

## Book Review

### ***Trying Leviathan: The Nineteenth-Century New York Case That Put the Whale on Trial and Challenged the Order of Nature* by D. Graham Burnett, 2007, Princeton University Press, ISBN 978-0-691-12950-1, 304 Pages (with illustrations)**

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Taxonomy was a fraught and fallible enterprise: the very possibility of a single, presiding, fixed scheme for arranging the productions of nature remained in question, and competing accounts could be seen to cancel each other out; novelty, monstrosity, and humanity all proved weak points in the schemes of those who would collect and sort all the creates of the globe.  
– Burnett, 2007, p. 90.

In *Trying Leviathan* Graham Burnett uses a fascinating case study to historically and critically examine the order of nature. In 1818 a New York merchant, Samuel Judd, refused to pay a “fish oils” fee that was issued by an inspector, James Maurice, on several casks of whale oil. Judd argued that because whales are not fish their oil should not be subjected to the fee and the highly publicized trial of *Maurice v. Judd* ensued. Although the case initially questioned if a whale was a fish, more pressing issues of natural science and politics surfaced. Are whales fish (as popular consensus held) or something else entirely? What, then, is the “proper” ordering of nature? What is the place of humans in this order? Further, what are the cultural, political, and economic implications of such taxonomies? As Burnett (2007) writes, “*Maurice v. Judd* represents a telling episode in the history of science in the early Republic” (p. 5) and shows how natural history “served as a tool (and proxy) for an emerging ‘American identity’ rooted in a kind of nature-nationalism” (p. 5).

To investigate the process and implications of this case and of taxonomies, Burnett pours over an impressive amount of information: court transcripts, personal narratives, journals, diaries, media articles, scientific categorizations (via Linnaeus, Shudder, Cuvier, Lacepede, Lamarack, Shaw, etc.), folklore, museum records, Biblical scripture, whale boat logs, and vivid and helpful illustrations and drawings. Even old lecture notes and primers from the defense’s leading star witness, Samuel Mitchill, are included. By way of a successful and meandering litany of histories, systems, and institutions these documents situate and contextualize an obscure case that informs modern notions of nature and the environment. Burnett uses these texts (and

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useful footnotes) to trace the trial's debates over who knew about whales, what authority these claims had, who had the right to speak for nature, and who got to decide who got to decide.

Burnett's overarching argument is that taxonomies of the natural and social worlds were used to serve political functions. A plethora of examples show how nature and humans are hierarchically conceived and arranged and the implications of this ordering. Burnett shows how stakeholders conceptualized groupings of nature (genus, family, order, etc.), and of beings within those groups. The whale is categorized, deemed separate from humans, and further individualized as separate from its group. The whale's body is ordered and divided, as seen in "cutting-in" whaling diagrams. Portions of the whale's body are then separated and estranged into the external skin (and further divided into variety, thickness, and quality), internal anatomy, the reproductive system, the bones, the breasts, etc. Taxonomies of geography and place (land, sea, Europe, the United States, New York, New England) lie alongside orderings of perspectives (scientists, whalers, merchants, consumers), of experiences, of trade, of craft, of histories, and of stakeholders in the whale-specific market system (oil merchants vs. tanner financiers; philosophers, men of affairs, and everyone else). The crew on a whaling ship proves to be as diverse as scientific and religious taxonomies. Although this book is a walking taxonomy of taxonomies Burnett does not fall short in discussing what these orderings mean and how they serve larger political functions.

Contradictions in whale taxonomies surfaced in the trial, as they "figured significantly as creatures that defied easy identification and they eluded the clear and distinct grasp of the inquiring eye and mind" (Burnett, 2007, p. 40). Whales suckle their young yet live in the ocean; they are warm blooded yet biblical scripture declares them to be fish. Burnett shows how a grand narrative of scientific taxonomy has played a powerful force in how nature is perceived, yet so has popular consensus. Burnett embeds the trial in eighteenth century classification (via Linnaeus), a system that forever altered Western perceptions and relationships with the earth. Both popular and scientific taxonomies are unstable and contested; science presents taxonomies as "fact" that most would not think to question, yet in the trial popular consensus held the most powerful influence.

Burnett also effectively illustrates how various people came to know and claim the place of whales in nature. The "learned" or "philosophized" men (scholars, students, researchers) mostly experienced whales in museums and by dissected specimens and parts ("cabinet students of nature, who received their sea specimens in jars or crates," p. 125), and in field trips to museums, docks, and fish markets. In contrast, whalers came to intimately know whales in (and on) the sea and with details many naturalists missed, such as sounds, spouting patterns, and diving and emerging habits. Virtually everyone else knew whales through stories, partial whale skeletons in museums, or the rare occasion a whale was dragged ashore and its decaying carcasses was put on tour, often for months after the whale was killed. Yet for all stakeholders in the court case, nature is perceived as separate from humans and "Before the trial ended, a polemical taxonomy of the citizenry had significantly undermined the authority of a polemical taxonomy of the cetes" (p. 167).

Most interesting, though, is what Burnett does with this information. When humans classify whales as separate life forms and further sort them by type (sperm whale, bowhead whale, etc.), taxonomies in nature are used to define and organize the human. Burnett allows the reader to see how this gives humans the ability to "naturally" and politically classify themselves (class, gender, race, etc.) and to deem it simply the order of things. Natural and social worlds (and the identity of a young Republic) are constructed through hierarchical and normalized

groupings and rankings; Burnett weaves into this debate class, race, economics, government, and commerce, where whales were used as leverage to serve political and economic functions that have benefited humans. Burnett does an effective job showing how, as a contested category of nature, the whale reiterates the struggle over nature and knowledge.

Burnett both informs and intervenes in current understandings and debates about the natural world. *Trying Leviathan* can enable the intervention of numerous issues, making it highly relevant to present popular and academic discourses. The specific question of who gets to “speak for” nature is ongoing and political. For example, ideologies and physical conflict in the Antarctic between Japanese whaling fleets and anti-whaling organizations such as the Sea Shepherd Conservation Society are ongoing. As in *Maurice v. Judd*, we might recognize that an important aspect of the issue is not specifically about the whales per se, but rather about the politics of who gets to decide what a whale is in relation to humans, what is defined as ethical social behavior, and how global histories of power, race, nationalism, colonialism and speciesism inform this international and interspecies struggle. Who *does* get to speak for whales? Is it Sea Shepherd, Greenpeace or other anti-whaling activists who categorize whales as sentient, communicative and cognitively sophisticated mammals deserving of rights? Is it the International Whaling Commission that seeks to subject whales to orders of global bureaucratic regulation? Is it the pro-whaling bloc, comprised of Japanese, Icelandic or Norwegian whaling boats, which argues that whale hunting hinges upon the individual decision-making rights of nation-states, each of whom can effectively feel empowered to speak so as to deny the rights of whales’ own plight to be heard? Or is it indigenous communities off the coasts of Alaska and Canada who claim kinship with the whales that they ritually hunt as they attempt to maintain cultural sovereignty and autonomy in an era of globalization and imperialism?

As readers, we can use Burnett’s evidence for specific activist purposes. We can use the book to decry the extinction and endangerment of whale species and see how western science and economies are implicated in zoöcide (Kahn, 2005) under the guise of a commitment to reason and reasonable profit-taking. We can use it to discuss how these issues appear in popular culture, such as in the now somewhat dated (though relevant) *Star Trek IV* film where the fate of the earth hangs on the communicative ability of humpback whales, or in Paul Winter’s music that attempts to provide an acoustic ecology in which the voices of whales and humans can speak together beautifully. We can publicly assert that whales should legally qualify for rights based on their displayed cognitive abilities, as Steven Wise’s (2002) taxonomy of intelligence would reveal. Or, more radically still, we can interrogate the tradition of rights as itself dependent upon the ultimately arbitrary process by which socially-constructed and political taxonomies of life are produced. Such interrogation would necessarily reveal that the life stuff out of which such taxonomies are constructed is ultimately indivisible and that therefore our science and politics should perhaps be revisioned to more seriously advocate for that indivisible order of nature.

*Trying Leviathan* gives ammunition for a political intervention on behalf of these issues. In the closing chapter Burnett helps to reframe the histories of biological and political sciences, which have contributed to the erasing of whales’ voices. In a manner that accords with Latour (2004), Burnett allows us to rethink new paradigms in which subjectivity is restored to whales and politically it becomes not necessarily a question of *speaking for whales* but rather *speaking with them*. To its credit, then, Burnett’s book enables a vision of a new paradigm of science in which whales can not only speak for themselves but can advocate for a reconsideration of nature’s order.

**References**

- Kahn, R. 2005. From Herbert Marcuse to the Earth Liberation Front: Considerations for Revolutionary Ecopedagogy. *Green Theory and Praxis: The Journal of Ecological Politics* 1(1).
- Latour, B. 2004. *Politics of Nature: How to Bring the Sciences into Democracy*. Cambridge, MA: Harvard University Press.
- Wise, S. 2002. *Drawing the Line: Science and the Case for Animal Rights*. Cambridge, MA: Perseus Books.