It was an important question, and it's a question that hasn't gone away."

With the expansion of environmental protection laws, most activists did not pursue the recognition of independent rights for nature as a core element of their legal strategy. U.S. courts have generally looked askance at the argument.

Over the years, though, a number of American municipalities — Pittsburgh and Santa Monica, Calif., among them — as well as countries including Ecuador, New Zealand and India have produced ordinances, laws and court rulings asserting rights of nature.

Mr. Stone's argument, Lazarus said, "is certainly at the very least a constant source of inspiration for a lot of environmental movements."

Christopher David Stone was born in New York City on Oct. 2, 1937. His father was best known for penning an anti-establishment newsletter, I.F. Stone's Weekly, with his wife, the former Esther Roisman, his principal assistant.

Mr. Stone received a bachelor's degree in philosophy from Harvard University in 1959. On the train home after graduation, he happened to be seated next to a law professor who asked Mr. Stone what he planned to do with his life. When Mr. Stone confessed that he did not know — "philosophy majors never know what they're going to do," his wife joked — the passenger suggested that he study law. Mr. Stone applied to Yale Law School, was accepted and graduated in 1962.

He practiced briefly with the New York firm of Cravath, Swaine and Moore before joining USC in 1965. He retired in 2013 after teaching on subjects including business organizations, property and globalization in addition to environmental law.

"It was Chris's perspective on corporate law that allowed him to consider how if the law could be stretched to recognize the rights of a corporation, then why not with even more force a river, wildlife, or a beautiful vista," Lazarus observed.

Dr. Stone's books included the volumes "Where the Law Ends: The Social Control of Corporate Behavior" (1975), "Earth and Other Ethics: The Case for Moral Pluralism" (1987) and "The Gnat Is Older Than Man: Global Environment and Human Agenda" (1993). Two decades after the publication of his noted law review article, he published the volume "Should Trees Have Standing? And Other Essays on Law, Morals and the Environment" (1996).

Besides his wife of 58 years, Mr. Stone's survivors include two children, Jessica Stone and Carey Stone, all of Los Angeles; a sister; and two grandchildren.

Mr. Stone's wife said that he was not a "tree hugger," as the term is generally understood, and that he was driven principally by the intellectual aspects of environmentalism. But it was also true, she recalled, that when they decided to expand their home, they opted for a small addition instead of a larger one, because they could not abide the thought of losing the loquat tree that otherwise would have been destroyed.

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