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Introduction

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WATER USE—A SYMPOSIUM

INTRODUCTION

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The American landscape undergoes continual change. Crowded cities, industrial developments, suburban sprawl, networks of transportation arteries, junkyards dot the scene. Harsh changes reflect the hectic pace of American life. Unequaled economic prosperity and expanding populations have made tremendous demands on our natural resources. Open space, for example, is rapidly disappearing, especially within easy reach of our large urban centers. The air we breathe is clogged with noxious elements and offensive odors. Rivers are polluted.

The nation has recently begun to become aware of the impact of change and expansion on our resources. Happily, there is a growing realization of the sacrifices being made. The abuse of our environment and its natural resources has, however, been going on for so long that recent progress has only brought us to the point where we can begin to face new problems. It has not put us ahead of them.

The key word among conservationists today is "ecology," the relationships between organisms and their environment. The concept has two important aspects. The first has been a shift in emphasis away from concentrating on individual isolated resources. Individual resources are interrelated; decisions made about one resource affect another. The second aspect is the consideration of man and his technological capabilities in approaching a natural resource problem. The challenge confronting us is to understand the interrelationship between natural and man-made resources, and to work toward an integration of these resources which will enrich the quality of the environment. Technological advances have given us tools which can be used wisely or which can hasten deterioration through pollution and blight. If we become aware of the relationships and the choices, we shape our development so as to pass on to future generations a livable environment.

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The goals of the new conservation will be achieved by the laws of the land. The passage of the Water Quality Act of 1965[1] and the Clean Water Restoration Act of 1966[2] reflect the growing concern of the Congress that our rivers be rendered fit for a multiplicity of uses.

In this concern Congress is not alone. The courts have demonstrated awareness, as for example, Justice Holmes: "A river is more than an amenity, it is a treasure."[3] Recent judicial expressions are found in controversies arising out of the exercise of federal regulatory jurisdiction. In directing a rehearing on a license application for a pumped storage project on the Hudson River, the Court of Appeals for the Second Circuit said: "The Commission's renewed proceedings must include as a basic concern the preservation of natural beauty and of national historic shrines, keeping in mind that, in our affluent society, the cost of a project is only one of several factors to be considered."[4] And most recently, Justice Douglas has said:

> A license under the Act [Federal Power Act] empowers the licensee to construct, for its own use and benefit, hydroelectric projects utilizing the flow of navigable waters and thus, in effect, to appropriate water resources from the public domain. The grant of authority to the Commission to alienate federal water resources does not, of course, turn simply on whether the project will be beneficial to the licensee. Nor is the test solely whether the region will be able to use the additional power. The test is whether the project will be in the public interest. And that determination can be made only after an exploration of all issues relevant to the "public interest," including future power demand and supply, alternate sources of power, the public interest in preserving reaches of wild rivers and wilderness areas, the preservation of anadromous fish for commercial and recreational purposes, and the protection of wildlife.[5]

Increasingly we will turn to the lawyers for implementation of plans to improve the quality of the environment. Technology has opened vast possibilities for future action—the lawyers must be prepared to find ways for taking the action. This requires, first, a searching reexamination of existing problems and existing solutions. But beyond that, attention must be directed toward the increasing complexity of the problem. Many of the problems in resource conservation

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[1] 79 Stat. 903 (1965).
[2] 80 Stat. 1246 (1966).
[3] New Jersey v. New York, 283 U.S. 336, 342 (1931).
[4] Scenic Hudson Preservation Conf. v. FPC, 354 F.2d 608, 624 (2d Cir. 1965).
[5] Udall v. FPC, 387 U.S. 428, 450 (1967).

transcend existing political boundaries. New solutions must be devised, solutions which provide adequate protection for all our resources.

I am confident that the Law will be used to protect and improve the quality of our environment. Endeavors such as this symposium are particularly significant. Searching, critical analysis of the broad range of problems can create the awareness necessary to develop constructive approaches to a problem which threatens our very existence.