

## BOOK REVIEWS

**POLITICS, POLICY, AND NATURAL RESOURCES.** Edited by Dennis L. Thompson. New York: The Free Press. 1972. Pp. 452. \$12.95.

*Politics, Policy, and Natural Resources* attests to the fact that environmental concern in America has passed beyond the phase of protest and is now immersed in the difficult task of achieving effective resource management. The book is a collection of twenty-eight commentaries (and one piece of legislation), introduced and placed in context by the editor, Dennis L. Thompson. Observing that the professional environmental technician and the politician have an incomplete understanding of each other's problems, Professor Thompson has compiled *Politics* "to bridge the gap between the politics of policy-making and the technological and substantive matter of natural resources . . ." (p. 2).

To readers only casually familiar with environmental management, *Politics* will open up many new perspectives. Consider the example of a river marking an interstate boundary and flowing through forest lands. Prominent among the many problems involved in determining the area's use will be the overlapping of federal, state, county and municipal jurisdictions. Management decisions will have to be filtered through as many as four tiers of administrative and legislative officials, each responding to the diverse needs and attitudes of his constituents, as well as to the dynamics of his governmental unit. Further, resource management decisions will be shaped by the often conflicting demands of the public and of private business. Industry may wish to use the river for power or waste discharge, a municipality for drinking water; conservationists may demand preservation of the surrounding area for a variety of recreational uses. Questions will arise as to how costs and benefits are to be measured and apportioned, and whether conflicting uses should be evaluated by a multiple-use or dominant-use approach.

The preceding scenario suggests many of the managerial considerations discussed in *Politics*, and also demonstrates how the variables of resource management pyramid as the context for resource use expands. The problem thus becomes: how is the goal of comprehensive and equitable planning to be achieved in the face of increasing complexity? The contributors to *Politics* suggest a variety of answers. Robert H. Salisbury advocates conceptual and analytical abstraction. This approach requires that the policy-making process be abstracted from discrete situations or circumstances; "[t]he concept of policy is thus anti-case study in its implications for research strategy . . ." (p. 66). As a principle for research strategy this notion may be appropriate. However, the more abstract a theory becomes in accommodating an expanding range of variables, the more it runs the risk of losing any value as a functional tool for developing effective resource programs. Planning very soon could reach the point where  $e = mc^2$  would serve as well as any policy concept.

At the other end of the spectrum is the pragmatism of Charles E. Lindblom's classic, "The Science of Muddling Through." Lindblom's approach is founded on the premise that goals and policy (ends and means) are inseparable. Policy decision should thus proceed through successive limited comparisons and incremental changes, reducing or even eliminating reliance on theory. This approach, however, does not aim at comprehending the entire policy-making process. Indeed, the possibility of excluding important policy alternatives is inherent in this method and constitutes its chief defect.

Alternative methods of policy development illustrate the advantages of a middle ground between the extremes of abstract theory and near-sighted pragmatism. For

example, Ashley L. Schiff speaks of "structuring conflict to encourage participation of dissenters at the bargaining table" in order to broaden the scope of policy options within a bargaining structure (p. 240). Arthur Maass frankly espouses a theory of trade-off values for reconciling economic efficiency objectives with nonefficiency (social) objectives (p. 99). Although the theoretician rightly urges us toward the goal of more complete planning and broader perspectives of cause and effect, present techniques for measuring public values and attitudes force decisions to be made in the twilight of incomplete knowledge, while the sheer number of variables to be considered may often preclude truly comprehensive policy decisions. Moreover, the political process itself ever threatens to compromise the best scientific efforts toward rational policy.

The most troublesome aspect of *Politics* is its organization. Contributions are categorized into seven artificial subdivisions which often distort or impede the reader's comprehension of the book's subject matter. For example, three readings treat problems in the federal agency structure and the role of federal bureaucracy in the management of natural resources. Yet each of these essays appears under a different subject heading. The National Environmental Policy Act of 1969 (NEPA), which speaks to these same issues, is placed under a fourth rubric. On its face and in its congressional history, NEPA represents a major legislative effort to reduce the fragmentation, duplication and inter-agency conflict in administration of federal programs. Since NEPA does not stand on its own as a contribution to problem solving in the same sense as do the treatments of federal agency functioning, a critique of the Act should have been included.

*Politics, Policy, and Natural Resources* articulates the premise that resource use is a matter of socialized perception. Consequently, water pollution is of much lower priority to a blue-collar, inner-city resident than to the white-collar suburbanite. Viewed in this perspective, the fundamental question in resource management is the distribution of jobs, income and education. Though not a novel observation, it is one which could have borne more treatment than it receives in *Politics*. But *Politics* does, at least, force the reader into an awareness of the distance that lies between the point of view which urges a particular resource use, and the many factors that must qualify that view — perhaps even dislodge it — before it becomes policy. However, as to Professor Thompson's stated purpose of bridging the gap between technicians and politicians, it is doubtful that *Politics* will achieve this, for it is a book directed more to members of the academy than to those of the legislature.

**PAPERS ON THE WAR.** By Daniel Ellsberg. New York: Simon and Schuster. 1972. Pp. 309. \$7.95.

Is the war in Vietnam really coming to a close? Who won? The exhausted American spirit waits numbly, less interested in the political outcome than in returning POW's and the end of American casualties. Suddenly the My Lais, the Kent States, the napalm is all forgotten, suppressed by a nagging sense of guilt and of outlandish waste. The acute irony of this rush to be cleansed of twenty years of horror is nowhere more apparent than in the trial of Daniel Ellsberg in Los Angeles for espionage.

In a speech reprinted in *Papers on the War*, entitled "The Responsibility of Officials in a Criminal War," Ellsberg speaks of research he had done as a student at Harvard into the Nuremberg Documents, and their striking similarity to the much publicized Pentagon Papers:

They left me with a strong sense of what evidence looks like at a trial for crimes against peace and crimes against humanity. And what the documentary record of

decision-making in an aggressive war looks like. (It looks like the Pentagon Papers) (p. 285).

This man, who had concluded on the basis of his roles as a strategic analyst at the Rand Corporation, a consultant to the Department of Defense in 1964 and a member of a State Department fact-finding mission in Vietnam in 1965, that he had engaged in, and could reasonably be prosecuted for, war crimes, has been tried for making public the very record of political and military decision-making which could have been his indictment as a war criminal. The lessons of Vietnam are yet to be learned but Daniel Ellsberg has made an important first step in our education.

*Papers on the War* is a collection of Ellsberg's speeches and writings from his early work in Vietnam in 1965-66 until just prior to his public disclosure of the "Pentagon Papers" in June, 1971. The central article in the collection, "The Quagmire Myth and the Stalemate Machine," is an expanded version of a paper originally published in the spring of 1971. Using the McNamara Study of decision-making, Ellsberg challenges the quagmire theory of United States involvement in Vietnam which was popularized by such Kennedy confidantes and historians as Arthur Schlesinger and Theodore Sorenson. He shows that Kennedy and Johnson and their advisors were not all deceived about United States chances for victory in Vietnam. On the contrary, Ellsberg demonstrates that each President was fully informed about chances of military success, deliberately did less than necessary to achieve that success, and publicly misrepresented the outlook for peace as hopeful.

Ellsberg argues that this process of decision-making leading to graduated escalation of the conflict was generated by tension from what he terms two "presidential decision rules in crisis": avoidance of engagement in an all-out land war in Southeast Asia and the short-term desire not to appear to lose in Vietnam before the next election. The author contends that these were two historical lessons burned into the minds of the foreign policy establishment by the loss of China in 1945 and the subsequent McCarthy era. While this view has some merit, it does not plausibly explain why four presidents, over a period of almost twenty years, persisted in acting against the clearly perceived self-interest of United States foreign policy. It does, however, help elucidate why these same four administrations deliberately lied to the American public. Wholly apart from the moral question of United States involvement in the first instance, the American public was not allowed to know that all chance of a long-term settlement, if any, was being sacrificed for short-term partisan political gains. These partisan concerns not only inhibited the peace effort but also made it virtually impossible for the United States to exert political leverage on successive South Vietnamese despots to broaden their political base and to adopt some form of truly representative self-government.

The most frightening thread that runs throughout Ellsberg's writings is the view of the bureaucracy gone berserk. With no internal memory, hidden from public scrutiny behind a wall of deception and secrecy, the foreign policy machine blindly, inexorably gobbles up an entire nation and its people. For Ellsberg the revelation was that the process is not merely unthinking, inadvertant power, but calculated activity in wilful disregard of human and material costs. His focus is unclear, however, precisely because of his alternating emphasis on bureaucratic self-deception and insistence that all decision-making was informed and premeditated. At least his analysis creates potentially constructive confusion where previous oversimplification had obscured both the decision-making process and the culpability of the government.

*Papers on the War* is a book for laymen, consisting of a series of articles which might well have been published in the *New Yorker* or the *Atlantic Monthly*. The essays are probably most interesting as a personal account of Ellsberg's own struggle with the meaning of the war and his role in it. Perhaps this is the greatest lesson Daniel Ellsberg might teach us, for ultimately it is the human being alone who is charged with the responsibility of struggling against the depersonalization of modern bureaucracy and war. The book concludes, appropriately, with Ellsberg describing a speech made at a Community Church in Boston in late May, 1971, just before the furor of the Pentagon

Papers erupted, in which he quoted at length from an interview with Albert Speer:

'My moral failure,' Speer says, 'is not a matter of this item and that; it resides in my active association with the whole course of events.' That accusation — and the more specific one of willful, irresponsible ignorance and neglect of human consequences — are truths that I must live with (p. 308).

If nothing else, *Papers on the War* is a moral fable whose lesson is yet to become part of the general American experience. It should be required reading for all of our national politicians and their advisors.

**URBAN LAND USE POLICY: THE CENTRAL CITY.** Edited by Richard B. Andrews. New York: The Free Press. 1972. Pp. 190. \$10.00.

Over the past fifty years, small, densely built-up cities have grown and spread into vast metropolitan areas. In the face of this expansion, a series of formal devices have developed to control the use of land in these communities. *Urban Land Use Policy*, a collection of thirty-four articles which have been gathered together and edited by Richard B. Andrews, reveals the limited success of these land use control devices and explores alternative suggestions for land use planning.

The book is divided into three sections: the uses of zoning, building and housing codes, and taxation as vehicles for land use policy. Mr. Andrews points out in his introduction that a major purpose of *Urban Land Use Policy* is to provide background material for hearings and research studies of the National Commission on Urban Problems. The articles in the collection have previously appeared in law reviews, economic and urban planning journals and government reports over the last two decades and are of a technical nature. They emphasize the economic aspects and give only minor attention to the legal questions inherent in land use policy. Highly sophisticated, the selections assume that the reader has a background knowledge of both the economic and the social issues surrounding this area.

The section dealing with building and housing codes is the least legally oriented portion of the book. A detailed discussion of urban renewal is conspicuously missing from this section. Only one article concerns itself with this important aspect of urban planning. Mr. Andrews explains that urban renewal has been omitted because of its extensive coverage in other groups of readings. However, he fails to include any listing of or references to those works.

The zoning section of the collection comprehensively probes the inability of zoning ordinances to handle the problems of the burgeoning metropolis. The section's opening articles outline how zoning was originally implemented in the 1920's as part of a forward-looking plan to segregate noxious activities into their own districts away from residential areas, to limit the density of building and to preserve property value. Other selections demonstrate how suburban communities have used zoning to systematically exclude the aged, the black, the single, the childless and the less affluent from vast areas of the nation. Articles also touch upon zoning which controls competition, industrial zoning, aesthetic zoning, and discuss the urgent need to involve the state and federal governments in a system of regional zoning. Many selections in this section deal with issues which have arisen in the recent plethora of cases questioning the constitutionality of exclusionary zoning statutes and should be of particular interest to lawyers.

Mr. Andrews concludes the book with a section devoted to the use of tax policy to manipulate the development of urban land. This is a relatively new concept, formulated only during the last decade. The articles competently report this awakening

consciousness and present incisive critiques on the possible uses of tax policy to preserve the central city. Of special interest to tax lawyers will be the discussions of the feasibility of abolishing all property taxes, taxing land heavily and buildings lightly to encourage construction on vacant land and replacement of old buildings and the proposed use of various grant-in-aid plans as incentives for the construction of new buildings.

The reader with a basic knowledge of the economic aspects of urban land use policy will find *Urban Land Use Planning* to contain a number of commendable articles. It is for this reader that the collection is intended. A relatively large list of additional references is included at the conclusion of each section for the reader who wishes to delve further into any particular topic covered.

**PAYOFF: THE ROLE OF ORGANIZED CRIME IN AMERICAN POLITICS.** By Michael Dorman. New York: David McKay Co., Inc. 1972. Pp. 333. \$6.95.

Organized crime today exerts a growing influence on American politics. It has become a force with which every politician must contend. A foreful and well-documented presentation of the "inside story" of the activities of the Mob in the governmental sphere is needed to impress upon the American public the severity of the problem. Unfortunately, *Payoff* by Michael Dorman is not that book.

Using the case study approach, Dorman attempts to describe the inroads organized crime has made at all levels of government — municipal, state and federal. He begins his study at the municipal level, the layer of government closest to the people. Two case examples, those of James Marcus, one-time New York City Water Commissioner, and Hugh Addonizio, former Mayor of Newark, New Jersey, predominate this portion of the book and illustrate the methods by which the Mob is able to secure a foothold in government. Both men were convicted of accepting bribes in connection with the award of municipal contracts. Marcus, having made some bad investments and desperately in need of cash, borrowed money to cover his debts from the Mafia. His subsequent inability to repay the loan provided the Mob with the necessary leverage for control over him. On the other hand, Addonizio's association with organized crime was initiated by his own choice. The Mob played a key role in his campaign and then maintained "friendly" relations with *their* successful candidate. In contrast to Marcus, racketeers were connected with Addonizio's administration from its inception.

The second section of the book deals primarily with Carlos Marcello, allegedly an influential underworld figure in Louisiana. In an interview with Dorman, Marcello discussed his role in politics — supplying money and delivering votes. Marcello likened his political activities to those of any legitimate businessman: in return for his campaign contributions he expected help from his friends in government "to do what they can to cut red tape." However, despite innuendoes and bald allegations, the author produces no concrete evidence to refute Marcello's statement that he is in fact a legitimate businessman.

The final third of the book describes the role of organized crime in government at the federal level. The celebrated case of Dr. Martin Sweig, a key aide to former Speaker of the House John McCormack, provides the principal illustration. Sweig was indicted for perjury and conspiring to misuse the influence of the Speaker's office in order to benefit the clients of Nathan M. Voloshen, a Washington lobbyist, but was convicted of the former charge only. The Sweig case demonstrates that to gain influence it is not necessary to corrupt the government official himself; reaching a key aide can do the job as well.

Although each of Dorman's examples of Mob activity is fairly detailed, *Payoff* is by no means an exhaustive study of the topic. The events reported in the book do not begin to scratch the surface of the underworld's political influence. More importantly, despite the author's claim that he knows many racketeers and that they have spoken candidly with him, *Payoff* offers surprisingly few new insights into the role of the Mob in American government. The bulk of his information is drawn from past trials or legislative hearings. Most of this and the other material in the book has already come to public attention via the news media. Dorman does not, or cannot, substantiate the allegations which do not come from these official sources. As a result, in regard to any new information the reader is left with a feeling of vague innuendo rather than concrete facts.

The publishers, as shown by the jacket, tout the book as "[an expose] of the tight hold organized crime has on American politics." Unfortunately, *Payoff* falls short of this promise; it exposes, in the main, nothing more than old news stories.

**POLICE IN TROUBLE: OUR FRIGHTENING CRISIS IN LAW ENFORCEMENT.** By James F. Ahern. New York: Hawthorn Books, Inc. 1972. Pp. 260. \$6.95.

As police chief of New Haven, Connecticut, James Ahern achieved national prominence for the leading role he played in keeping New Haven "cool" on May Day, 1970, when thousands of persons came to that small city to demonstrate in support of Black Panther Party Chairman Bobby Seale. Since then, he has worked full time in an advisory capacity to numerous government commissions and agencies concerned with law enforcement. In *Police in Trouble* Ahern sets forth how police operate, from the tricks of the cop on the beat to presidential intervention on permissible police dress, and how police should operate, from the use of car locators to the establishment of a nationally based professional police organization.

Drawing upon his experience and observations since he joined the New Haven police force as a patrolman in 1954, Ahern trenchantly recounts what cops actually do. He contends that behind the Dick Tracy myth which motivates many to join a police force, there exists a "closed fraternity" with its own special rules. For example, the force will tolerate petty revenge by a patrolman against some store owners, such as breaking off a key in the store's lock or "misplacing" goods delivered early in the morning to the store. This "closed fraternity", suggests Ahern, is aggravated by the low social status to which the cop is relegated by his community, and discourages the independent judgment so necessary for an effective policeman.

As police chief, Ahern was able to detect other forces working to bring about the present crisis in police enforcement. He details the undue influence exerted by syndicated crime, local bosses and national politicians over police operations for selfish gain. He discusses the moral climate created within police departments by the national executive's failure to prosecute the murders at Kent State and Jackson State and the use of indiscriminate arrests during demonstrations in Washington. And, finally, he describes the average cop's frustration resulting from the well-publicized difficulties in reducing such crimes as gambling and the use of marijuana.

Ahern states:

The only way to improve police service to the point where it will be fair and equal in law enforcement and sensitive to community values in order maintenance is to concentrate on the people who must do the job. This entails "professionalism" . . . (pp. 175-76).

His thesis is that effective reform is only possible through an infusion of "professionalism" into the lowest ranks of the police force. Often regarded as a menial servant of the state and burdened with boring or frustrating tasks, the patrolman finds himself trapped within this societal prophecy. Supplying the cop with sophisticated weapons and admonishing him to wage a holy war against an "era of permissiveness" is not the answer. Rather, the author emphasizes, individual excellence can only be achieved by actively recruiting a highly motivated candidate and then encouraging his creativity, insuring that he has a liberal education, and continually reinforcing a self-image of professional competence and integrity. Taking as a model the law and medical professions, Ahern states that the unhealthy inbreeding of the "closed fraternity" must be replaced with open and objective standards of a police "profession".

The New Haven episode exemplifies the efficacy of the professional approach. In advance of the confrontation, Police Chief Ahern set the policy — centralized responsibility for police and national guard action and minimum physical contact between police and demonstrators — and carefully plotted and controlled its effectuation. His thorough professionalism manifested itself in a concern for even minutiae such as securing the town flag at half-mast and heavily greasing the lower parts of the pole. Intensive training and encounter sessions were used to sensitize police to the delicacies of the situation. As a result of such professional strategy and forethought, New Haven remained "cool", while on the following Monday, Kent State erupted in violence which deeply divided the country.

For Ahern, professionalism, by encouraging re-assumption of personal responsibility by the cop on the beat, is the solution to the moral vacuum presently existing within the local police force. But a professional ethic and competence on the job do not necessarily mean moral responsibility. Professionalism may become an amoral concept, subject to the same external corrupting forces Ahern sees at work today. For example, contrary to the author's perspective, the lawyer of excellence can easily become a hired gun of the immoral corporation. In describing his handling of the New Haven demonstration, Ahern omits to mention the widespread use of tear gas on Saturday night despite the absence of large crowds, probably in order to prevent unruly crowds from forming as they did the previous night. This type of exaggerated reaction demonstrates that professionalism alone is insufficient to wholly dispel current fears of a developing police state. Such caution is especially warranted in view of the author's observation of favorable police attitudes toward the Nixon administration's attack on constitutional rights.

*Police in Trouble* brings insights to an area discussed too often in cliches and polarizations. Of special interest to the lawyer, the book highlights the often gaping disparity between idealized and abstract textbook law and its practical application by an institution such as the police force.

