

1-28-2018

From Little Acorns

Nicholas A. Robinson

Elisabeth Haub School of Law at Pace University

Follow this and additional works at: <http://digitalcommons.pace.edu/lawfaculty>



Part of the [Environmental Law Commons](#), and the [Natural Resources Law Commons](#)

Recommended Citation

Nicholas A. Robinson, Univ. Professor on the Env't & Gilbert and Sarah Kerlin Distinguished Professor of Envtl. Law Emeritus, Writing Nature, Inaugurating a Seasonal Program of Readings of Nature Writings (Jan. 28, 2018) <http://digitalcommons.pace.edu/lawfaculty/1083/>.

This Article is brought to you for free and open access by the School of Law at DigitalCommons@Pace. It has been accepted for inclusion in Pace Law Faculty Publications by an authorized administrator of DigitalCommons@Pace. For more information, please contact cpittson@law.pace.edu.

From Little Acorns

A Lecture by Nicholas A. Robinson

Inaugurating **WRITING NATURE**
A Seasonal Program of Readings of Nature Writings

Under the Shared Auspices of

The Teatown Lake Reservation

And

The Hudson Valley Writers Center

at

The Hudson Valley Writers Center, Sleepy Hollow, New York

January 28, 2018

HUDSON VALLEY WRITERS CENTER – TEATOWN LAKE RESERVATION

WRITING NATURE

A Lecture Inaugurating the Program of Seasonal Readings With Authors
Who *Write Nature*

January 28, 2018

From Little Acorns

Nicholas A. Robinson

University Professor for the Environment
Elisabeth Haub School of Law at Pace University

Our oak trees surprised us all. This autumn they were in full leaf until nearly the Solstice. Maples, American beech, birch and dogwood blushed crimson and shed their yellowed garments in early October. Our mulberry usually drops all of its still green leaves with the first frost, but the prolonged Indian Summer of 2017 provoked desultory behavior. Spit fully, the mulberry cast off small clutches of its foliage, week by week.

These leaves I know. I rake each fall. The oaks shed last of all. In moments of respite, I lean on my bamboo rake, my eyes wandering over the mélange of textures and hues at my feet. Henry David Thoreau took delight in this fall foliage. In his final essay, "Autumnal Tints"¹ which he sent to be published in 1862, Thoreau conjures up his admiration of the scarlet oak: "Stand under this tree and see how finely its leaves are cut against the sky, as it were, only a few sharp points extending from a midrib. ... I am again struck with their beauty, when, a month later they thickly strew the ground in the woods, piled one upon another under my feet. They are brown above but purple beneath."²

By design, half our homestead is wooded. Forest litter is left to accumulate, in sympathetic resonance with the more expansive woodlands nearby in the hills of the Pocantico River. Those who built our house on the eve of the Great Depression did so around these oaks, as if a shelter to the new building. Our Hudson River neighborhood, Philipse Manor in Sleepy Hollow, abounds with oaks.

I rake only over the gardens, driveway, paths and modest lawn. Raking grounds me. Gathering leaves in early November, I marveled that the oaks were still in leaf. The pull of the rake is methodical. My mind wanders as I savor the brown-

¹ Published posthumously in *The Atlantic Monthly* (November 1862). Thoreau had died in May of 1862. Thoreau first presented his essay as a lecture in Lynn, Massachusetts, in 1859. Richard Higgins, *Thoreau and the Language of Trees* at pp. 80-81 (University of California Press, 2017).

² Henry David Thoreau, *Autumnal Tints*, republished in Robert D. Richardson, ed., *October, or Autumnal Tints* (W.W. Norton & Cop., 2012), at pp. 99-100.

grey trees trunks silhouetted against a blue Hudson Valley sky, now brightening with streaks of late afternoon sunrays. Not infrequently, I think like a tree. When I share a moment with the oaks, it is but a temporal instant not recorded in any oak tree rings. Oaks can live 400-500 years.

Oak trees will outlast me by decades. Their lineage is in acorns past, from the mists of time. After the last Ice Age they populated many northern regions. Their kind will evolve further as each year they push their acorns and spent leaves out in favor of buds and new verdure. Virgil and Pliny celebrated oaks. Romans crowned their heroes with oak leaf garlands. Since before the Norman Invasion in 1066, commoners in England exercised a right (*pannage*) to drive their pigs into royal forests to feed acorn mast. Here, the Weckquaesgeeks, Wappinger Algonquians of the Tappan Zee, gathered and ground their acorns to make flour. One bountiful year, I did the same and produced acorn cookies. This year, our oaks produced few acorns.

I approach gathering leaves more as a meditation than as a task. But December was a tough taskmaster. Returning last December from environmental law deliberations in the *Mata Atlantica*, that ever-green tropical rainforest around Rio de Janeiro in Brazil, a spectacle greeted me. On the hill that I share with my neighbors, eight mighty oaks were unleashing a cascade of leaves, torrents inundating all below in an arboreal blanket six inches deep. Oaks in nearby woodlands did the same. What bio-chemical stimulus triggered this sudden severing of leaf from twig and branch? What was this synchronicity of instincts, tree after tree?³ So late in the year? Was this a portent of climate-altered autumns yet to come?

Musings aside, I was tasked with the urgency of raking on Christmas Eve, for snow was forecast. I marveled again at exposed trunks and bare limbs. Their majesty recalled similarly venerable oaks. In early October, my wife, Shelley, and I had wandered through England's Forest of Dean. Generations of oaks in Dean had supplied the British Navy. The Armada had orders to destroy Dean's oaks, but fate saved them. To furnish Britain's navy, later Lord Nelson ordered a massive planting of acorns, oak planks being needed for future generations of ships. Fate saved the trees again, as steam and steel relieved seafaring vessels of their dependence wood.

Here in Dean, since the 12th century, an ancient Court of Verderers defends the "liberties of the forest." The lineage of ceremonial Royal Oaks outside the Verderers' courtroom in Speech House can be traced to trees planted by Elizabeth I. The Court still invokes the *Forest Charter of 1217*. For several years I have been studying this history of this *Carta de Foresta*. It was written on vellum, each word penned with iron gall ink, produced from oak tree galls. Most likely, the vellum was from sheep that commoners grazed in royal forests, exercising their right of

³ Peter Wohlleben, *The Hidden Lives of Trees – What they Feel, How they Communicate* (Random House 2015).

pasturage. My modest perambulations of Dean were a part of my field research into how law had been able to sustain forest ecosystems across 800 years.

Along the Hudson, we boast oaks greater than those in Dean. Two hug the carriage path in Rockwood Hall. Predating the coming of the Dutch, each tree is a link across time. Near the Hudson Valley Writers Center once stood *Hokongas* (also rendered *Hokohonkgus*), an ancient American Chestnut tree revered by the Weckquaesgeeks. Our indigenous predecessors gathered for harvest ceremonies under its spreading bows. In the early 1900s, Chestnut blight obliterated most of these trees. The seasoned walls of the reading room, where we are gathered in the Writers Center, are paneled in American Chestnut.

Why does oak (*Quercus ssp*) persist where other trees diminish? Its evolved tannin wards off harmful fungi and insects. We delight in this tannin's taste. Oak wood barrels age our wines, and our single malts. But surely there is more to the longevity of oak than this. What human and ecological forces are at work?

Such ruminations come uninvited while I am raking leaves. I rake when it is quiet, when none of the infernal combustion engines of the "leaf blowers" breach the peace. Being tasked to collect leaves obliges me to take – to make – the time *to see*.

Thoreau, like all those who write nature, invites readers to make the time to be with nature. In *Autumnal Tints*, Thoreau observes: "There is just as much beauty visible to us in the landscape as we are prepared to appreciate, - not a grain more. The actual objects which one man will see from a particular hill-top are just as different from those which another will see as the beholders are different. The Scarlet Oak must in a sense be in your eye when you go forth."⁴

Writing Nature, then, is about seeing through the authors' eyes. Teatown Lake Reservation and the Hudson Valley Writers Center invite us to learn how different writers live attentively in the "wild." Their insights invite us into their realms of nature. This is not mere amenity. Much is at stake. It was in his essay *Walking* (1862),⁵ that Thoreau declared: "In wildness is the preservation of the world."

"Wild" is found is where nature persists. Each oak tree is wild. Earth's flora and fauna are not human creations. Charles Darwin explored to Galàpagos and back, then settling for forty years in Kent at Down House, where his experiments confirmed the universal force of evolution.⁶ One need not travel to find the wild. My

⁴ Thoreau, *Autumnal Tint*, op cit., at 110.

⁵ Delivered as a lecture in 1851 posthumously at the Concord Lyceum, and published in *The Atlantic Monthly* in 1862. See. <https://www.walden.org/wp-content/uploads/2016/03/Walking-1.pdf>. Thoreau reworked this essay between 1850 and 1860, delivering it ten times as a lecture.

⁶ Charles Darwin published *On the Origin of Species By Means of Natural Selection* (1859) as Thoreau's writing life was ending. In his correspondence, Darwin employed iron gall ink, made from oak galls. On Darwin's bicentenary, the London Museum of Natural History planted Darwin clumps of

beehives are evolved wild societies. The ecology of the forest floor beneath the leaves is wild. Is it not hubris to call the wild “mine” or “ours”? At the beach in summer, we behold an oceanic realm of still unexplored marine biodiversity, a wilderness off shore. We co-evolved with Earth’s flora and fauna and have much to learn from them.

Writers of nature are essential interlocutors with this non-human wild. Our attentiveness to nature is multidimensional and often conflicted. What we look for we find: beauty, scientific knowledge, spiritual dimensions, adventure or utilitarian discoveries. We both cultivate and exploit nature. The 47 manuscript volumes of Thoreau’s Journal and his published essays illustrate uncomfortable tensions. He was once a skilled land surveyor, whose work facilitated the market place in land as real estate; the explorer whose negligence once started a forest fire; the consumer of the bounty of nature; a naturalist and meticulous observer and recorder of natural phenomena, whose findings are still valuable to scientists today; and a transcendentalist who found in nature the divine. Is Earth our garden or our refuse dump?

Writing Nature will confront us, uncomfortably, with our competing visions of nature.

During his bicentennial year, Thoreau is an honored archetype for **Writing Nature**. He did not invent the genre. He acknowledged his own inspiration from the poems of William Wordsworth and Robert Burns. Above all, it was Ralph Waldo Emerson’s essay *Nature* (1836)⁷ that emboldened Thoreau to explore the world and write. Emerson’s seminal first work equally inspired John Muir and John Burroughs. Emerson’s first writing set the stage for these two 19th-century writers of nature, who foresaw our earthly predicament today.

Each generation reads Thoreau with contemporary eyes. Professor William Howarth reflects that in *Walden, or A Life In The Woods* (1854), “Thoreau is a prophet of the Anthropocene. His awareness that Walden was lovely yet broken speaks to our moment, when PCBs and Spam cans foul the Mariana Trench, Antarctica melts, pollinator drones may replace dying bees, and the cumulative weight of industrialism deforms the Earth’s surface.”⁸ Thoreau feared we would lose our unified comprehension of the cosmos as we disaggregated knowledge into specialties and technological applications. Are we blind to the consequences of our use of nature? Do we see and find only what we look for?

three-year old oak trees and commissioned a sculpture of a 200 year old oak tree, inspired by Darwin’s tree of life. See

<https://evolution-outreach.springeropen.com/articles/10.1007/s12052-012-0403-4>.

⁷ *Nature*, first published without authorship disclosed in 1836 (James Munroe and Company, Boston). On line at <https://archive.org/details/naturemunroe00emerrich>

⁸ William Howarth, “Reading Thoreau at 200,” *The American Scholar* 44 at 53 (Phi Beta Kappa), (summer 2017).

Those who write nature would take the scales from our eyes, and oblige us to see. In establishing this series of readings **Writing Nature**, The Hudson Valley Writers Center and Teatown Lake Reservation act on impulses akin to Thoreau's. Having planted this small acorn of a new program, we shall watch it grow, nourished by its inner drive.⁹

Like Thoreau, John Muir rebelled at the prospects that humans could desecrate nature. His enormous literary opus moved the nation.¹⁰ His studies of glaciers in California's Sierra Nevada mountains – his "Range of light" – laid foundations for the science of glaciation. Muir celebrated the oaks of Yosemite. Like Thoreau, Muir read Burns' poetry, carrying his wee volume of Burns' works while exploring the wild. Muir was a conservation activist. Muir's words found me, during my own youthful wanderings in the Sierras, and later while establishing of the Sierra Club's international program in the 1970s. Muir inspired the enactment of laws to protect nature, in national parks and forests. My life's work in international environmental law emerges out of Muir, and from Emerson.

Writing Nature is universal. Aaron Mair, the first New Yorker to serve as the Sierra Club's president, likes to quote Muir: "Everybody needs beauty as well as bread, places to play in and pray in, where nature may heal and give strength to body and soul."¹¹ Mair grew up in Peekskill, his Dad working at the nearby General Motors plant. He is among the growing number of African Americans who embrace and act upon Muir's words.

Muir is a silent partner with all those who write nature about protected areas: Enos Mills in the Rockies; Anne La Bastille for the Adirondacks; Edward Abbey in arid desert; Marjory Stoneman Douglas in the moist Everglades; Annie Dillard's Tinker Creek; in Yellowstone with Gary Ferguson; Adolph and Margaret (Mardy) Murie in Alaska; or Rachel Carson for the sea around us. **Writing Nature** invariably is *place-based*. **Writing Nature** inspires stewardship of wild places that authors know and love. Humans love stories about the wild: where and what we experience, what we see, and wish others to see. Are not these love stories of a kind?

Our Hudson Valley is no different. From Washington Irving's legendary Crayon Miscellany (1820) of the Pocantico landscape or the Catskill mountains, to John Burroughs Winter Sunshine (1875) and Riverby (1894), to Carl Carmer's lyrical Hudson (1939), and Bob Boyle's unnerving Hudson River: A Natural and Unnatural History (1969), we boast four generations of **Writing Nature**. With Irving, our Hudson Rivers Valley could even claim to have launched the genre in America.

⁹ "Mighty oaks from little acorns grow" is an aphorism whose cultural origins are lost in the mists of time. Literary reference of this image in English dates from the 13th century. Its pervasive use in English over the centuries illustrates how much kinship humans associate with the life of the oak.

¹⁰ Muir's *Manuscript Edition*, published by Houghton Mifflin Company, contained 10 volumes (1916).

¹¹ Aaron Mair, "Connecting With Nature Across Generations," cover essay for the Sierra Club Wilderness Calendar 2017.

John Burroughs was Muir's contemporary; they were dubbed the "Two Johns." Burroughs many essays and books¹² brought encounters with nature into the parlors and libraries of America. He found nature to be a perennial source of good cheer. Only once did he let himself despair: he feared man was sucking life out of the Earth as one does the juice and pulp of an orange. But in the end, Burroughs believed mankind would sustain nature. In "*Men and Trees*" (1920),¹³ Burroughs synthesized his views on Darwin and Thoreau without ever mentioning either man: "I do not see that nature is any more solicitous about the well-being of man than she is, say, about the well-bring of trees. ... The naturalist sees life as a whole. Man is not an exception but part of the total scheme. ... When we project ourselves into nature, out of which we came, or when we see ourselves there objectively - our virtues, our aspirations, our vices and our wickedness - we sow the seeds of our religion."

Burroughs inspired nature appreciation, confident that this was sufficient. His readers would act on what they appreciated. Muir was convinced that, unless he rallied readers to protect nature from unbridled exploitation, there would be no wild landscapes left to appreciate. In *Writing Nature*, each invited author will see this dilemma differently.

Writing Nature invariably will bring the wild to the reader. Neither reader nor listener remains unaffected. I read Alex Shoumatoff's *The Rivers Amazon* (1978) both when John Muir's Sierra Club published it, and again years later working with environmental lawyers in the heart of the Legal Amazon. As the perils of the Earth become ever more apparent, writers such as Bill McKibben today rekindle, with urgency, the environmentalists' message that Muir had voiced a century before. Each set of eyes sees the fabric of nature independently. But invariably, upon entering the wild, we rekindle wonder, and that stimulates what Edward O. Wilson calls biophilia.¹⁴ As we appreciate and value nature, we in turn strive to enact laws obliging us to protect it. In preservation of the wild, we sustain ourselves.

Writing Nature is universal. I encounter it everywhere. My nearly five decades with the International Union for the Conservation of Nature (IUCN) have engaged me with naturalists and governments across the Earth, emerging as a sort of statesman for nature. We work together to conserve nature through law. I have high regard, for example, about how Russians maintain the world's most extensive regime of truly wild protected areas, the *Zapovendiki*. Over generations, Russians read and celebrate works such as Ivan Turgenev's *Sportsman's Sketches* (1854). Anton Chekov's *The Cherry Orchard* (1904) ends ambiguously: "All Russia is our Garden." As writers articulated the Russian love for nature, in the early 20th century vast pristine wild places won protection, as nature sanctuaries whose protection is

¹² The collected writings of John Burroughs, 23 volumes were published in a limited edition of 750 sets by Houghton Mifflin & Co (Riverside Press, Cambridge) in 1904.

¹³ *The North American Review*, p. 641 (1920), at <https://www.jstor.org/stable/pdf/25120508.pdf>.

¹⁴ E.O. Wilson, *Biophilia* (Harvard University Press, 1984), 176 pp.

morally mandated. Since 1917, Russian laws have protected more than 100 *Zapovedniki*, beginning with sacred Lake Baikal. The same ethics that motivate establishing national parks here operate in Russia.

Russians continue to write about nature. Their contemporary literary tradition of writing nature deserves a global readership. Russia's wild has lured other writers into its fold, such as the French author Sylain Tesson, whose *Consolations of the Forest – Alone in a Cabin on the Siberian Taiga* (2013) near Lake Baikal, is available in English. Russia is 40% of the northern hemisphere, and is our mirror image. We would know the Russian wild better. The same can be said of the literary traditions *Writing Nature* in all other regions of our planet.

From abundant autumnal leaves, to the shockingly thin lilac run of the Shad up the Hudson each spring, our wild in the Hudson Valley is kindred to nature in Russia or anywhere else. The Hudson Valley Writers Center instinctively knew this when its Slaperin Hol Press' published its first chapbook, *Voices of the River*. Among its authors, in "Amnios" Peggy Ellsberg invokes being in a rowboat, in the still of night: "You rock, in the eternity before birth, lonely and belonging, in the mossy sleep of water, voiceless, chiming, green and dark."¹⁵

What means "eternity" in nature? Writers past and present ponder and probe this enquiry. Is it not auspicious for this *Writing Nature* series launched today by Teatown and the Writers' Center that the works of nature writers of the 19th and 20th centuries are *still in print*, bought and read. More importantly, *new* voices are being published with anticipation and regularity. A hunger for reading about nature persists. Indeed it grows, just the human footprint accelerates across our Anthropocene epoch. Some writers challenge the assumptions of Muir and Burroughs, such as Chris D. Thomas in his *Inheritors of the Earth* (2017), which rejects conventional attitudes about invasive species. Thomas accepts their evolution and abundance as natural, an acceptable new order.

Among the themes of place-based writers, there are many contemporary voices for nature available to grace this *Writing Nature* series,¹⁶ such as Robert Finch in his musing about people on the wild of Cape Cod, or James Prosek's eulogy to *Eels*, or Sara Wheeler's *Magnetic North* depicting life within the Arctic Circle, or Mary Oliver's poems of nature and transcendence. Since 1926, each April, the John Burroughs Medal is conferred for an outstanding literary work of natural history.¹⁷

¹⁵ Peggy Ellsberg, *Amnios*, at p. 22 in Margo Stever and Patricia Farewell, Eds. *Voices of the River* (Slaperin Hol Press, 1990). The Press has published several chapbooks of authors *Writing Nature*, including, for New York's Quadricentennial, Helen Barolini's *Hudson River Haiku* (2009).

¹⁶ Carolyn Ross, *Writing Nature* (1995), offers a fine perspective on the genre of nature writing.

¹⁷ Many more authors deserve recognition beyond those noted in this lecture. *Mea culpa* – Apologies. Would that I could have included all. The literature of those inspired to write nature is extensive. For the John Burroughs Medal roster of laureates, see:

https://research.amnh.org/burroughs/medal_award_list.html

A shared ethic flows throughout those who write nature: learn from the wild, wonder, and cooperate to sustain an ever more resilient stewardship of nature. We are not apart from the wild. We invariably affect what is wild, but we remain stakeholders on the same Earth. In 1894, New Yorkers established our Forest Preserve as “forever wild forest land.”¹⁸ In 1964, America established the Wilderness Act, to set aside areas “where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain.”¹⁹ Words written into laws can embody our love of nature.

Closer to the Hudson, these same conservation instincts are robustly evident. In 1963, the family of Gerard Swope donated the lands for the Teatown Lake Reservation, and later Laurence Rockefeller donated Rockwood Hall to become a State Park, an initial a step for the entire Rockefeller family’s contribution in 1983 of the lands for the Rockefeller State Park Preserve. The Hudson Valley Writers’ Center preserved this landmark building, with its vistas of the “wild” Tappan Zee. There are myriad examples of humane stewardship for the “wild” we love.

Writing Nature in all its forms – poetry, essays, books, and the narratives of films or about photographs and art - enables us to find our kinship with flora and fauna in any of the lands humans have colonized. When we read at home, we vicariously come to know the wild abroad, doing so without any jet lag or carbon footprints. But complacency with the comfort of our reading can mislead. Everywhere in the Anthropocene we shall need many more public readings by nature writers or society will not so easily be able to reclaim its partnership in sustaining the biosphere.

Not unlike Ed Wilson today,²⁰ the microbiologist René Dubos, concluded his scientific career choosing to write in a humanistic tradition. His essays, “The Despairing Optimist,” appeared in the *American Scholar*. They deserve re-reading. In the advance of the United Nations’ first conference on the environment in 1972, Dubos popularized the slogan: “Think globally, but act locally.”

Those who write nature, already get this, instinctively. They either know, or seek to know, their place in the biosphere. Their writings reveal where they find themselves in the universe. Place-based nature literature rouses us to conserve nature by describing the wild place and our stake in it. We become aware, if we were not before, of places where our protective instincts will prod us into action. The political economist Elinor Ostrom demonstrated this truth, and was awarded the Nobel Prize in economics. She disproved Garrett Hardin’s theory that there is always a tragedy of the commons. Ostrom’s studies showed that when a community

¹⁸ New York State Constitution, Article XIV, Section 1. I have described how these words came to be in Nicholas A. Robinson, “Forever Wild”: New York’s Constitutional Mandates to Enhance the Forest Preserve (Arthur M. Crocker Lecture, Feb. 15, 2007), <http://digitalcommons.pace.edu/lawfaculty/284/>.

¹⁹ Wilderness Act of 1964, 16 U.S. Code Section 1142.

²⁰ Edward O. Wilson’s prolific work – he actively writes and publishes, is found at <https://eowilsonfoundation.org/e-o-wilson/>.

shares a common natural resource, and knows its limits, people will act as stakeholders to sustainably manage that resource.²¹ My studies of the Forest Charter of 1217, as applied in the Forest of Dean and other former royal forests of England, confirm Ostrom's findings.

These findings by social scientists or environmental lawyers are already understood by those *Writing Nature*. Their literary works can open the eyes of economists and political leaders to their interdependence with the wild. Failing to see, we suffer; we all suffer. Monarch Butterflies today lack protection across their vast range as three generations of study butterflies migrate to and from Mexico and Canada. Humans share the Monarch's ecosystems but know it not. We extirpate the butterflies' food and tolerate the poisoning of our countryside with pesticides. Who takes note of the decline in the Monarch population? Why do we wonder that half the bee colonies in New York died last year? Is it not ever more urgent for those who write nature to bind us together through our shared knowledge of *place*? Their writings awaken our instinct for nature appreciation, for biophilia.

Inspired by affinity for nature, we have done much to protect it. In our national parks and reserves, conservationists today have preserved nearly 20% of Earth's terrestrial environment. More than 174 nations, such as Brazil or France, have established the right to the environment in their national constitutions. Eight States within the USA have done so. Last June, France proposed that the United Nations should endorse and adopt the principle of a right to the environment for all nations.²² Legal systems worldwide reflect the ethical imperatives of those who write nature.

In our uncivil era, when "animal spirits" fuel greed and stoke envy, is it naïve to believe in the truth that environmental authors speak to power? Can biophilia morph into an environmental right? Do humans have rights to ecological integrity? Can this liberty be invoked to stop those who ruin nature?

Recognizing a universal right to the environment is not a quixotic quest. When in 1215 *Magna Carta* launched the concept of the "rule of law," it opened the door for the recognition of human rights, equity and just relations among people. *Magna Carta* also led to preparation of The Forest Charter of 1217, which established the "liberties of the forest for all." This initial guarantee of human rights in nature anticipated recognition of environmental rights in our time, reflecting an awareness of human dependencies on nature, 600 years before Thoreau or Darwin. It takes time for society to evolve its binding norms. Thoreau was the greatest writer of nature before the end of slavery in America. We are still far from ensuring racial justice in America, but we have made progress. It is so too with our relationship to nature. In 2017, New York's Assembly adopted a constitutional

²¹ Elinor Ostrom, *Governing the Commons* (1990).

²² See the Global Pact for the Environment (2017), set forth on the IUCN World Commission on Environmental Law's webpage, www.iucn.org/commissions.

amendment to recognize the right to the environment in New York.²³ If the Assembly and Senate both adopt the amendment in two sessions, the proposition would go to the voters. Recognizing this right is over due.

Today's debates over environmental rights are rooted in the Forest Charter. In an age before books or literacy, the Forest Charter's authors penned, in Latin, what are among the earliest manifestations of **Writing Nature**. A royal council convened in October of 1217, after a year of study and debate, and agreed on the text of the Forest Charter. Its final clause recites: *"These liberties of the forest and free customs traditionally had, both within and without the royal forests, are granted to ecclesiastics, nobles, freeholders, and all in our realm, in short to everyone. Everyone is also obliged to observe the liberties and customs granted in the Forest Charter."*

How timeless are these words! This guarantee reads like a 20th century declaration of fundamental human rights. In 1217, most could not read. Scribes made copies of the Forest Charter by hand, which were distributed to every county in England, to be read aloud in town squares and churches. This happened repeatedly, some 32 times over two centuries. All sectors of society came to revere this "sacred charter," the companion to *Magna Carta*. The public knew that the liberties of the forest were as important as the rule of law. Over the centuries, a public expectation, or norm, has emerged. Laws could – and should – protect the public's interest in natural places. By the 19th century, Parliament enacted legislation to protect England's remnant royal forests, for the people. The metes and bounds of share landscapes are known and legally protected. Today, a moral mandate encourages us all to be reliable stewards of the wild.

As ever, the glass is half full and half empty. Authors reading in this **Writing Nature** series will share their visions of nature reflected in this proverbial glass. Teatown Lake Reservation and The Hudson Valley Writers Center will reach new audiences with often discomfiting tales. Authors are authentic interpreters of what it means to be human in nature. Appreciation of beauty and wonder in the intricacy of nature – both sublime and also red in tooth and claw - is more than a part of our culture, it is part of our evolved instincts. It is integral to defining what it means to be human. Artificial intelligence can mimic the cultural manifestation, but cannot be the mindful eye of Thoreau or you or me. We see. We feel.

We bemoan accelerating environmental degradation with the "thinning" of kindred species,²⁴ but we need not despair. The Forest Charter demonstrates that we can act, with effectiveness. Looking ahead, generations can emulate what past successive generations nurtured in the Forest of Dean, or other English woodlands.

²³ NYS Assembly 6279, introduced by Assemblymen Englebright and Gottfried), would add a new right to the State Bill of Rights, to read: "ENVIRONMENTAL RIGHTS. EACH PERSON SHALL HAVE A RIGHT TO CLEAN AIR AND WATER, AND A HEALTHFUL ENVIRONMENT."

²⁴ Michael McCarthy, [The Moth Snowstorm – Nature and Joy](#) (NY Review of Books, 2015).

We can frame new *liberties* of the forest. Can those who write nature define these rights to fill the glass?

Writing Nature can magnify debates about humans and nature. Can this series become as important in framing nature issues, as the BBC Reith's lectures have since 1948? Thoreau tested out his ideas in public lectures before committing them to writing. Teatown and the Hudson Writers' Center create their own challenges: How might this series best choose to magnify the insights mined through ***Writing Nature***?

In reading Thoreau anew on his bicentennial, his voice permeated my musings this autumn. Tending to oak leaves means more than recycling nutrients or nourishing habitats in compost. Thoreau reminds me that I am a part of that compost. I act "locally" with a mind to the global Earth. My family and I sustain our wee links among the oaks and ecosystems where we dwell. My raking of leaves, like your walk in a park or along a beach, prepares us each for a dialogue with authors ***Writing Nature***. We are already kindred spirits. The history of the Forest Charter of 1217 exemplifies this timeless discourse. The first words in our "modern" age to write nature were penned in the Forest Charter, not in a poem or ballad. After 800 years, we are still coming to grips with what it means to respect liberties of the forest.

Those ***Writing Nature*** pierce the walls we establish between the humanities and science and law and economics and religion. Aldo Leopold's *Sand County Almanac* is the classic writing that would re-unite all disciplines. Without the vision of nature writers, there would be no field of environmental law. When writers evoke norms of nature conservation, laws emerge to advance the values. My profession owes a profound debt to the authors of the wild. Some, like Rachael Carson, worked for the government; others like Ann La Bastille lived in the wild. Some are legislators, grafting our ecological knowledge and values into our laws.

As we reflect on those in the 13th century struggling for the first time to create words expressing "liberties of the forest," we all may wish to recall and pay tribute to those who struggled to pen the first words expressing our environmental rights: William Marshal, the Earl of Pembroke, and his peers. They wrote the Forest Charter of 1217, issued in the name of King Henry III. Their creative accomplishment should not be underestimated.

My own appreciation of these medieval pioneer draftsmen appears at the closing of my essay, “The Charter of the Forest: Evolving Human Rights in Nature” (2014):²⁵

“Sharing a common birth, *Magna Carta* and *Carta de Foresta* are foundations for the principle and practice of the rule of law. ... Both charters hold transcendent importance in society’s adaptations to changing climactic conditions. *Magna Carta* for bolstering the rule of law in troubled times, and *Carta de Foresta* for stimulating resilient norms for stewardship of nature. As it was for past generations, the wider value of the Forest Charter is to save the next generation.”

²⁵ Chapter 12 in Daniel Barstow Magraw, Andrea Martinez, and Roy E. Brownell II, *Magna Carta and the Rule of Law*, pp.311-377 (American Bar Association 2014).

Appendix

In 2018, the Commemorative Declaration appended here, with an acorn from the Forest of Dean attached to its parchment originals, has been presented to the Verderers' Court in the Forest of Dean, to the World Commission on Environmental Law of the International Union for the Conservation of Nature and Natural Resources (IUCN) in Rio de Janeiro, Brazil, to the Environmental Law Institute in Washington, D.C. and, at the inauguration of this program of authors and readings on nature, entitled "**Writing Nature**," to both the Hudson Valley Writers Center and the Teatown Lake Reservation. Successive generations of oaks and acorns are tangible symbols of the passage of the eight centuries in which humans struggled to honor and sustain the "liberties of the forest."

THE 800th YEAR of CARTA DE FORESTA
THE CHARTER OF THE FOREST & FOREST LIBERTIES
Oak Trees of the Forest of Dean Sustain Us All
November 6, 2017

CELEBRATE this day, the 800th anniversary of the *Forest Charter of 1217*, in this 65th year of the reign of Queen Elizabeth II. May this *okecorne* be your arboreal link to the *Royal Oak*, *The Forest of Dean* and *CARTA DE FORESTA*, progeny of *MAGNA CARTA*.

YOUR OKECORNE (*Querus robus*, a pedunculate oak) was borne of the *Royal Oak* at *Speech House* in *The Royal Forest of Dean*, from among the few autumnal acorns overlooked by foraging wild boars. In 1861, Albert, Prince Consort to Queen Victoria, planted this *Royal Oak*, your acorn's parent tree, from an acorn borne of the *Panshanger Oak*, planted by Queen Elizabeth I and today England's largest "maiden" oak. The Prince Consort's *Royal Oak* thrives next to an oak planted also at *Speech House* in 1957 by Queen Elizabeth II and another by Prince Philip, Duke of Edinburgh, each from acorns of the Prince Consort *Royal Oak*. Like these oaks, the *Charter of the Forest of 1217* is a living crucible of evolving environmental rights, nurtured still by the *Verderers* of *The Forest of Dean* as stewards of *vert* and *venison* and the customs of commoners. Since the 12th century, *The Verderers Court* for *The Forest of Dean* has sustained shared ancestral *forest liberties*. The *Verderers Court* has convened at *Speech House* in the center of *The Forest of Dean* since 1680. Respected by Acts of Parliament and the Forestry Commission, *The Forest of Dean* remains the *only place* where the *Charter of the Forest of 1217* governs

and Verderers oversee each generation's forest liberties. *The Forest Charter* profoundly reflects cultural, legal, economic and ecological realms across the mists of time.

CHERISH the provenance of your acorn from *The Forest of Dean*, blending culture and nature across more than eight centuries, and the *Charter of 1217*, whence liberties of the forest still evolve for all, *omnes*.

Prof. Nicholas A. Robinson