

## BOOK REVIEW

CLEANING UP AMERICA: AN INSIDER'S VIEW OF THE ENVIRONMENTAL PROTECTION AGENCY. By John Quarles. New York: Houghton Mifflin Co. 1976. Pp. xvi, 256. \$8.95.

John Quarles is a man who loves his work. As a top official of the United States Environmental Protection Agency since its creation, he has been involved in many major environmental policy decisions in the last six years. At EPA he has served as General Counsel, Assistant Administrator for Enforcement, and Deputy Administrator. For some reason, perhaps an exaggerated sense of literary modesty, Quarles begins his book by describing himself as a "bureaucrat."<sup>1</sup> It is about as accurate to describe Quarles as simply a bureaucrat as it would be to describe Evel Knievel as simply a motorcycle rider.

Although the book is subtitled "An Insider's View of the EPA," it is not really a view "of" EPA. Quarles tells us little about the EPA itself. What he has given us is a view "from" EPA, as he looks out from his vantage point and surveys the terrain of American environmental law and politics. On the whole Quarles' book is an enjoyable and informative addition to the literature of environmental law, although it is disappointing in a few important respects.

### I

Most of *Cleaning Up America* is historical. Quarles describes the birth of EPA, including behind-the-scenes accounts of the competition among various Department chieftains to preserve or expand their respective domains. He goes on to describe some of the major battles in which he and EPA have been embroiled, including such landmarks as the Federal Water Pollution Control Act

1. J. Quarles, *CLEANING UP AMERICA* xi (1976).

Amendments of 1972, the lead-in-gasoline and other Clean Air Act regulations, the Armco steel case, and the automobile emissions controversies.

Most of the book, and the best of it, is written in a journalistic style. Quarles simply describes what he saw, did and felt. Although Quarles gives little expression to his own opinions in the controversies he describes, a sense of a hard-working, well-intentioned man does come through. His storytelling makes fascinating reading for those who would like to know more about what went on outside of the public limelight.

Quarles' references to the Nixon Administration's repeated resistance to aggressive EPA actions are illuminating to read, although not surprising. Considering this, I find myself quite persuaded by Quarles' strong admiration, almost adulation, for the first two Administrators of EPA, William Ruckelshaus and Russell Train. The longer history of the environmental movement will record the nation's good fortune in these initial choices. Lesser men might not have been so capable of overcoming White House attempts to water down specific policies of EPA and to establish review procedures which would regularly have diluted their effectiveness. The EPA record is not unblemished, but Quarles leads us to believe it could have been much worse.

Apart from the historical descriptions, Quarles tries to analyze the episodes he describes and to post some directional signs for the future. In this attempt, his contributions are surprisingly uneven. The greatest strength of his analysis of the past is his commentary on the importance of the general public outcry over environmental degradation. He observes that the force of public opinion and media attention in the period 1969 through 1972 gave tremendous support to government action for environmental regulation. The strong popular mandate evident in those years was repeatedly reaffirmed in major legislation and litigation at national, state and local levels.

By 1973 public attention had largely drifted elsewhere. The honeymoon period for environmental regulatory agencies had ended. The tremendous complexity of the problems the agencies had to deal with could no longer be overlooked. Furthermore, the various interests which perceived—with varying degrees of accuracy—that environmental regulation would make their lives more difficult

began to exert tremendous counter-pressures through lobbying, litigation, advertising, and other means. Quarles describes quite well this evolutionary development of the public influence on environmental regulation.

When he gets to his prescriptive comments, however, Quarles puts so much emphasis upon the ways in which an agitated public facilitated the early work of the EPA that he totally neglects to mention the EPA's leadership role in relation to public opinion. There is no longer any point in trying to recreate the remarkable, early days of the "environmental crisis" as a requisite for bold environmental policy. Quarles overstates the need for, and the possibility of, the people leading the government in dealing with environmental problems. Those days are gone. The unique historical context which gave rise to the "environmental crisis" can never be duplicated, and much of the public is now aware that environmental problems are complex and cannot be solved without sophisticated technical expertise.

As Quarles acknowledges, undoubtedly many people believe that their efforts in past years have now brought about the enactment of laws and the creation of government agencies to enforce them, which are beginning to get many of the problems under control. What Quarles does not recognize sufficiently is that there is a degree of truth in this, or at least that he and other officials would do well to act as if there were. They can assume that public silence continues to mean public support, rather than lament that without new, vocal public support the effort is unwanted and will falter.

In the long run, Quarles is right about the need for public support. But for the foreseeable future, I would prefer to see him emphasizing the strong public mandate that came through in the early years. Although EPA should not undertake a proselytizing role, its officials should recognize that the public is still looking to them to lead in the clean-up and preservation of our resources. Quarles has placed the emphasis the other way around.

Finally, Quarles appears to be of two minds about the impact of environmental lobbying groups and public interest law firms. While he recognizes the valuable work these groups have done, his insistence on broad public support seems to undercut their significance. I would have preferred to see Quarles more emphatic in acknowledging these groups as legitimate, continuing spokesmen for widely held views.

## II

As for Quarles' observations of EPA itself, he gives us few insights into its structure and work patterns. His description of the extensive staff efforts on the water pollution permit program is his most detailed look at EPA at work.<sup>2</sup> It is difficult to believe that in six years, EPA has not taken on any customs or continuing policies which guide its employees on a day-to-day basis. I can only assume that Quarles just has not chosen to tell us how EPA does its "ordinary" work.

Although Quarles has been responsible for much of EPA's enforcement activities, he tells us very little about enforcement policy. Although there are a few indications as to why EPA has focused its litigation efforts more on water pollution than upon air pollution, for example,<sup>3</sup> Quarles does not give us any kind of overview on how EPA sets its priorities, nor does he give his observations about the priorities EPA somehow has established among air, water, pesticides, noise, solid waste, and other problem areas within its jurisdiction.

Perhaps even more importantly, Quarles must have some thoughts on the value and effectiveness of various enforcement techniques, *e.g.*, air and water quality standards, a backup federal alternative to inadequate state implementation of standards, litigating civil or criminal pollution cases to judgment versus negotiating a settlement at some earlier stage, governmental prescription of specific control equipment, and comprehensive permit systems in different problem areas. Since we must assume that he and his assistants dealt with these questions daily, it is unfortunate that he did not organize his thoughts on these matters and offer them for the guidance of policy-makers and administrators—and even bureaucrats—at EPA and other environmental agencies in the coming years.

Similarly, I would have liked to have had more of Quarles' thinking about the ever-present problem in environmental law of having to strike balances among non-comparable interests. He does refer to this need to weigh environmental considerations against economic, political, aesthetic, and moral considerations, and some-

2. *Id.* at 97-116.

3. *Id.* at 48-53.

how create out of this hodge-podge an intelligent policy.<sup>4</sup> He observes that the early fervor of environmentalism permitted Congress, in the Clean Air Act Amendments, to disregard the need to make these broad calculations. Congress attempted to eliminate economic and social factors from the factors to be taken into account in carrying out the Clean Air Act. EPA also was able in a few of its major early actions to disregard economic objectives which would have impaired the achievement of purer environmental goals.<sup>5</sup>

Perhaps these limited observations by Quarles tell us that environmental policy will be carried out, and the balances will be struck, primarily on the basis of political or public opinion factors. It would seem, nonetheless, that Quarles could have written more about the relative weights to be given to the interests of environmental quality, economic growth, and freedom of choice in the ways Americans live.

Quarles does offer the wise suggestion that the interests of environmentalists are not incompatible with the interests of those who are concerned about the scarcity of energy resources.<sup>6</sup> He observes that all environmental problems, and all energy problems, are ultimately questions of resource limits.<sup>7</sup> Surely his statements urging environmentalists to be more sympathetic to the very real problems of resource scarcity must be based upon some assumption about the kinds of "balancing acts" we must engage in. Perhaps it is that simultaneously we wish to enjoy a high material standard of living, to maintain clean, healthful, diverse, and attractive natural surroundings, and to perpetuate the resources of the planet and solar system which will make these objectives possible indefinitely.

If some such balancing of objectives—with all of their built-in tensions—is what Quarles has had in mind at EPA, it would have been illuminating to hear more from him about how the Agency's efforts have aimed at these goals and have attempted to resolve the tensions. People working in government should understand, at the

4. *Id.* at 142, 239-40.

5. *Id.* at 76-77, 83.

6. *Id.* at 240-41.

7. *Id.* at 238.

least, which goals they are promoting at the expense of others at various times. They also should attempt to understand the range of possibilities for resolving the inescapable conflicts. In these respects I would have liked to hear much more about the lessons which people like John Quarles are beginning to learn for us.

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