

BOOK REVIEWS

AIR POLLUTION. EDITED BY ARTHUR C. STERN. New York: Academic Press, 1968 (2d edition). 3 vols. Pp. 694, 684, 866. \$100.00.

AMERICA THE RAPED: THE ENGINEERING MENTALITY AND THE DEVASTATION OF A CONTINENT. BY GENE MARINE. New York: Simon and Schuster, 1969. Pp. 312. \$5.95.

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Future generations are unlikely to condone our lack of prudent concern for the integrity of the natural world that supports all life.¹

With the onset of the 1970's, large numbers of Americans for the first time are becoming seriously concerned about the deteriorating quality of our environment.² Virtually every social unit, from the college³ to the local church,⁴ manifests some aspect of this growing concern. The political barometer has become increasingly sensitive to the increasing unrest; legislators at both the state and federal level

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¹ R. CARSON, *SILENT SPRING* 13 (1962) (emphasis added).

² A public opinion survey sponsored by the National Wildlife Federation in July 1969 reported that 52% of the American people felt that programs for the improvement of the environment received too little attention from the government. Only 5% felt that too much attention was focused on such programs. The same survey indicated that 29% of those responding felt that their personal enjoyment of their surroundings and their lives had been adversely affected by air and water pollution, and that 55% of the sample would be willing to spend an extra \$20 per year for environmental improvement. Only 22%, however, would be willing to pay an extra \$200 for this purpose. The results of this survey are reprinted in detail at 115 CONG. REC. E 10,936-41 (daily ed. Dec. 20, 1969) (extension of remarks of Representative Ottinger).

³ See, e.g., Hill, *Environment May Eclipse Vietnam as College Issue*, N.Y. Times, Nov. 30, 1969, at 1, col. 3; Sherr, *Students Mobilizing to Combat Pollution of Air, Land and Sea*, Phila. Sunday Bulletin, Nov. 30, 1969, §1, at 26, col. 1; Brooten, *Nixon Wants Youth to Help Fight Pollution*, Phila. Evening Bulletin, Dec. 30, 1969, at 9, col. 8. On September 20, 1969, Senator Nelson of Wisconsin proposed a national teach-in on environmental problems to be held on college campuses across the nation on April 22, 1970. As of February 5, 1970, more than 350 colleges planned to participate. THE ENVIRONMENTAL HANDBOOK (G. De Bell ed. 1970), a source book prepared for the national teach-in, appeared too late to be included in this review.

⁴ See, e.g., Fiske, *The Link Between Faith and Ecology*, N.Y. Times, Jan. 4, 1970, §4, at 5, col. 3. For the view that the roots of the environmental crises are religious, stemming from the Christian view that man is independent of and superior to nature, see Reitze, *Pollution Control: Why Has It Failed?*, 55 A.B.A.J. 923 (1969); White, *The Historical Roots of Our Ecologic Crisis*, in THE ENVIRONMENTAL HANDBOOK 12 (G. De Bell ed. 1970).

have reacted with a wide range of proposals designed to meet important environmental needs.⁵ For example, President Nixon's first official act of 1970 was to sign into law the National Environmental Policy Act,⁶ which commits the federal government to require and support proper environmental planning.⁷ Eighty-eight Congressmen of various political persuasions recently sponsored the establishment of a standing committee on the environment. Many of the same legislators also called for designation of the 1970's as the "Environmental Decade," to be dedicated to renewed efforts to arrest environmental decay.⁸

Despite this recent flurry of activity, the quality of the environment has continued to deteriorate at a rapid rate since 1962, the year in which Rachel Carson wrote *Silent Spring*, an immensely influential explanation of the ecological impact of chemical pesticides. In that work Miss Carson alerted the public to the damage the current generation is doing to the environment and the dangers being created for

⁵ For a summary of legislative action in the first session of the 91st Congress see NATIONAL WILDLIFE FEDERATION, CONSERVATION REPORT (1969), reprinted at 115 CONG. REC. E 11,102-07 (daily ed. Dec. 29, 1969) (extension of remarks of Representative Dingell).

⁶ Pub. L. No. 91-190 (Jan. 1, 1970).

⁷ Title I of the Act contains a "Declaration of National Environmental Policy," which, *inter alia*, (a) declares a continuing federal policy "to create and maintain conditions under which man and nature can exist in productive harmony"; (b) requires the federal government to improve and coordinate federal programs to attain six specified environmental goals; (c) declares that "[t]he Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment"; (d) requires federal agencies and courts to interpret and administer federal laws and regulations to preserve the environment, and includes a mandate that the responsible agency official incorporate a detailed statement of the environmental impact of any legislation or other major federal actions "significantly affecting the quality of the human environment"; (e) makes the policies and goals of the Act part of the mandate of each federal agency and requires such agencies to review their statutory authority to identify any obstacles to proper environmental planning no later than July 1, 1971.

Title I will facilitate suits brought by special interest groups asserting that injury has arisen from agency decisions adversely affecting natural, scenic, or historical resources, but not resulting in pecuniary harm to the complainants. In this respect, it represents a codification of the interpretation given the standing issue in two recent cases. See *Scenic Hudson Preservation Conf. v. FPC*, 354 F.2d 608, 615-17 (2d Cir. 1965), *cert. denied*, 384 U.S. 941 (1966); *Citizens Comm. for the Hudson Valley v. Volpe*, 302 F. Supp. 1083 (S.D.N.Y. 1969).

Title II of the Act creates a three-man Council on Environmental Quality in the Executive Office of the President. The Council is designed to assist the President in environmental planning. On January 29, 1970, Russell E. Train, Under Secretary of the Department of the Interior, Robert Cahn, a reporter for the *Christian Science Monitor*, and Gordon MacDonald, vice chancellor for research and graduate affairs at the University of California, Santa Barbara, were appointed to the first Council. N.Y. Times, Jan. 30, 1970, at 1, col. 7.

The text of the Act and much of the legislative history may be found at 115 CONG. REC. H 13,091-96 (daily ed. Dec. 23, 1969) (remarks of Representative Dingell) (House passage); *id.* S 17,450-62 (daily ed. Dec. 20, 1969) (remarks of Senator Jackson) (Senate passage); *id.* H 12,633-36 (daily ed. Dec. 17, 1969) (remarks of Representative Dingell); *id.* S 12,124-47 (daily ed. Oct. 8, 1969) (remarks of Senator Jackson). See also note 10 *infra*.

⁸ *E.g.*, 115 CONG. REC. E 10,787 (daily ed. Dec. 19, 1969) (extension of remarks of Representative Brotzman); *id.* H 11,927 (daily ed. Dec. 8, 1969) (remarks of Representative Reuss).

future generations.⁹ Yet seven years later, in July 1969, the Senate Committee on the Interior and Insular Affairs concluded that her warning had not been heeded.

In spite of the growing public recognition of the urgency of many environmental problems and the need to reorder national goals and priorities to deal with these problems, there is still no environmental management

As a result of this failure to formulate a comprehensive national policy, environmental decision making largely continues to proceed as it has in the past. Policy is established by default and inaction. Environmental problems are only dealt with when they reach crisis proportions. Public desires and aspirations are seldom consulted. Important decisions concerning the use and shape of man's future environment continue to be made in small but steady increments which perpetuate rather than avoid the recognized mistakes of previous decades.¹⁰

The two books considered here, *Air Pollution* and *America the Raped*, reach beyond despairing commentary on the seriousness of the environmental problems facing the nation and the world to suggest possible remedies. Before turning to an examination of the books, however, a brief review of the precarious state of the environment may prove enlightening.

I. ENVIRONMENTAL DECAY

Often a reiteration of the facts of environmental decay either numbs the reader or, if he is already familiar with the facts, lulls him into inaction. The true impact of these statistics—and they are staggering and alarming if carefully considered—is rarely appreciated. They bear repetition in the hope that each such presentation will arouse a few more individuals from comfortable ignorance or apathy.

A. *Air Pollution*

According to a study by scientists at the Atmospheric Sciences Research Center, the last clear air disappeared from the continental

⁹ Miss Carson's work bore fruit in late 1969 when the federal government announced its intention to phase out DDT completely except where no other alternatives are available and its function is essential. Studies which may lead to similar bans of other chlorinated hydrocarbons are slated to begin in March 1970. *Wall Street Journal*, Nov. 21, 1969, at 4, col. 1. Several state governments, including those of Arizona, California, Florida, Maryland, Michigan, and Wisconsin, followed the federal announcement by issuing various bans or limitations on the use of chemical pesticides. *Phila. Inquirer*, Jan. 4, 1970, § 1, at 9, col. 8.

¹⁰ S. REP. No. 296, 91st Cong., 1st Sess. 5 (1969). See also *Hearings on S. 1075, S. 237, & S. 1752 Before the Senate Comm. on Interior and Insular Affairs*, 91st Cong., 1st Sess. (1969).

United States over six years ago. Using a scale on which 1 represents barely adequate air, major metropolitan areas now show air pollution readings of 1.6 to 2.7. Large-scale pollution crises are expected no later than 1980 in most major metropolitan areas, and at least one of these areas is expected to experience 10,000 deaths in the course of a single pollution crisis. Already in Tokyo and Los Angeles children are often required to wear breathing masks out-of-doors and are not permitted recess outdoors when the air is severely polluted. This kind of experience is expected to be common by 1980, making domed cities or breathing apparatus necessary for survival.¹¹

The destructive potential of increased air pollution is terrifying. Scientists have causally linked air pollution to such diseases as lung cancer, asthma and other respiratory allergies, bronchitis, emphysema, heart diseases, genetic mutations, and strokes.¹² Recent studies, including specific figures on the rate of death from bronchitis, emphysema, children's asthma, and eczema, have correlated air pollution with the death rate in metropolitan areas.¹³ In addition to damage to human beings, air pollution is responsible for farm crop losses of nearly one billion dollars annually. Furthermore, air pollution costs American citizens between two and twelve billion dollars per year (ten to sixty dollars per person) in expenses for cleaning, repairing, and protecting clothing and property.¹⁴

B. Water Pollution

The two major sources of water pollution are municipal and industrial sewerage, and thermal pollution. As the population and industry continue to expand rapidly, with the concomitant increase in municipal and industrial wastes, the cost of combating water pollution will increase. Present estimates call for the expenditure of thirty to fifty billion dollars over the next five years to clean up the nation's water resources.

¹¹ Phila. Inquirer, Dec. 21, 1969, § 1, at 1, col. 2; U.S. DEP'T OF HEALTH, EDUCATION, & WELFARE, TOWARD A SOCIAL REPORT 30 (1969) [hereinafter cited as SOCIAL REPORT].

¹² Goldsmith, *Effects of Air Pollution on Human Health*, in I AIR POLLUTION 547, 567-94 (2d ed. A. Stern ed. 1968) [hereinafter cited as AIR POLLUTION], and studies cited therein.

¹³ See Brooten, *Air Pollution is Linked Directly to Death Rate*, Phila. Evening Bulletin, Nov. 11, 1969, at 4, col. 1; 115 CONG. REC. E 8594 (daily ed. Oct. 16, 1969) (extension of remarks of Representative Mikva) (study by the Stritch School of Medicine of Loyola Univ. indicating a death rate of 1,949 per 100,000 in high pollution areas and only 1,389 per 100,000 in areas of lower pollution); Phila. Inquirer, Nov. 12, 1969, at 8, col. 3 (Buffalo, N.Y., study on the incidence of asthma and eczema among children); 115 CONG. REC. H 11,133 (daily ed. Nov. 19, 1969) (remarks of Representative Mikva) (Buffalo, N.Y., study); *id.* E 9661 (daily ed. Nov. 17, 1969) (extension of remarks of Representative Farbstein) (reporting increased incidence of lung cancer, emphysema, bronchitis, and other diseases directly linked to air pollution).

¹⁴ See, e.g., Brandt & Heck, *Effects of Air Pollutants on Vegetation*, in I AIR POLLUTION 401, 403; Yocum & McCaldin, *Effects of Air Pollution on Materials and the Economy*, in I AIR POLLUTION 617, 646-47; 115 CONG. REC. E 9661 (daily ed. Nov. 17, 1969) (extension of remarks of Representative Farbstein) (\$800 million damage from air pollution annually in New York City or \$620-\$800 per family).

Even if all wastes from all municipal sources were treated, and the effectiveness of the treatment process greatly improved, actual municipal discharges will be greater in 1980 than in 1962 and will be double the present level by the year 2020.¹⁵ The difficulty of treating water effectively is illustrated by a recent report of the General Accounting Office. The agency found that six towns in Louisiana were spending 7.7 million dollars in federal funds to decrease pollution along the Mississippi River by 147,000 units while eighty industrial plants along the same stretch of water were dumping more than 2,400,000 units of pollution into the river.¹⁶

Thermal pollution is a new and more dangerous form of water pollution resulting from the use of vast quantities of water to cool reactors in nuclear power plants.¹⁷ The effluents from such cooling systems commonly raise the water temperature as much as fourteen degrees above the natural level, an increase which often results in the death of indigenous marine life. The nuclear plants may also pose radiation hazards with potential impact on the human genetic structure.¹⁸

As one observer notes,

[f]ortunately thermal pollution has not yet reached the level of producing general damage; moreover, unlike many other forms of pollution, any excessive heating of the waters could be stopped in short order by appropriate corrective action.¹⁹

To date such efforts have barely begun. The deficiency of past federal environmental planning in this particular area is illustrated by a recent decision of the United States Court of Appeals for the First Circuit, holding that the Atomic Energy Commission lacks the statutory power to consider thermal pollution in determining whether to license nuclear power plants.²⁰

C. Pollution of the Land

Pollution of the land is the most pervasive and varied aspect of environmental deterioration; it embraces the full spectrum of environ-

¹⁵ 115 CONG. REC. S 14,971 (daily ed. Nov. 25, 1969) (remarks of Representative Reuss); SOCIAL REPORT 32.

¹⁶ N.Y. Times, Nov. 5, 1969, at 24, col. 5; see 115 CONG. REC. S 14,971 (daily ed. Nov. 25, 1969) (remarks of Senator Proxmire).

¹⁷ "In the U.S. it appears that the use of river, lake and estuarine waters for industrial cooling purposes may become so extensive in future decades as to pose a considerable threat to fish and to aquatic life in general." Clark, *Thermal Pollution and Aquatic Life*, SCI. AM., March 1969, at 19.

¹⁸ See 115 CONG. REC. S 10,822 (daily ed. Sept. 18, 1969) (remarks of Senator Tydings); Brooten, *Conservationists Fear Pollution by Salem, N.J. Atomic Plant*, Phila. Evening Bulletin, Dec. 11, 1969, at 15, col. 8.

¹⁹ Clark, *Thermal Pollution and Aquatic Life*, SCI. AM., March 1969, at 19, 26.

²⁰ *New Hampshire v. Atomic Energy Comm'n*, 406 F.2d 170 (1st Cir.), cert. denied, 395 U.S. 962 (1969). The adoption of the National Environmental Policy Act should help to remedy this type of deficiency. See note 7 *supra*.

mental problems. Some of the most serious problems of pollution of the land include:

1. Waste Disposal

Three billion dollars are spent annually to dispose of solid wastes, both public and private. Present methods of disposal—chiefly burning and burying at land or sea—simply contribute to air or water pollution, or otherwise interfere with the ecology of the disposal area. Appropriate disposal methods are available, but require proper disposal plant siting, utilization of effective air pollution control equipment, and coordinated efforts for regional waste disposal. Since most wastes are actually fertilizers or foods needed by some organisms, proper methods of waste disposal may actually benefit an area by recycling beneficial nutrients back into the soil.²¹

2. Destruction of Recreational Area or Areas of Natural Beauty

Preservation of recreational areas and areas of natural beauty is the major concern of environmentalists and the conservation organizations which have traditionally devoted their main efforts to preserving the inherent beauty of the land.²² The chief problems for these groups arise when highways, power lines, or other network elements are plotted in historic or scenic areas, or when an attempt is made to turn an area once devoted to recreation into a commercial site.²³ Frequently such projects, in addition to destroying natural beauty, disturb nature's delicate balance and cause erosion and other problems.²⁴ Federal agencies have finally begun to come to grips with these problems, sometimes under judicial compulsion.²⁵ For example, the Departments of Transportation and the Interior have recently appointed high-level officials to oversee environmental planning in each department.²⁶ The major problem now lies with uncontrolled

²¹ See Berton, *Ecology & Problems Beyond Pollution*, Wall Street Journal, Dec. 2, 1969, at 24, col. 3; 115 CONG. REC. E 7517 (daily ed. Sept. 16, 1969) (extension of remarks of Representative Tiernan).

²² But see N.Y. Times, Jan. 2, 1970, at 14, col. 1. The Sierra Club, a conservationist organization long concerned with the preservation of America's natural resources, is now concerned "with problems ranging from the High Sierra in California to the decaying inner core of overcrowded cities." *Id.*

²³ See generally G. MARINE, *AMERICA THE RAPED* (1969) [hereinafter cited as MARINE]. Of particular interest are chapters III (Everglades Canal), VI (Storm King Pumped Storage Project), VIII (Great Smoky Mountains National Park Road), X (Grand Canyon Dam), and XIII (highways).

²⁴ See 115 CONG. REC. H 11,928 (daily ed. Dec. 8, 1969) (remarks of Representative Reuss).

²⁵ See *Scenic Hudson Preservation Conf. v. FPC*, 354 F.2d 608, 615-17 (2d Cir. 1965), cert. denied, 384 U.S. 941 (1966); Citizens Comm. for the Hudson Valley v. Volpe, 302 F. Supp. 1083 (S.D.N.Y. 1969).

²⁶ See 115 CONG. REC. H 11,448 (daily ed. Nov. 26, 1969) (remarks of Representative Saylor) (interview with J. D. Braman, Ass't Secy. of Transp. for Environment and Urban Systems). For a good review of the many activities of the Federal Power Commission in the environmental area see FEDERAL POWER COMM'N, *FEDERAL POWER COMMISSION INTERESTS IN ENVIRONMENTAL CONCERNS AFFECTING THE ELECTRIC POWER & NATURAL GAS INDUSTRIES* (1969).

private commercial development of land. Development must be planned in order to use our land optimally.

3. Chemical Contamination of the Soil

The recent action of the federal government in announcing that DDT will be phased out of all but essential uses represents the culmination of a long crusade against this chemical pesticide. DDT, which may cause permanent human and animal genetic mutations, has killed fish and wildlife by the thousands. Its lengthy halflife and high rate of mobility have enabled it to penetrate every remote corner of the globe, and often result in belated and devastating effects upon animals having only casual and indirect contact with the substance.²⁷ *All* chemical agents such as fertilizers, herbicides, and household detergents—whose constituents (particularly phosphates) may cause eutrophication (aging) of lakes and streams by fertilizing vegetation²⁸—must be subjected to rigid scrutiny and registration *before* their use is permitted.

D. *Wildlife and Natural Resources*

In a recent speech,²⁹ Representative Thompson of New Jersey quoted an estimate by S. Dillon Ripley, Secretary of the Smithsonian Institution, that “seventy-five to eighty per cent of all the species of living animals will be extinct” in twenty-five years as a result of contamination of the environment by air, water, and chemical pollution. Continuing the analysis, Representative Thompson noted that, should the present rate of increase in extermination of species continue, all of the remaining 4,062 species of mammals will be extinct in thirty years. Even today, fifteen per cent of the mammalian species native to the United States are in danger of becoming extinct. Much of the danger can be traced to faulty environmental planning and, more specifically, to inadequate preparations for the construction of canals, airports, highways, and housing.³⁰ Poor planning and commercial exploitation have also endangered many mineral supplies and other natural resources such as timber.³¹

E. *Noise Pollution*

Increased noise levels may cause hypertension, high blood pressure, and even epileptic seizures. It is estimated that some six million

²⁷ See note 10 *supra*; R. RUDD, PESTICIDES AND THE LIVING LANDSCAPE 248-67 (1964). See generally R. CARSON, SILENT SPRING (1962).

²⁸ See N.Y. Times, Dec. 21, 1969, at 62, col. 1.

²⁹ 115 CONG. REC. H 11,996 (daily ed. Dec. 9, 1969) (remarks of Representative Thompson).

³⁰ See, e.g., MARINE chs. III (Everglades Canal), IX (dam in Alaska), and XI (New Jersey jetport).

³¹ See, e.g., McCloskey, *Raiding the Forests*, NEW REPUBLIC, Dec. 13, 1969, at 10-11.

Americans are subjected to hazardous noise levels at their jobs and that "with increased crowding, electronic amplification of sound, use of machinery, sonic booms and other noises from the transportation system, the average noise level [will rise] each year."³²

II. WHAT CAN BE DONE?

Both of the books reviewed herein supply appropriate answers to the problems of pollution discussed above. The contributors to *Air Pollution* envision public education as the solution.³³ These three volumes, edited by Arthur C. Stern of the Department of Health, Education, and Welfare's National Center for Air Pollution Control, contain fifty-four well-documented articles by sixty authors treating nine separate subjects in more than 2,200 pages. Perhaps the most significant and encouraging aspect of this work, which is addressed, according to its preface, to "engineers, chemists, physicists, physicians, meteorologists, lawyers, economists, sociologists, agronomists, and toxicologists," is the recognition that air pollution is a problem that cannot be solved by the members of one discipline alone. Pollution is approached as a problem requiring concerted action by scientists, lawyers, and community leaders to remedy the nearly lethal present situation.³⁴ The articles, each written by an individual recognized as an expert in his field, deal with "the cause, effect, transport, measurement, and control of air pollution."³⁵ For the sake of both convenience and organization, the articles are divided into three volumes: "Air Pollution and Its Effects," "Analysis, Monitoring, and Surveying," and "Sources of Air Pollution and Their Control." This collection provides an invaluable sourcebook on air pollution for public officials at all levels of government and for concerned citizens everywhere. Whether dwelling in small towns or sprawling metropolitan areas, concerned individuals should welcome, in particular, the many articles advancing concrete community programs for air pollution abatement.

Of special interest are the five chapters in part III of volume I cataloguing in enormous detail the effects of air pollution on the atmosphere, biology, the economy, human health, and vegetation. Attorneys concerned with but possessed of only limited knowledge

³² SOCIAL REPORT 34; see Phila. Inquirer, Dec. 29, 1969, at 5, col. 1.

³³ That many legislators agree is evidenced by the spate of bills now pending in both houses of the Congress to establish environmental education subsidies and programs. *E.g.*, Environmental Quality Education Act, S. 3151, 91st Cong., 1st Sess. (1969); Environmental Reclamation Educational Act of 1969, S. 3237, 91st Cong., 1st Sess. (1969).

³⁴ One such coalition is the Environmental Defense Fund (EDF), a nonprofit group of scientists and lawyers committed, *inter alia*, to establishing a right to a clean and healthy environment under the ninth amendment to the Constitution of the United States. The EDF has initiated suits to restrain air pollution in Montana, use of DDT by state and local governments, destruction of the Florissant Fossil Beds in Colorado by land developers, and construction of the Cross-Florida Barge Canal. See generally Peet, *The Effluent of the Affluent*, AMERICAN FORESTS, May 1969, at 35.

³⁵ Stern, *Preface* to AIR POLLUTION at ix (2d ed. 1968).

about air pollution law will find Sidney Edelman's article on "Air Pollution Control Legislation" in volume III a particularly helpful primer. The article reviews various legal theories of control as well as legislation at the state, national, and international levels, and proposes innovative model legislation. Efforts to promote legislation may be advanced by Jean J. Schueneman's article, "Air Pollution Control Administration," providing a valuable seventy-six page discussion of existing, proposed, and model programs for controlling air pollution. Research in this and other areas is expedited by the concluding article of the collection, a helpful reference list of books and periodicals compiled by John S. Nader on the entire scope of the pollution problem. Taken as a whole, it is difficult to see how this collection, already in its second edition, can ever be replaced as the authoritative work on air pollution.

Gene Marine's book, *America the Raped*, is of a very different nature. Adopting a tone distinct from the scientific and largely understated tone of *Air Pollution*, Marine, a muckraking journalist from *Ramparts* magazine,³⁶ presents an angry assault on what he characterizes as "The Engineering Mentality and the Devastation of a Continent." Utilizing a variety of concrete examples ranging from the canals threatening the unique ecosystem of the Florida Everglades to the superhighways running through the scenic Great Smoky Mountains National Park,³⁷ Marine identifies the "engineer" as the villain of the environmental tragedy. The engineer, he alleges, ignores the ill effects of technology and views environmental considerations as inconsequential "decorative additions" to projects already planned and completed without reference to their ecological or environmental impact.

A classic current example is the development of the newly-discovered and apparently sizable oil and gas reserves in northern Alaska.³⁸ Reacting to the need to develop such reserves and to ship the oil and gas to the other forty-nine states for profit, the federal and state governments, in conjunction with the major oil companies, have undertaken a massive land development scheme replete with pipelines, highways, and the trappings of civilization. The problem with such development is not simply interference with the wilderness and the tundra land supporting a fragile ecosystem never before exposed to technology; for, as Marine recognizes, technological development may be required despite potential damage to the environment when, on balance, other needs of the people are more significant.³⁹ What Marine does object to is development without consideration *in advance* of all

³⁶ Some of the most interesting and provocative writing on ecology has appeared in *Ramparts*. E.g., Ehrlich, *Eco-Catastrophe!*, RAMPARTS, Sept. 1969, at 24; Weisberg, *The Ecology of Oil: Raping Alaska*, RAMPARTS, Jan. 1970, at 25.

³⁷ See notes 23 & 30 *supra*.

³⁸ See Weisberg, *The Ecology of Oil: Raping Alaska*, RAMPARTS, Jan. 1970, at 25; 115 CONG. REC. S 17,693 (daily ed. Dec. 23, 1969) (remarks of Senator McGovern.) (series of 11 articles on the environmental impact of Alaskan oil and gas development).

³⁹ E.g., MARINE 57, 74-81, 96-97, 150-51, 191.

the alternatives and without study *in advance* of the effects of the development upon the ecology of the region.

If oil or natural gas were no longer available in sufficient supply, and no alternative methods of development were available, Marine would not hesitate to support rapid technological development by the least damaging means. Any other approach would establish a national policy benefiting only those rich enough to afford high fuel bills and having access to areas of scenic beauty. In Alaska, however, the construction of a highway cutting a swath twelve feet wide through the tundra to reach the oil and gas not only will damage the land utilized for the road but also may irreparably injure the tundra by causing the underlying permafrost to melt, thereby depriving wide expanses of the surface of solid support.

Marine's solution recommends that the nation develop an "ecological conscience" so that all decisions with potential environmental impact are undertaken only after thorough investigation and with a firm understanding that such decisions affect generations yet unborn as well as our own.⁴⁰ Such a solution may seem oversimplified and idealistic, but it complements the thesis espoused by the contributors to *Air Pollution*. By alerting people to the dangers of pollution, by informing them of methods for correcting existing ecological imbalances, and by educating them to avoid future disasters, a national conscience may be created. Transmission of information is definitely the first step in that direction.

The recent enactment of the National Environmental Policy Act,⁴¹ committing federal agencies to a policy emphasizing proper environmental planning, together with the proposed legislation to subsidize improved school curricula on environmental problems,⁴² are significant beginnings. In addition, books such as *Air Pollution* and *America the Raped* provide fuel for the growing "ecological conscience." Once that conscience is established as part of the nation's decisionmaking process, Americans can begin to look forward to an environment which people may enjoy rather than one with which they must do battle to survive.

⁴⁰ *Id.* 81.

⁴¹ Pub. L. No. 91-190 (Jan. 1, 1970). The Act is described at note 7 *supra*.

⁴² *E.g.*, Environmental Quality Education Act, S. 3151, 91st Cong., 1st Sess. (1969).

THE QUEST FOR REGIONAL COOPERATION: A STUDY OF THE NEW YORK METROPOLITAN REGIONAL COUNCIL. BY JOAN B. ARON. Berkeley and Los Angeles: University of California Press, 1969. Pp. 225. \$7.00.

Morton Lustig †

Dr. Aron has written a good book. The struggle to conceive, bear, and sustain a voluntary council of public officials in the New York region is described carefully and fluently, and just a little sadly, for this is a tale of woe. Full documentation, much of it from the files of the Metropolitan Regional Council (MRC), supports the authenticity and scholarship of the work without overwhelming the text.

The major purpose of *The Quest for Regional Cooperation* is to prevent MRC from repeating mistakes it has made in the past. The book is also designed to aid councils of governments elsewhere; although many of the MRC's problems are unique, Dr. Aron believes that "some of the self-destructive potentialities of a council are likely to be universal."¹

Voluntary regional councils, the subject matter of this book, are of major importance. Many of our most pressing urban problems—transportation, water and air pollution, open space—are area-wide in nature. The fragmented governmental structures existing in nearly all of our metropolitan areas have been unable to deal successfully with these problems. Yet attempts in the 1950's by government leaders and political scientists to form metropolitan-wide governmental structures ended in failure. With few exceptions, too many political obstacles blocked the creation of a metropolitan-wide structure.

The voluntary regional council, or council of governments, represents a new form designed to serve some unifying role within the limits of political reality. By March 1968, more than ninety such councils were in existence, and twenty more were about to be formed.² Most of these were initiated after the federal government authorized financial support for such bodies in the Housing and Urban Development Act of 1965.³

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¹ J. ARON, *THE QUEST FOR REGIONAL COOPERATION* v (1969) [hereinafter cited as *THE QUEST*].

² *Id.* 6. It is reported in *URBAN DATA SERVICE, COUNCILS OF GOVERNMENTS: TRENDS AND ISSUES* 1 (1969) that more than 140 councils of government have been organized within the last 15 years.

³ Section 1102(c), 40 U.S.C. § 461(g) (Supp. IV, 1969), authorizes the Administrator to "make grants to organizations composed of public officials representative of the political jurisdictions within the metropolitan area" to aid them in studies and programs designed to solve metropolitan or regional problems.

The Quest for Regional Cooperation covers a ten-year (1956-1966) losing battle to develop workable cooperative machinery in the New York area. Dr. Aron tells the complex story by first summarizing the ten-year history, and then examining in detail the problems of self-definition, the home rule tradition, public indifference (except for opposition from groups on the far right), relationships with other regionwide agencies, organizational weaknesses, and achievements of the Council. This organization of material enables the reader to keep events in sequence and to relate the different elements of the study to each other. The necessary repetition in the structure of the book may provoke scrupulous readers to refer back to earlier passages from time to time. The text as a whole, however, enables the reader to comprehend not only the structure of MRC, but also the forces that engendered it and those ultimately rendering it ineffective.

I. HISTORY

In June 1956, Mayor Wagner of New York City invited elected officials from the three-state region's counties and larger cities to meet with him for a discussion of area-wide concerns. The response was enthusiastic and six months later the group formed the Metropolitan Regional Conference. The nature of the organization was clearly established in its four basic principles:

- (1) "The organization shall be voluntary in character both in composition and in binding policy determination."
- (2) "Membership shall consist of the top elected public officials."
- (3) "The organization shall respect the principle of home rule and the integrity of the community."
- (4) "The organization shall be non-political in motivation and action."⁴

The Deputy Administrator of New York City became part-time secretary (later Executive Secretary) of the Conference, and his staff served as Conference staff. Two years later, the organization changed its name to Metropolitan Regional Council (MRC) to indicate its permanence and its determination to accomplish more than talk.

In this early period MRC included a total of thirty-seven communities: twenty in New Jersey, eleven in New York, and six in Connecticut. It is not clear whether this total represents the alltime peak, nor is there data on the total number of eligible communities. Although there are more than 1400 governmental units in this region, MRC attempted to enroll only the larger ones. An estimate of the total number of larger units eligible would provide a useful perspective on

⁴ THE QUEST 13.

the overall response to the Council. The author fails, however, to provide such a figure. This failure is due in part to her emphasis on the member communities throughout her analysis of the Council's political troubles. Such emphasis is unfortunate, for those communities which never responded have much to tell us about the political (and other) factors which lead to response or resistance to regional cooperation. It is also appropriate to ask whether thirty-seven (or fifty or 100) of the larger municipalities can "represent" or serve as a sounding board for all of the municipalities in the region. If the "problem" of the New York metropolitan area is the overwhelming fragmentation of government, can the problem be dealt with by the voluntary association of a small percentage of the units involved? *The Quest* is silent on this question.

Those governments and officials who did join were persistently concerned with the legal status of MRC. The group was self-formed; it had neither statutory authorization nor any acknowledged place in the machinery of regional affairs. Thus, in 1959, to define its role, the Council drafted an act to establish a Tri-State Metropolitan Regional Council. By 1962, however, the Council had become frustrated by the resistance of the New York legislature, and abandoned this attempt at legitimation. As an alternative, the Council extracted from New Jersey and Connecticut legislation corresponding to New York's general law on interstate agreements for municipal cooperation;⁵ but this success was ephemeral. The fight for legislative recognition raised the specter of regional government and stimulated powerful political opposition both inside and outside the Council. Rightwing groups and taxpayer associations combined to fight against regional government. Differences between political parties and factions within the parties themselves divided and weakened the Council's supporters. The opposition charged a "takeover" attempt by New York City, and decried the prospect of reduced powers for local governments and tax increases to support a new level of government. Only a handful of the Council's members accepted the new form; many of the most influential (such as Westchester County) rejected the plan. In 1963, MRC abandoned all efforts to obtain statutory authorization.

The political struggle, combined with chronic problems of inadequate financial support, insufficient staff, high turnover among elected officials, and other ills, brought MRC to a standstill. In 1966, however, the availability of federal funds for councils of government provided a new spark of interest. With general support of the membership, including members who had fought bitterly against statutory authorization, MRC was incorporated as a nonprofit agency. By 1968, when the first federal grant was received, the Council exhibited a rejuvenated spirit and sense of purpose.

⁵ *Id.* 33-34.

II. ANALYSIS OF MRC

Dr. Aron's historical overview of MRC ends at this point, as she turns to a detailed analysis of this history. Her purpose is to provide a full understanding of MRC's failures as a lesson for the future, both in the New York area and in other regions using voluntary associations of governments to cope with regional disunity. The analysis is careful, detailed, and richly supported by citations to original documents, interviews, and secondary sources. For the most part the analysis is convincing.

MRC had many kinds of difficulties, including the absence of sufficient full-time staff, which perhaps deserves even more emphasis than Dr. Aron gives it. The association form, working through numerous, amorphous committees, is very dependent on staff services to provide working materials, to lend continuity (where membership is constantly in flux), and to implement group conclusions and intentions. It is instructive to note that MRC's outstanding accomplishment, a recreation study prepared in cooperation with the Regional Plan Association, was funded and staffed by the Regional Plan Association.⁶

MRC was also plagued by its failure to decide what its purpose and place in regional affairs were to be. The indecision was evidenced in part by MRC's vain attempt to obtain legislative authorization. MRC's indecision may also have been responsible for the lack of public interest in its work, and for its ambivalent relationship with other regionwide agencies, such as the New York Port Authority, the Regional Plan Association, and the Tri-State Transportation Commission.

Still another area of analysis, and perhaps the most intriguing, deals with MRC's political fortunes. The account ranges from a general discussion of "home rule" implications to a thorough case study of Westchester County's rejection of a statutory basis for the Council. Although the analysis is extensive and informed, something is lacking. At times the material is so personalized and anecdotal that it has little utility as a guide for future action. Dr. Aron did not attempt to find the underlying explanation of political behavior, nor even to generalize the political responses. Did counties react differently than cities? Did party or factional differences play a significant role? (This question is discussed but not fully answered.) Did New York communities behave differently from those of other states? This last question is especially interesting because New York communities might fear New York City's influence in the state legislature much more than would communities of other states. If so (and her data suggests that it is), then the "multistate" problem of regional cooperation may be the opposite of what is usually assumed: that is, central cities may be able to work more effectively with out-of-state local governments than with governments in the same state because the former have less to fear from central city competition in the legislature.

⁶*Id.* 189.

One more general issue should be considered regarding the role of MRC in the regional area. To provide a setting for her history and evaluation, Dr. Aron defines the underlying nature of metropolitan problems as "the inability of local governments to perform independently the many functions which are area-wide in nature."⁷ Judging from the Council's involvement in problems of transportation, open space, water and air pollution, and cooperation among law enforcement agencies, MRC seems to have accepted much the same definition of the problem and adapted its efforts accordingly. But it has long been clear to many concerned with urban affairs that the "purely local" actions of municipalities create much of the inefficiency and disharmony of the region. Certainly land use controls, expenditure and tax policy, and participation in federal housing subsidy programs strongly affect transportation, water and sewerage facilities, open space availability, and most of the other "area-wide" concerns.

The fact that metropolitan-wide problems are caused in part by local governmental action on local problems does not, however, lead to the conclusion that MRC should have been involved in such matters. Municipal officials are highly sensitive to precisely those local issues and will not tolerate outside interference. It is therefore a practical necessity that the voluntary, powerless council of governments restrict itself to area-wide issues. It is also a practical necessity that the council and the community understand that a very significant part of the "metropolitan problem" cannot be dealt with effectively even when the council of governments is working perfectly.

In summary, *The Quest for Regional Cooperation* is an interesting, competent history of the development, accomplishments, and failures of the New York Metropolitan Regional Council. The analysis is cogent, but fails in some areas (especially politics) to provide the depth of understanding necessary for generalization either in the New York area or elsewhere. General readers, particularly those of the New York area, will find the book highly informative. Scholars in political science and related fields will find useful examples but limited transferability.

⁷ *Id.* 20.