Cleaning Up America

Richard Friedman

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BOOK REVIEWS


John Quarles is a widely known figure among environmentalists. In late 1970, shortly after the EPA was formed, Mr. Quarles left the Department of the Interior to become the EPA's Chief Counsel and Assistant Administrator in charge of enforcement. When Russell Train succeeded William Ruckelshaus as Administrator, Quarles moved up to the post of Deputy Administrator, the number two EPA position, and, during the transition period of the Carter Presidency, Quarles served as Acting Administrator. In Cleaning Up America, Mr. Quarles gives us an overview of his experiences in the bureaucracy. The author does not adopt the tone of an idealist who has become frustrated with the ineffective federal bureaucracy. On the contrary, he is quick to let us know that he is happy to be labeled a federal bureaucrat, and his pride for the EPA is evident throughout the book. Rather than an exposé, Cleaning Up America is Quarles' attempt to describe the somewhat chaotic interplay between Government and Environment. Although Quarles is scant on detail and occasionally overdramatic, his book is a good introduction to the arena of federal environmental policymaking.

Cleaning Up America repeatedly beats home a central theme: the absolute necessity of broad public support for a clean environment. It is the author's theory that the environmental movement began as a popular protest movement. In support of this theory, the book recounts environmental victories which were a direct result of political pressures for change created by this protest movement. Mr. Quarles suggests three explanations for these early victories - grassroots public opinion, aggressive leadership by environmental groups, and constant media coverage of environmental issues. Of the three, he regards public opinion as the primary policymaking factor.
If it was exhilarating for Mr. Quarles to be a part of this early public movement, it was correspondingly disturbing when significant portions of that same public either lost their interest in environmental issues or, even worse, changed their view entirely. "The record of the three years from 1973 through 1975 reveals that the environmental movement had entered a new phase . . . . The year 1973 witnessed a dissolution of the national consensus that supported demands for environmental reform."¹ In 1973, the oil embargo and the recession frightened Congress: the media saw every environmental issue as a question of employment or health, and the public, when it realized that a safe and clean environment was possible only through major personal sacrifices, also hesitated.

Why is public support necessary? Why can't the EPA simply go about its business and enforce existing laws even if public support is absent? The author suggests two reasons. The first is that the EPA's role is limited to enforcing existing laws. Although the EPA can lobby to preserve or strengthen extant statutes, the average member of Congress may give little weight to the EPA's opinion when he or she suspects the public does not share such a view. "As each issue comes to the point of decision within our democratic political process, one question will be asked again and again. Does the public still care strongly about the environmental concerns?"²

The second reason continued public support is necessary flows from what Mr. Quarles calls "a natural built-in imbalance" in environmental decisionmaking.³ Private industry "uses its inherent advantages to exert political pressure to resist environmental requirements . . . . The question is whether those pressures will be counterbalanced by sustained assertion of the public interest."⁴ Absent that public interest, environmentalists can only hope that the EPA will keep itself afloat. At worst, one can expect an EPA with all the vigor and independence of our ineffectual federal regulatory commissions.

Cleaning Up America is more than a clarion. John Quarles attempts, usually successfully, to shed some light on how our government makes and enforces its environmental laws. His ultimate con-

² Id. at 227-28.
³ Id. at 174.
⁴ Id.
clusion, however, is that the federal government will make and enforce those laws only upon our demand.

Richard Friedman*


When Congress passed the National Environmental Policy Act (NEPA), it declared a national policy for the environment and delegated the implementation of that policy to federal agencies. A National Policy for the Environment traces the development of NEPA from its passage in 1969 to approximately 1973, analyzes the reasons for its broad scope, and describes the struggle it engendered between environmentalists and federal agency administrators, with the courts often acting as referees. Richard Liroff, a Project Associate for the Environmental Law Institute, concludes that Congress failed to anticipate the full implications of NEPA's broad policy statement, and that the agencies' attempts to implement that policy, whether willing or reluctant, produced a variety of unforeseen results.

To explain the reasons for such a broadly worded statute, the author traces NEPA's legislative history in conference and on the floor of Congress. By the late 1960's, public concern for the environment was evident, and Congress was prepared to respond with increased federal environmental protection. There was, however, hesitation and disagreement over the proper means. Certain legislators were reluctant to enact a law which would alter the effectiveness of existing programs. Senators Jackson and Muskie, the main proponents of NEPA, agreed on the need for a national environmental protection policy but disagreed over the manner in which the policy should be implemented. Mr. Liroff suggests that while most members of Congress realized the importance of an environmental protection statute, a specific and detailed law would never have pleased all the interest groups; thus, compromise spawned NEPA's broad, "almost constitutional" nature.

The ease with which NEPA made its way through the Senate and the House underscores the inability of Congress to foresee the stat-

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