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Some Thoughts on Shortsightedness and Intergenerational Equity

*Brett M. Frischmann**

A STORY

In an interesting (and funny) episode of *South Park*,¹ the following takes place:

A time portal appears just outside of town. It operates by “Terminator rules,” which means that the portal is unidirectional; only people from the future can enter the portal and emerge in the present.

A single person from the distant future emerges. According to the local news, the person traveled back in time to the present in order to get a job, earn some money, and invest the money so that the person’s family could live a better life in the future.² Apparently, things aren’t so good in the distant future.

A flood of people from the future arrives. Evidently, the initial time traveler’s plan was successful. Unfortunately for the residents of *South Park*, the people from the future—referred to as “immigrants” from the future—are willing to work for less money than the residents of *South Park*. As the *South Park* residents lose their jobs, they begin to resent the people from the future.

The *South Park* residents debate how they should respond to the dilemma posed by immigration from the future. Initially, the townspeople decide to stop the future from happening: “If there is no future, then there will be no people from the future to come back through the portal to take our jobs.”

In the end, a young boy proposes a thoughtful solution. Invest today in making the future better and there will not be a need for people from the future to return to the past. As the episode nears its end, the *South Park* residents plant trees, and the people from the future fade away.

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1. *South Park* is a cable television program shown on the Comedy Central station. What follows is a brief summary of a few relevant parts of the story. *South Park* (Comedy Central television broadcast, April 28, 2004).

2. This was a wise idea because of the power of compounded interest!

MORAL QUESTIONS

The South Park episode described above pokes fun at what I believe is an important set of philosophical questions that deserve more attention in modern times. Simply put, assuming that the likelihood of a time portal opening is zero (and thus that the risk of people from the future “immigrating” to the present is zero as well),³ should we care about the fate of people in the distant future (or even the not-so-distant future)? If so, how should such concern affect decisions we make in the present?

Additionally, to what extent, if at all, ought we—as a society, as a community, as a generation, as a family, as individuals—sink costs today in order to provide benefits in the future? The issue is quite complicated because it involves a litany of sub-issues: Who decides how to make such investments and on what basis are such decisions made? Who bears the costs? Who reaps the benefits? How far in the future will the benefits be realized? Are we certain the benefits will be realized or do the investments entail some degree of risk? And so on.

This essay will discuss the concept of intergenerational equity. It will address our society’s relationship to past and future generations and how this relationship ought to influence our decision making in the present. The primary focus will be on determining *why* the present generation ought to recognize that it is morally obligated to take into account the welfare of future generations when making decisions, beginning with the “easy” case of natural resources, and then considering the more difficult case of human-made resources. Before proceeding, however, let me briefly touch on what motivated me to begin thinking about these issues.

SHORTSIGHTEDNESS

It seems to me that American society is unethically discounting the future by failing to adequately account for the long-term benefits and costs of today’s decisions.⁴ This kind of shortsighted decision-making

3. Absent significant advancements in time travel technologies, we can safely assume that the likelihood of such a portal opening up is zero. *But c.f.* April Holladay, WONDER QUEST, at <http://www.wonderquest.com/TimeTravel.htm> (June 20, 2001) (describing the potential for time travel in terms of Einstein’s theory of relativity); Stephen Hawking’s Universe, *Wormholes*, at <http://www.pbs.org/wnet/hawking/strange/html/wormhole.html> (last visited Jan. 8, 2005) (explaining how wormholes might be used for time travel with the aid of “exotic matter” to keep it from collapsing).

4. Economist Frank Ramsey once wrote that discounting future “enjoyments in comparison with earlier ones . . . is ethically indefensible and arises merely from the weakness of the imagination.” F. P. Ramsey, *A Mathematical Theory of Saving*, 38 *ECON. J.* 543, 543 (1928).

is prevalent in many quarters of our society, whether we focus on decisions made by private entities in market settings, on decisions made by public figures in government settings, or even on personal decisions. By shortsighted, I mean that decisions are based upon expected impacts within a relatively short timeframe. Whether we are talking about an individual's decision to "Supersize" his meal, the operation of the stock markets,⁵ or President Bush's tax cuts,⁶ benefits (costs) expected in the short-term appear to drive decision-making, despite significant costs (benefits) expected in the future.⁷

It is rather easy to understand that we ought to care for our own future and thus condemn shortsighted decision-making that will come back to haunt us.⁸ If the costs of decisions made by each generation are borne by that generation, then there is a decent libertarian argument that we do not need to examine intergenerational equity. Instead, we can simply let each individual (generation) decide for him or herself (itself) whether to invest for the future, so long as costs are not externalized. But it seems that the present generation has mastered the art of pushing the costs of shortsighted decisions onto future generations (stop for a moment and think about any of the following: Social Security, the National Debt, Global Warming, and so on).

Even putting aside the problem of externalizing costs, which presents an obvious moral problem, I believe the present generation ought to recognize and abide by its moral obligation to sustain valuable inherited

5. I mention the operation of the stock markets generally rather than focus on any particular type of investment decisions because it seems to me that shortsightedness afflicts stock markets and the manner in which private capital is allocated from a variety of angles: Day trading, the increased percentage of money allocated through hedge funds, and the prevalence of stock options, among other things, appear to diminish time horizons and drive investment decisions towards short-term results.

6. I recognize that many supporters of tax cuts would argue that they will have long-term benefits. I do not wish to engage this hotly contested political debate. Putting aside purely ideological arguments, I have yet to hear a believable explanation of how President Bush's tax cuts will yield long-term benefits when the record deficits we are facing are taken into account.

7. In other words, decision makers are "present-oriented," meaning that they apply a high discount rate to future impacts. See, e.g., Richard A. Posner, *Are We One Self or Multiple Selves? Implications for Law and Public Policy*, 3 LEGAL THEORY 23 (1997) (discussing the decisional conflict between present-oriented and future-oriented selves); see also CHRISTOPHER LASCH, *THE CULTURE OF NARCISSISM: AMERICAN LIFE IN AN AGE OF DIMINISHING EXPECTATIONS* 5 (1978) (suggesting that American society is present-oriented). Of course, "[v]irtually all human beings discount the future: The present is generally more important than the future, and the near future is more important than the distant future." Barak Y. Orbach, *The Durapolist Puzzle: Monopoly Power in Durable-Goods Markets*, 21 YALE J. ON REG. 67, 81 (2004).

8. Such condemnation is not likely rooted in intergenerational equity, however. Instead, it may be rooted in concerns over efficiency or *intragenerational* equity—premised perhaps on the belief that certain constituents of the present generation receive the benefits while other constituents bear the costs.

resources—natural and human-created—and perhaps even to improve upon them in order to create a brighter future for generations to come (regardless of the risk of time portals).

SOME THOUGHTS ON INTERGENERATIONAL EQUITY

What is intergenerational equity? Intergenerational equity is a principle of distributive justice.⁹ It concerns the relationship among past, present, and future generations. There are many ways in which we might conceptualize the basic contours of an equitable relationship among generations. From a social contract perspective,¹⁰ we can imagine that all generations (or members of generations) are partners in a social contract defining rights, duties, and obligations among generations (or members of generations).¹¹ Further, we might hypothesize as to the nature and content of such a partnership arrangement by imagining ourselves in the “original position” envisioned by John Rawls.¹² As described by Edith Brown Weiss:

9. “Distributive justice is concerned with sharing the benefits and burdens of social cooperation.” Lawrence B. Solum, *To Our Children’s Children’s Children: The Problems of Intergenerational Ethics*, 35 LOY. L.A. L. REV. 163, 174 (2001) (citing ARISTOTLE, *ETHICS* *1130b8–1132a2 (Jonathan Barnes trans., Princeton Univ. Press 1985) (1984)).

10. See, e.g., JOHN LOCKE, *TWO TREATISES OF GOVERNMENT* (Mark Goldie ed., Everyman 1993) (1690) [hereinafter *TWO TREATISES OF GOVERNMENT*] (discussing the true principles of political right and the civil effects of theological intolerance); Jean Jacques Rousseau, *The Social Contract*, in *THE SOCIAL CONTRACT AND DISCOURSES* 3, 13–16 (G.D.H. Cole Trans., E.P. Dutton & Co. 1950) (characterizing a social contract as an agreement whereby each member of a community makes personal sacrifices for the good of the community).

11. Edmund Burke described the State in terms of such a partnership: “[A]s the ends of such a partnership cannot be obtained in many generations, it becomes a partnership not only between those who are living but between those who are living, those who are dead, and those who are to be born.” Edmund Burke, *Reflections on the Revolution in France* (1790), in 2 *WORKS OF EDMUND BURKE* 130–40 (1854). Lawrence Solum identifies a few conceptual difficulties that potentially lead to intractable problems in applying a social contract theory to intergenerational equity. See Solum, *supra* note 9, at 205–08 (arguing that John Rawls’ conception of the “original position” is overly abstract and general, which allows it to avoid the problems that social contract theory faces when applied to intergenerational ethics, such as intertemporal agreement and enforcement between generations). These difficulties may be overcome, however, by looking to Rawls.

12. See JOHN RAWLS, *A THEORY OF JUSTICE* (rev. ed. 1999) (discussing the role of justice in social cooperation and the primacy of justice in the basic structure of society); see also Roger Paden, *Rawls’s Just Savings Principle and the Sense of Justice*, *SOC. THEORY & PRAC.* 27 (1997) (noting that John Rawls did not dedicate many pages in his various books to the issue of intergenerational justice and accordingly his concept of a “just savings principle” has been the subject of considerable debate). Rather than working from Rawls’s concept of a “just savings principle,” which brings with it some baggage, I have simply followed Edith Brown Weiss and begun with Rawls’s concept of the “original position.” *But c.f.* Todd B. Adams, *Is there a Legal Future for Sustainable Development in Global Warming? Justice, Economics, and Protecting the Environment*, 16 *GEO. INT’L ENVTL. L. REV.* 77, 93 n.89 (2003) (stating that “Brown Weiss must make a considerable leap to her conclusion that generations would form a social contract on

In this partnership, no generation knows beforehand when it will be the living generation, how many members it will have, or even how many generations there will ultimately be. It is useful, then, to take the perspective of a generation that is placed somewhere along the spectrum of time, but does not know in advance where it will be located. Such a generation would want to inherit the earth in at least as good condition as it has been in for any previous generation and to have as good access to it as previous generations have had. This requires each generation to pass the planet on in no worse condition than that in which it received it and to provide equitable access to its resources and benefits. Each generation is thus both a trustee for the planet with obligations to care for it and a beneficiary with rights to use it.¹³

With respect to natural resources, this hypothesized conception of what generations would agree to behind a “veil of ignorance”¹⁴ is supported by a robust set of cultural, political, legal and religious traditions recognizing intergenerational stewardship duties.¹⁵ For example, in a letter to James Madison, Thomas Jefferson stated that “the earth belongs in usufruct to the living,” meaning that each generation enjoys something akin to a life tenancy such that *each* generation is entitled to use and profit from the Earth’s natural resources.¹⁶

the terms she stated”).

13. Edith Brown Weiss, *Intergenerational Equity: Toward an International Legal Framework*, in GLOBAL ACCORD: ENVTL. CHALLENGES AND INT’L RESPONSES 333, 335–36 (Nazli Chourci ed., 1995) [hereinafter *Toward an International Legal Framework*]. For an extensive treatment, see EDITH BROWN WEISS, IN FAIRNESS TO FUTURE GENERATIONS (1989) [hereinafter *FUTURE GENERATIONS*]. Brown Weiss’s approach has been critiqued by some on various grounds, including the abstract nature of “future generations” and the inability to identify specific entities to which obligations are owed. See, e.g., Graham Mayeda, *Where Should Johannesburg Take Us? Ethical and Legal Approaches to Sustainable Development in the Context of International Environmental Law*, 15 COLO. J. INT’L ENVTL. L. & POL’Y 29, 45 (2004) (“One cannot owe an obligation to such abstract entities. This problem shows our intuition that ethics must be about an actual relationship between two or more people. Ethical responsibility for the future thus cannot be derived from a concept of obligation to an abstract future generation.”). I do not find such abstractness all that troubling, at least for purposes of this essay.

14. This original position was employed by Edith Brown Weiss to explore intergenerational equity is slightly different from that employed by John Rawls in his writings. Compare Weiss, *Toward an International Legal Framework*, *supra* note 13, at 335 (applying the original position to create a trustee-beneficiary relationship between generations for the conservation of resources), with RAWLS, *supra* note 12, at 251–58 (using the original position as a guide for adopting a “just savings principle” that determines the amount of real capital that is fairly set aside for future generations). See also Solum, *supra* note 9, at 206–07 (describing the approach taken by Rawls).

15. Weiss, *Toward an International Legal Framework*, *supra* note 13, at 336–42 (describing roots “in the common and civil law traditions, in Islamic law, in African customary law, and in Asian nontheistic traditions,” as well as Judeo-Christian tradition, socialist legal tradition, and international law); WEISS, *FUTURE GENERATIONS*, *supra* note 13, at 17–21.

16. Letter from Thomas Jefferson to James Madison (September 6, 1789), in THE PORTABLE

Connected to this generational right to access and use Earth's natural resources is the concomitant obligation to avoid waste.¹⁷

Taken together, the doctrine of usufruct and the doctrine prohibiting waste provide that a tenant (or other caretaker/interest holder) is entitled to the beneficial use of the land and its fruits, but is prohibited from prejudicing future interest bearers by using the land in a way that destroys or impairs its essential character or long-term productivity.¹⁸

While the content, scope, and applicability of stewardship concepts to the actual management of specific environmental resources remains complicated and politically contentious, as seen in most debates over environmental protection, intergenerational equity has gained significant traction both rhetorically and as a legally cognizable principle in domestic and international forums.¹⁹

THOMAS JEFFERSON 444, 445 (Merrill D. Peterson ed. 1975) [hereinafter Letter from Thomas Jefferson to James Madison]. *But see* Jed Rubenfeld, *The Moment and the Millennium*, 66 GEO. WASH. L. REV. 1085, 1085-90 (1998) (reading Jefferson's letter as a rejection of intergenerational duties).

17. "Under the common law, the doctrine of usufruct is closely conjoined with the doctrine prohibiting waste, defined by Blackstone as 'a spoil or destruction in houses, gardens, trees, or other corporeal hereditaments, to the disheison of him that hath the remainder or reversion.'" John Davidson, Constitutional Law Foundation, *The Stewardship Doctrine: Intergenerational Justice in the United States Constitution* (quoting WILLIAM BLACKSTONE, COMMENTARIES 281), available at <http://www.conlaw.org/Intergenerational-II-2-3.htm> (last visited Jan. 6, 2005).

18. *Id.* The article further notes, "[t]he legal doctrine of usufruct/waste bears strong resemblance to Locke's prohibition against spoilage or destruction of 'the fruits of nature.' . . . It seems likely that Locke based his prohibitions, at least in part, upon these accepted legal doctrines." *Id.* at n.125 (citing JOHN LOCKE, SECOND TREATISE 31, 46); *see also* WEISS, FUTURE GENERATIONS, *supra* note 13, at 47-94 (describing the "planetary obligation" of present generations to "conserve the diversity and quality of natural and cultural resources for present and future generations and to ensure equitable access to and use of these resources").

19. The "principle of intergenerational equity, which is considered to be an element of sustainable development, is articulated in many international instruments aiming to preserve natural resources for the profits of this and future generations." Young-Gyoo Shim, *Intellectual Property Protection of Biotechnology and Sustainable Development in International Law*, 29 N.C. J. INT'L L. & COM. REG. 157, 216-17 (2003). *See* Legality of the Threat or Use of Nuclear Weapons, 1996 I.C.J. 226, 433 (July 8) (dissenting opinion of Judge Weeramantry) (dissenting because the Court did not hold directly and categorically that the use or threat of use of nuclear weapons is unlawful in all circumstances without exception); *id.* at 452-61 (relying on principles of intergenerational justice and suggesting that nuclear winters, the medical effects of radiation, and the devastating intergenerational effects of nuclear weapons distinguish such weapons from all other types of weapons, because such effects are virtually permanent and reach the distant future of the human race); Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. Norway), 1993 I.C.J. 38, 241-43 (June 14) (separate opinion of Judge Weeramantry) (discussing the principles of conservation of Earth resources for future generations); U.N., AGENDA 21: PROGRAMME OF ACTION FOR SUSTAINABLE DEVELOPMENT, RIO DECLARATION ON ENVIRONMENT AND DEVELOPMENT 9 (1992) (proclaiming that "[t]he right to development must be fulfilled so as to equitably meet development needs of present and future generations"); THE WORLD COMM'N ON ENVIRONMENT AND DEVELOPMENT, OUR COMMON FUTURE 43 (stating that "sustainable development is development that meets the needs

From a theoretical perspective, at least, natural resources might seem like the “easy” case because we do not create such resources; we only inherit them. It seems quite reasonable to postulate that the present generation does not have a superior claim to the Earth’s resources and consequently that each and every generation “is . . . both trustee for the planet with obligations to care for it and a beneficiary with rights to use it.”²⁰ Although significant, this conclusion is actually quite limited in the sense that the trustee/beneficiary role is assigned with respect to natural resources alone.

The world we live in is comprised of multiple, complex, overlapping, and interdependent systems with which we interact and that ultimately constitute our environments—the natural environment is one and the socially constructed environment is another.²¹ What about valuable human-made resources that affect the welfare of past, present and future generations? Are we not stewards of much more than the natural resources of the planet, of our heritage defined broadly? What about culture? Knowledge? Infrastructure? Social, economic, and political institutions? And so on. Generally speaking, valuable human-made resources present a more difficult case because the creators of a particular resource may have a superior moral claim to the resource as a product of their labor.²²

In his Lyceum Address of 1838, Abraham Lincoln recognized that the “fundamental blessings” passed on from generation to generation extend beyond the blessings of the Earth to include the blessings of society—the communal heritage of law, political institutions, and fundamental rights of liberty and equality.²³

of the present without compromising the ability of future generations to meet their own needs”). See generally WEISS, *FUTURE GENERATIONS*, *supra* note 13, 28–34.

20. Weiss, *Toward an International Legal Framework*, *supra* note 13, at 335.

21. In this essay, I will leave aside consideration of spiritual and religious systems, which, depending upon your particular perspective, may be viewed as natural or socially constructed or as something different altogether.

22. See LOCKE, *TWO TREATISES OF GOVERNMENT*, *supra* note 10, at 128 (stating that “[t]he labour of his body and the work of his hand, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his property”). Interestingly, in the same letter to James Madison that he suggested the Earth is held in usufruct by the living generation, Thomas Jefferson suggested that laws cannot be made perpetual and cannot bind future generations. As reflected in his arguments concerning debts as well, Jefferson loathed the idea of the dead ruling the living from the grave. Letter from Thomas Jefferson to James Madison, *supra* note 16, at 449–50.

23. Abraham Lincoln, *The Perpetuation of Our Political Institutions*, Address Before the Young Men’s Lyceum of Springfield, Illinois (January 27, 1838) [hereinafter *The Perpetuation of Our Political Institutions*], available at <http://Federalistpatriot.us/histdocs/Lincolnlyceum.htm>. I thank George Anastaplo for bringing Lincoln’s address to my attention.

We find ourselves in the peaceful possession, of the fairest portion of the earth, as regards extent of territory, fertility of soil, and salubrity of climate. We find ourselves under the government of a system of political institutions, conducing more essentially to the ends of civil and religious liberty, than any of which the history of former times tells us. We, when mounting the stage of existence, found ourselves the legal inheritors of these fundamental blessings. We toiled not in the acquirement or establishment of them—they are a legacy bequeathed us, by a once hardy, brave, and patriotic, but now lamented and departed race of ancestors. Their's [sic] was the task (and nobly they performed it) to possess themselves, and through themselves, us, of this goodly land; and to uprear upon its hills and its valleys, a political edifice of liberty and equal rights; 'tis ours only, to transmit these, the former, unprofaned by the foot of an invader; the latter, undecayed by the lapse of time and untorn by usurpation, to the latest generation that fate shall permit the world to know. This task [of] gratitude to our fathers, justice to ourselves, duty to posterity, and love for our species in general, all imperatively require us faithfully to perform.²⁴

Lincoln reminded his generation, as his words ought to remind us today, that the fundamental resources upon which any society depends include the blessings bestowed upon any present generation by sacrifices of its ancestors.

Lincoln's Lyceum speech, like the Gettysburg Address,²⁵ offers a powerful vision of a transgenerational social contract firmly rooted in equity. Each generation inherits a wealth of natural and communal resources. In return for this boon, it is obligated to transmit these resources "to the latest generation that fate shall permit the world to know."²⁶ This moral obligation is not rooted strictly in the conception of fairness, which was noted earlier with respect to natural resources. That concept, from a Rawlsian perspective, dictates that no particular generation has a superior claim to the Earth's resources, and thus each

24. *Id.* As noted above, this duty to transmit a legacy to the future reverberates in many cultures. Lincoln's speech implicitly harkens back to the Athenian Ephebic Oath by which men of ancient Athens swore to "transmit my fatherland not diminished [b]ut greater and better than before." Fletcher Harper Swift, *The Athenian Ephebic Oath of Allegiance in American Schools and Colleges*, 11 U. CAL. PUBLICATIONS IN EDUCATION 1, 4 (1947) (describing the Athenian Ephebic Oath translation by Clarence A. Forbes).

25. President Abraham Lincoln, Gettysburg Address (Nov. 19, 1863) (transcript available in the Loyola University Chicago Library). "The 'people' is no longer conceived in the Gettysburg Address, as it is in the Declaration of Independence, as a contractual union of individuals in the present; it is as well a union with ancestors and with posterity; it is organic and sacramental." HARRY V. JAFFA, *CRISIS OF THE HOUSE DIVIDED* 228 (1959).

26. Lincoln, *The Perpetuation of Our Political Institutions*, *supra* note 23.

generation accepts the dual role of beneficiary and trustee.²⁷ Rather, this moral obligation is rooted in a more traditional conception of equity, akin to the repudiation of unjust enrichment: the present generation is morally bound to perform its duty to transmit because its own welfare has been enriched by access to and use of the resources passed on to it; to accept the benefits without satisfying the attendant duty would constitute enrichment at the expense of future generations.²⁸

Lincoln offered his vision in a cautionary manner, as a reminder to his generation of the blessings bestowed upon it and of the attendant duty to posterity. If only he were around to do the same today!

In his Lyceum Address, Lincoln discussed the obstacles faced by his generation to performing its duty to posterity. Remarkably, Lincoln focused internally on American society itself.²⁹ He worried that the greatest threat to the future of the United States was manifest changes in our moral character, brought about by the passage of time and our own political and economic successes.³⁰ Lincoln was most concerned with a “Caesarian destroyer” whose tremendous ambition would sabotage the political institutions and foundations laid by the founding generation.³¹ As Frank Jaffa explained, “[t]he Caesarian danger is an inner danger, arising mainly from the coincidence of vaulting ambition and mob violence [or mob passions].”³² “[T]hat the people can destroy themselves, that they can be led by the Pied Piper of Caesarism to their

27. I should note that while Lincoln does not reason from such a position, it is nonetheless a defensible position. In other words, each generation presumably would recognize, in the original position, the need for stable institutions and thus would agree to invest in their creation and preservation. See RAWLS, *supra* note 12, at 252 (stating that “[e]ach generation must not only preserve the gains of culture and civilization, and maintain intact those just institutions that have been established, but it also must put aside in each period of time a suitable amount of real capital accumulation,” which may take many forms including investments in human capital (e.g., education) and assets such as machinery and factories).

28. To be clear, I am not arguing (nor do I believe Lincoln argued) that society ought to perpetuate institutions merely for the sake of conservation. I believe the question of what to preserve is a difficult one that should be guided to some extent by utilitarian principles (applied broadly to include the welfare of future generations). That being said, in this essay, I will not attempt to develop criteria for deciding which human resources ought to be sustained for future generations.

29. See Lincoln, *The Perpetuation of Our Political Institutions*, *supra* note 23 (“How, then, shall we perform it? At what point shall we expect the approach of danger? . . . I answer, if it ever reach us, it must spring up amongst us. It cannot come from abroad. If destruction be our lot, we must ourselves be its author and finisher. As a nation of freemen, we must live through all time, or die by suicide”).

30. *Id.*

31. JAFFA, *supra* note 25, at 214–23 (describing Lincoln’s concern that leaders in the mold of Caesar or Napoleon would overthrow the republic “by posing as [its] defender[], preserving republican forms until there was no power in the republic[] to resist them”).

32. *Id.* at 223.

own destruction, was Lincoln's profound conviction."³³ I must admit that I have very similar concerns today.

CONCLUDING REMARKS

While the United States is vulnerable to attacks from abroad, as September 11, 2001 revealed, I am most concerned about erosion from within. As I noted at the outset of this essay, I am deeply troubled by the extent to which shortsightedness pervades our society. Our myopic focus on the present—on immediate gratification, immediate returns, results today at whatever costs the future may bear—threatens our own future and puts our legacy, and the nation we inherited, in jeopardy. As a society, we need to rediscover and reaffirm our commitment to the welfare of not only ourselves but also our children and future generations.

To this point, I have not attempted to delineate the substantive contours of the beneficiary/trustee roles, nor will I attempt to do so in this essay. Delineating such contours is a tricky enterprise that is beyond my skill, with the contours necessarily varying contextually according to the resource at issue.³⁴ Moreover, there is already a rich literature debating what the contours might be.

Instead, let me offer what seems like a modest prescription: *Each generation, in recognition of the blessings it receives and its duty of stewardship for posterity, ought to take into account explicitly and meaningfully the interests of future generations when making decisions that affect natural and communal resources.* Of course, even this prescription raises difficult issues: How far does it reach—to the next generation, the next seven generations,³⁵ or “the latest generation that fate shall permit the world to know?”³⁶ How should interests of future generations be taken into account? Should future generations be

33. *Id.* at 225–26.

34. For example, the duty to transmit natural resources cannot be absolute in the sense that every resource must be conserved, or that no generation may use up any natural resource. In terms of sustainability, there is a difference between renewable and nonrenewable natural resources. The latter will be used up at some point while the former can be managed in a sustainable manner.

35. IROQUOIS, LEAGUE OF SIX NATIONS, THE GREAT LAW OF PEACE OF THE LONGHOUSE PEOPLE § 28 (Akwesasne Notes 1977) (often referred to as “The Iroquois’ Law of Seven Generations”); see Glen Morris, *For the Next Seven Generations: Indigenous Americans and Communalism*, INTENTIONAL COMMUNITIES, at <http://www.ic.org/php/cdir/1995/30morris.html> (last visited Jan. 6, 2005) (discussing the “centuries-old Haudenosaunee philosophy that all major decisions of a nation must be based on how those decisions will affect at least the next seven generations”).

36. Lincoln, *The Perpetuation of Our Political Institutions*, *supra* note 23.

appointed guardians ad litem in political and judicial processes?³⁷ Should impacts on future generations be weighted the same as present day impacts in a utilitarian-based decision making framework? And so on. There are no easy answers to these questions, but I think they are questions we ought to be asking.

37. See WEISS, *FUTURE GENERATIONS*, *supra* note 13, at 95–118 (arguing that, just as the present generation has an obligation to care for the planet, so too does the present generation have a right to benefit from the legacy of past generations through the use and enjoyment of natural and cultural resources). In order to ensure that the interest of future generations are considered in present decisions, Weiss recommends “giving standing to a representative of future generations in judicial and administrative proceedings or by appointing and publicly financing an office charged with ensuring that positive laws conserving our resources are observed, with investigating complaints of abuse, and with providing warnings of pending problems.” *Id.* at 120.