

toxics. In fact, application of the law is proceeding with much less mayhem than predicted. As David Roe, an Environmental Defense Fund attorney and one of the initiative's authors, said of the three-year-old law, "you had the year of denial, the year of panic, and now the year of acceptance." *Chemical Week*, Chemical Week Associates, July 12, 1989, at 5. California will be better off if this is the decade of acceptance.

#### Notes

1. The "No on 65" campaign was financed largely by the

following corporations: Chevron: \$237,000; Arco: \$70,000, and Dow Chemical: \$50,000. *L.A. Examiner*, Oct. 27, 1986 at A3.

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## Nature and the Rights of Animals

by Walter E. Howard

The intent of this article is not to debate animals' legal rights to humane treatment. All I can do with legal jargon is eavesdrop, as I am not competent to judge the conclusions. My goal is to present some laws of nature, which any jurisprudent scholar or animal rightist should consider in an objective debate about animal rights.

At the outset I confess, however, that I do not agree with the notion that animals are inherently entitled to the same constitutionally afforded rights as human beings, with access to the same legal venues, any more than I think people have the right to mistreat other animals, as commonly occurs in nature. My objective is to bring nature back into the deliberations of what has become the highly emotional and polarized topic of Animal Rights.

A positive value of the Animal Rights movement has been the increased consciousness regarding the welfare of pets, livestock, laboratory and wild animals. Most people now recognize that nature's animals, wild or domesticated, have legitimacy, a moral value, and deserve humane treatment. Unnecessary pain and suffering should be prohibited. But who defines "unnecessary?" What is right or wrong concerning the treatment of animals is often in the eye of the beholder; it is determined by one's personal ethics, not any particular broad moral or ethical standard.

Nature creates balanced communities where various animal species sustain themselves--by producing surplus offspring so they can eat each other. The balance of nature lies in the complex interplay of the birth and death of all organisms; i.e., it is the web of relationships among the population diversities of the diverse species that make up each ecological community. Included in this balance is the dynamic struggle for existence, the survival of the fittest, where it is the natural right of the largest and strongest (or smallest and quickest) to feed upon or displace the loser, even if it is the same species.

Nature demands a high premature death rate to maintain animal populations in a healthy state. For most species, the quality of life depends upon fairly high mortality rates from predation or other factors. If not, an overpopulation of the species will result in



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distressing species self-limitations, e.g., cannibalism, starvation, disease outbreaks, lethal intraspecific fighting, infanticide, etc.; euthanasia and humane slaughter are not available to wildlife.

Since practically all habitats, in fact all environments, have been modified to some degree by humans, nature is no longer able to preserve the original biological diversity. In those altered environments, biological conservation requires human management. Once people arrive, it usually is unwise to let nature reestablish a new natural balance, unless we are willing to accept the outcome of the new survival-of-the-fittest balancing process. For the most part, we can afford to do this only in wilderness areas and large national parks. With endangered species, for example, it is not enough just to preserve some suitable habitat for them; in the modified environments predators and some better adapted competitors must be controlled to protect many endangered species.

A doctor's medical ethic makes it difficult to "pull the plug" of a terminally ill patient on a life-support system who begs to die in dignity. Should a horse that has had both hind legs mangled by a train be kept alive? Should a permanently disabled wild animal be kept alive or humanely destroyed? In these situations we are too often guided by our emotions rather than by considering what the most compassionate act should be. A displaced (surplus) mammal that ventures into a city is an excellent example. If we capture it and then release it into the wild where the species is known to exist, we have a wonderful warm feeling inside. However, the compassionate thing to do would be to humanely take its life rather than cause it the misery of hopelessly searching for its former home, encountering numer-

ous intraspecific fights, only to suffer a cruel death at the end of these horrible experiences.

Many people fail to recognize that the balance of nature requires meat eaters. Without carnivores there would be a dramatic change in nature's balance. Since communities of people cannot live in close proximity with top carnivores, such as lions, grizzly bears, and wolves, it is impossible to reestablish the original balances once those carnivores are displaced. It is often essential for people to assist nature by playing the role of a carnivore. Fortunately, when people predate it is under strict regulations which insure that they are going to be more humane and selective than wild predators. A good quality of life for deer and many other species requires such predation.

Pain and suffering are an integral part of nature, inherent to evolution and the survival-of-the-fittest process. This, of course, does not give people a license to be cruel to animals. We must make our lethal tools (guns, traps) as humane as we can, yet still play the essential role of a predator assisting nature in modified environments by harvesting the surplus that otherwise would damage the environment and ultimately die with great suffering from starvation, disease, intraspecific fighting, and epizootics.

Most Animal Rightists think everyone should be a vegetarian. Since vegetarians cannot live off of wild plants, more irrigated row crops would have to be grown to feed us. It is not possible to grow these crops without controlling native mammals. Therefore, if we all became vegetarians it is possible that even more land would need to be put under production, eliminating more wildlife habitats.

The movement to make the wearing of fur seem “vulgar and symbolic of someone who is tasteless, uncaring, and uneducated” has been quite successful. As far as the Animal Rights leaders are concerned, they oppose any exploitation of animals, no matter how humanely the animals are raised and slaughtered.

In contrast, I take a different view. I want to see pain and suffering minimized. But I think it would be a dull world with no pets, domestic animals, and for that matter most game and fur animals, which survive today only because they are wanted. I think it is wonderful that so many wanted animals are born, live a healthy life (animals born in captivity are not aware of what it’s like in the cruel world), and usually live longer than the average age of their wild counterparts. If living wild is so great, maybe we should let our tame and captive animals experience the rigors of nature, such as food shortages, diseases, weather extremes, fighting, and cannibalism.

In summary, is it not better for an animal to have lived a good life even if it is going to die prematurely but humanely? In modified environments, people must assist nature by being predators, since all species must have a high rate of premature mortality, even if we must inflict some pain to insure that the “species population” has a good quality of life. The necessary pain and suffering inflicted by people, however, should be minimized and regulated. Even though nature can be considered a battlefield, with the most bizarre forms of cruelty occurring daily, we have a moral obligation to manage nature as best we can once we have altered it, and to do it as humanely as possible.

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## The Wilderness Problem in Idaho: Is S. 371 - The Idaho Forest Management Act of 1989 - The Solution?

by Matthew J. Smith

### INTRODUCTION

On November 1, 1989, the Senate Committee on Energy and Natural Resources favorably reported Senate Bill 371 (S. 371), the *Idaho Forest Management Act of 1989*, to the Senate floor. This bill, sponsored by Senator James McClure of Idaho, seeks to resolve a long-standing dispute between conservationists and developers over 9.3 million acres of roadless U.S. Forest Service land in Idaho.

Conservationists want Congress to add almost half of this land to the National Wilderness Preservation System. Developers want almost all of the land released for multiple-use management. S. 371 attempts to strike a compromise between these opposing sides. Unfortunately, the bill contains several highly controversial provisions that ultimately make it a poor solution to the wilderness problem in Idaho.

### THE ROOTS OF THE WILDERNESS PROBLEM

As early as 1924, the U.S. Forest Service began to set aside portions of its land for wilderness preservation. By 1964, when Congress passed the *Wilderness Act*, Pub. L. No. 88-577, 78 Stat. 890 (16 U.S.C. §§ 1132-1136 (1988)), the Forest Service had designated 9.1 million acres nationally as “wilderness,” “wild,” or “canoe” areas. The Wilderness Act required the Forest Service to preserve and protect these and subsequent wilderness areas “in



1985 - Donna J. Barr