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Davies, The Politics of Pollution and Vice Versa; Esposito, The Ralph Nader Study Group on Air Pollution

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BOOK REVIEWS

The Politics of Pollution

By

J. CLARENCE DAVIES III

New York: Pegasus. 1970.

Pp. xiii, 231, \$1.95

Vanishing Air: The Ralph Nader Study Group Report on Air Pollution

By

JOHN C. ESPOSITO

New York: Grossman. 1970.

Pp. xiv, 328, \$.95.

When the Nader Task Force Report on Air Pollution, *Vanishing Air*, was released to the press last May, it received headline attention and some editorial rebuke for its criticism of Senator Muskie's leadership in developing federal air pollution control legislation. The publicity given to this relatively minor part of the report unfortunately diverted attention from its major contribution, a description of the failure of the federal air pollution control effort. Anyone interested in the making or carrying out of environmental policy should read the report for its detailed descriptions of the barriers, pitfalls, frustrations, and occasional official ineptitude involved in governmental efforts to control air pollution. In fact, I wish that Clarence Davies could have read the report when he was writing *The Politics of Pollution*. His book contains a clear description of present policies, an explanation of the economic rationale for the various approaches, and an examination of the political factors that influence the choices of policies. But in contrast to the negative appraisal provided by the Task Force, Davies concludes with an endorsement of the present approach to federal air and water pollution control policies. I wonder how Davies would reconcile the evidence presented by the Task Force with the conclusions he draws from his own analysis.

Because the two books differ in their assessments of the present federal approach to pollution control policy, it is worth going into this matter in some detail. The principal feature of the present federal air and water quality legislation is that responsibility for devising and implementing pollution control plans is assigned to the states.

The states are required to set standards governing the minimum allowable instream water quality and the maximum levels of pollutants in the atmosphere (air quality standards) and to develop and carry out programs for attaining these standards. After making choices concerning the desired environmental quality standards, the states must determine the maximum allowable discharges of pollutants consistent with those standards and find some means of inducing or forcing polluters to limit their discharges accordingly.

The Task Force opposes this approach, at least as it is embodied in the Air Quality Act of 1967. It argues that the real effect of the 1967 Act has been to delay any meaningful action by the states during the past three years. States are not required to establish air quality standards under the Act until the federal government has issued air quality criteria documents describing the known effects of pollutants and has designated areas of the states as air quality control regions. The issuance of documents and designation of regions have been behind schedule and the resulting delays have worked to the benefit of polluters. Second, the Task Force argues that the arts of measuring ambient air quality (to see if the standards are being met) and of calculating the maximum emissions consistent with an air quality standard are so poorly developed that they cannot be relied upon for making rational or reasonable decisions. It argues instead for a policy of uniform national emissions standards limiting the quantities of discharges from each source. The emissions standards would be based upon the best available technology for controlling emissions. The Task Force argues that had these standards been adopted in 1967 and enforcement begun immediately, we would be a lot further along toward our clean air goals than is the case right now.

But I am not so sure. In my view the question of national emissions standards versus air quality standards set by the states is not as important as the Task Force thinks. Both books miss an important point about the political aspects of the two approaches. The most important political decision concerning the environment is the *effective* division of property rights in the environment between those who would use it for disposing of wastes and those who would use it for other purposes such as breathing. At present there is political conflict over the division of these property rights. The politics of pollution is about where and how these conflicts are resolved. The important point is that both approaches tend to perpetuate these conflicts and to reduce the role the public can play in resolving them.

Consider first the air quality standards approach. As Davies points

out, the choice of a standard is open and explicit. The question is posed: "How far do we want to go?" The decisions are made at the state or local level with public hearings, debate, and some degree of political accountability. However, setting environmental quality standards is a meaningless exercise unless effective mechanisms are developed for achieving the standards. Without exception states have placed primary reliance on some form of licensing of discharges with emissions or discharge limits, and judicial enforcement of the license terms. The adoption of a licensing system does not resolve the political conflicts inherent in pollution policy. Rather it transfers the political conflict to the licensing and enforcement stage. As Davies points out, enforcement is still essentially a political problem. It pits the power of the pollution abatement authority against the power of the polluter in the process of licensing, establishing regulations, and in the courts where some issues must be taken for resolution. This means that the real decisions concerning the rights of polluters are made outside of the normal political arena, where the public has the least access, and where there is the least political accountability. Furthermore, the issues are likely to be framed in highly technical terms which will not be widely understood. In effect this approach permits the battles to be fought on the polluters' home terrain.

If air pollution policy is based on national emission standards, the question of goals—how far to go—is never confronted. Two questions are left: who sets the standards; and how will they be enforced? In general, the emissions standards would be set so as to require the adoption of the best feasible technology for treatment or control. This criterion is open to differences in judgment and interpretation. Generally, a legislative body would not want to involve itself in determining specific numerical standards. (Although the recently passed National Air Quality Standards Act does legislate specific emission standards for automobiles for the first time.) Yet if responsibility for setting the standards is delegated to an administrative or regulatory body, this approach is subject to the same criticism as the air quality standards. The political conflict is shifted to a battlefield where the polluters have the advantage because of diminished public access and political accountability. As for enforcement of the emission standards, the political problems are similar to the air quality standards approach. As the Task Force makes clear, national emission standards have not been notably successful in curbing automotive emissions.

The nature of the political system encourages politicians to duck basic issues, especially when they can do this while giving the appearance of action. If they can pass laws which postpone the resolution

of the political conflict over the environment, they can have their cake and eat it, too. They will have certified their credentials as environmentalists by voting for anti-pollution laws. And they will have avoided alienating the industrial and commercial interests who recognize that the real issues have not been settled against them.

If this assessment is correct, is there no hope? Does the politics of pollution really mean just pollution? I don't think it has to be so. There are some lessons to be learned from these two books. First, I would argue that the environmental debate must be refocused on the *means* for achieving environmental goals. The debate must help us to distinguish between the illusion and the substance of action. Second, we must adopt policies which minimize the scope for further political conflict because if the real issues are left unresolved, the continued conflict will almost always take place on terms unfavorable to the public interest in environmental quality. Specifically, new approaches must reduce or minimize the scope of judicial and administrative discretion and judgment rather than increase it. And new approaches must minimize the burden placed upon administrative agencies and bureaucracies. I believe that such an approach can be developed through much greater reliance on economic incentives such as effluent or emission charges.

In Senator Muskie's introduction to the Davies' book he quotes Davies with approval: "There must be a new way of looking at pollution problems. . . ." Few could disagree after reading the Task Force Report. Yet Senator Muskie's latest effort in pollution legislation, the national Air Quality Standards Act of 1970, is at best a mixed bag in this respect. The proposed legislation breaks new ground in giving citizens court standing to seek judicial redress, in legislatively establishing emissions standards for automobiles, and in requiring public hearings on states' implementation plans. But in almost every other respect the the new law increases the scope for administrative discretion and for hidden political conflict over the means of and pace of implementation of society's pollution control goals. This perpetuates the errors of past policies. The "new look" has yet to be taken.

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