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## Environmental Policy and the Congress

Henry M. Jackson

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# ENVIRONMENTAL POLICY AND THE CONGRESS

HENRY M. JACKSON†

*The law locks up both man and woman  
Who steals the goose from us the common,  
But lets the greater felon loose  
Who steals the common from the goose*

Anonymous English Poem

Over the past few years a very major change has taken place in the American public's perception of man's proper relationship to his environment.<sup>1</sup> Traditional economic indices are no longer viewed as the sole measures of progress. We are entering an era in which qualitative values and aesthetic factors are considered as important as material well-being. A new concern for values which cannot easily be translated into the language of the market place can be felt and seen in citizen efforts to save open spaces, parks, and natural beauty from the poorly planned construction of freeways, airports, reservoirs, and industrial plants. People are no longer complacent about the quality of their surroundings, the use of the environment, or the way in which public resources are administered. Public concern has moved many of these issues squarely into the arena of public debate and decision making.

This change in the public's perception of environmental values has enormous, but still largely unexplored, implications for public administration, for our judicial system and for the continued viability of traditional legal concepts which define individual and public responsibilities in the administration of the environment.

## I

### THE EMERGENCE OF ENVIRONMENTAL MANAGEMENT AS A PUBLIC FUNCTION

#### A. *Changing Needs and Values*

As the United States approaches her 200th Anniversary we are confronted as a nation by a circumstance that is totally new in human history. Man has rapidly completed the occupancy of the easily inhabitable areas of the earth while his numbers have continued to increase at an accelerating and exponential rate.<sup>2</sup> Simul-

† United States Senator, State of Washington, Chairman of Interior and Insular Comm.

1. For a discussion of the meaning and scope of the term "environment" see Comm. on Interior and Insular Affairs, *A Definition of the Scope of Environmental Management*, Comm. Print, 91st Cong., 2d Sess. (1970).

2. Comm'n on Population Growth and the Am. Future, Interim Rep. (1971).

taneously, unprecedented economic power<sup>3</sup> and advances in science and technology have permitted man to make enormously increased demands upon available resources and the environment. In no nation are these coincidental developments—especially man’s mastery of science and technology—more dramatically evident than in the United States. And yet, many Americans still find it difficult to understand why environmental management should suddenly become “everybody’s business”; why long-accepted values, traditions and ways of thinking and acting in relation to one’s surroundings are now being called into question.<sup>4</sup>

At the time of the American Revolution the total population of the continental United States barely exceeded 3 million individuals. The resource and environmental demands of the American Indians and the colonists on the Atlantic seaboard were very light when contrasted with current extractions and pressures. By the close of the 20th century if the U.S. population approximates 300 million, which is entirely possible, the daily stress man places on the environment will, on the basis of numbers alone, have increased 100 times over.<sup>5</sup> Technology has alleviated some forms of stress (as on forests for fuel or on wildlife for food), but science, technology, man’s mastery of sophisticated machinery, and tremendous consumption of energy and other resources has greatly increased environmental stress in general. The net result has been enormous and unprecedented demands upon the environment and on a finite resource base.

The rate at which the Nation has changed since 1890 when the frontier officially ceased to exist has been unexceeded by any other social transformation in history. Scarcely one long generation removed from the last days of the frontier, America has become an urbanized and automated society with publicly institutionalized values in social security, labor relations, civil rights, public education, and public health that only a few decades ago were considered utopian and radical.

Powerful new tools applying the discoveries in chemistry, physics, biology, and the behavioral sciences were put to work for improving the health, wealth, comfort, convenience and security of Americans. By utilizing the vast natural resources of the environment, the Amer-

3. Econ. Rep. of the President, H.R. Exec. Doc. No. 92-28, 92nd Cong., 1st Sess. 2 (1971).

4. For an indication of the growing citizen involvement in challenging the conventional wisdom of governmental resource allocation, see the growing volume of environmental litigation reported in *Environmental Law Rep.* published by Environmental Law Institute and the *Judicial Section of Environmental Rep.* published by Bureau of Nat’l Affairs.

5. See Special Rep. to the Senate Comm. on Interior and Insular Affairs, 90th Cong., 2d Sess., *A Nat’l Policy for the Environment* (Comm. Print 1968).

ican people have achieved substantial increases in our standard of living in a relatively short period of time. We are now coming to recognize, however, that our growth, our wealth and our productive technology have been accompanied by side effects which were not always foreseen. Experience has shown us that large social costs as well as benefits can flow from the careless application of technology. In the absence of a system for adequately assessing the consequences of technological change, who could have predicted the many ways in which applied science would transform the conditions of American life?

It is only in the past few years that the dangers of muddling through events and establishing environmental policy by inaction and default have been very widely perceived. Today, with the benefit of hindsight, it is easy to see that our governmental institutions have too often reacted only to *crisis* situations. We always seem to be calculating the short-term consequences of environmental mismanagement, but seldom the long-term consequences or the alternatives open to future action.<sup>6</sup>

The nation long ago would probably have adopted a coherent policy for the management of its environment had it been recognized that mismanagement of the environment incurs huge social and economic costs. This recognition developed belatedly for several reasons: environmental deterioration in the past tended to be gradual and accumulative, so that it was not apparent that any cost or penalty was being exacted; it seemed possible to defer or to evade payment either in money or in obvious loss of environmental assets;

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6. As a result of this failure to formulate a comprehensive national policy, environmental decisionmaking 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 the 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.

Today it is clear that we cannot continue on this course. Our natural resources—our air, water, and land—are not unlimited. We no longer have the margins for error that we once enjoyed. The ultimate issue posed by short-sighted, conflicting, and often selfish demands and pressures upon the finite resources of the earth are clear. As a nation, and as a world, we face these conditions:

A population which is doubling at increasingly shorter intervals;

Demands for resources which are growing at a far greater rate than population; and

A growing technological power which is far outstripping man's capacity to understand and ability to control its impact on the environment.

Senate Interior and Insular Affairs Comm., Rep. on Nat'l Environmental Policy Act of 1969, S. Doc. No. 296, 91st Cong., 1st Sess. 5-6 (1969).

and the “right” to pollute or degrade the environment (unless specific legal damages could be proved) was widely accepted. Exaggerated doctrines of private ownership and an uncritical popular tolerance of the environmental side effects of economic production encouraged the belief that costs projected onto the environment were costs that no one had to pay.<sup>7</sup>

Today, the American people and government at all levels are coming to realize that to enjoy the benefits of technological advance, the environmental costs of all that we do must be made a part of all products and all resource-commitment decisions. From now on “pay-as-you-go” will increasingly be required for insuring against the inherent risks involved when man manipulates nature.<sup>8</sup>

### *B. A Public Environmental Policy and Philosophy*

Fulfillment of public responsibility for the environment means that government must break the shackles of incremental policy-making in the management of the environment. In order to make intelligent decisions which are not based in the emotion of conservation's *cause célèbre* of the moment or in the error of simply perpetuating past practices, there is a very real need to develop a national capacity for constructive criticism of present policies and the development of new institutions and new alternatives for the management of land, air, water and living space. Developing this capacity will require the creative utilization of technology to improve environmental conditions and to prevent unanticipated future instances of costly abuse. It will also require that government, business and industry pay closer attention to a far greater range of alternatives and potential consequences when making decisions having environmental impact than they have in the past.<sup>9</sup>

In the 1960s there were sporadic, uncoordinated efforts to deal with various aspects of the “environmental problem.” Most of these efforts, however, were responses to specific problems and did not attempt, let alone achieve, a coherent statement of policy or public

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7. These notions are, of course, now being challenged on many fronts. See e.g., S.1032, 92nd Cong., 1st Sess. (1971) which proposes a wide expansion of citizen remedies to protect environmental rights. For the background of this measure see *Hearings on S. 3575 Before Subcomm. on Energy, Natural Resources, and Environment of the Senate Comm. on Commerce*, 91st Cong., 2d Sess. (1970).

8. See the tax reform measures discussed in Message From The President of the U.S., Program for a Better Environment, H.R. Exec. Doc. No. 92-46, 92nd Cong., 1st Sess. 2 (1971).

9. During the 91st Congress active consideration was given to legislation to establish a Federal Technology Assessment Board. See H.R. 17046, 91st Cong., 2d Sess. (1970) See also NAS, *Technology; Processes of Assessment and Choice* 7 (1969).

philosophy with respect to man's relationship to his surroundings.<sup>10</sup> This awaited the 1970s.

On January 1, 1970, the "National Environmental Policy Act of 1969"<sup>11</sup> became law. Though few realized it at the time, this measure was about to make important institutional reforms and fundamental and far-reaching changes at all points in the Federal decision-making process which touch on environmental questions. Environmental values which had in the past been ignored with impunity were suddenly elevated as a matter of Federal law to the status of national goals. All Federal agencies were directed to consider environmental values in all of their actions. A three member Council on Environmental Quality was established in the Executive Office of the President to see that the statutory mandate was carried out and that environmental issues of national concern received the personal attention of the President.

Adoption of the Act constituted Congressional recognition of the need for a comprehensive policy and a new organizing concept by which governmental functions can be weighed and evaluated in the light of better perceived and better understood environmental needs and goals. A national policy for the environment was necessary to provide both a conceptual basis and legal sanction for applying to environmental management the methods of systems analysis that have demonstrated their value in universities, private enterprise, and in some areas of government.

The National Environment Policy Act declared that:

... it is the continuing policy of the Federal government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.<sup>12</sup>

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10. See Jackson, *Foreward: Environmental Quality, the Courts, and the Congress*, 68 Mich. L. Rev. nn. 13-19, at 1076-77 (1970) for a listing of federal legislative efforts to respond to a wide variety of specific environmental problems in recent years.

11. 42 U.S.C. 4321-47 (Supp. V, 1970). Upon signing the Act, President Nixon stated that:

It is particularly fitting that my first official act in this new decade is to approve the National Environmental Policy Act. . . . We are determined that the decade of the seventies will be known as the time when this country regained a productive harmony between man and nature.

6 Weekly Compilation of Presidential Documents, 11 (Jan. 5, 1970).

12. 42 U.S.C. 4321-47 (Supp. V, 1970).

The Act also set forth national environmental goals to the end that the Nation may—

(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations; (2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings; (3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences; (4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice; (5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and (6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.<sup>13</sup>

These goals are “man” oriented. They are concerned with humanity and man’s relationship to his surroundings. By way of contrast, most Federal resource policies and laws are “object” oriented. Human values and aspirations tend to be submerged in programs and numbers, and the issues tend to become quantitative and objective. Qualitative, humanistic considerations are too often lost in legislative and administrative efforts to adjust or redefine man’s changing relationship to his environment.

Passage and implementation of the National Environmental Policy Act was begun in an atmosphere of public attention—almost a competition for primacy in advocating environmental causes.<sup>14</sup> This atmosphere has had beneficial as well as detrimental effects upon achievement of the Act’s objectives. Public support undoubtedly has greatly accelerated the implementation of the new mandate by the various Federal agencies.<sup>15</sup> It has also resulted in making the Council

13. *Id.*

14. For a comprehensive review of legislative measures introduced in the 91st Congress. Congress *see* Environmental Policy Division, Library of Congress, Rep. to Senate Comm. on Interior and Insular Affairs, 91st. Cong., 2d Sess. Environmental Affairs of the 91st Congress (Comm. Print 1971).

15. I noted in remarks prepared for an address before the New Jersey Academy of Science in April, 1970 that:

Untold numbers of decisions are being influenced by the Act; the Secretary of the Treasury, for example, announced on March 5 that he will not approve use of Federal funds for additional runways at John F. Kennedy International Airport in New York pending the results of an environmental study. Citing the Environmental Policy Act, Secretary Volpe said:

‘I am not going to approve the use of Federal funds for these airports and corridors unless and until I am satisfied that the price of this additional mobility is not irreparable damage to the quality of the environment.’

on Environmental Quality a focal point of Federal decision-making.<sup>16</sup> The importance assigned to the Council by the White House has greatly strengthened the Council in its relations with other agencies<sup>17</sup> and has enabled it to achieve stature and influence throughout the Executive establishment in an incredibly short period of time.

Along with attention, however, have come pressures which have made the transition to comprehensive environmental management more difficult. The President has looked to the Council for day-by-day guidance on current environmental issues and the Council has consequently been preoccupied with paper work and with short-term crises.

The Council's preoccupation with environmental "brush fires" has detracted from other major responsibilities assigned to it under the Act. The Council, for example, has made little progress toward developing procedures for measurement and evaluation of environmental indicators.<sup>18</sup> It has thus far made little contribution to the tremendous job of improving policies and procedures and developing an analytical methodology for making the hard tradeoff decisions between preservation and development that will measure our ultimate success in environmental management.<sup>19</sup>

The contemplative consideration of general directions, the anticipation of emerging problems, and the design of new decision criteria are critically important; though they are not dramatic and, thus, seldom newsworthy. Fulfilling these functions does not capture public attention the way the latest pronouncement on mercury poisoning, the SST, a major oil spill, or the proposed trans-Alaska oil

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Similar announcements have been made in recent weeks on Federally funded highway projects and, earlier, on the super jetport in the Everglades.

Perhaps the most dramatic illustration of the great changes that the Act has made on Federal activities is that on April 2 the Corps of Engineers, often viewed as a despoiler of the natural environment, held its first major press conference in the Corps' 146 year history. The subject of the conference was the Corps' responsibilities under the NEPA.

16. See Council on Environmental Quality's First Annual Rep., Environmental Quality 1 (1970).

17. The Council on Environmental Quality played a key role in preparation of the President's Environmental Message and his environmental legislative program for the 92d Congress. Message From The President of the U.S., Program for a Better Environment, H.R. Exec. Doc. No. 92-46, 92d Cong., 1st Sess. 2 (1970).

18. 42 U.S.C. §§ 4321-47 (Supp. V, 1970) [originally enacted as Pub. L. No. 91-190, § 204(2)]. See also Senate Comm. Rep. on Pub. L. No. 91-190, especially analysis of § 302(a) of S.1075.

19. To provide a Federal institution capable of making trade-off decisions efficiently and with full awareness of their impact, the Administration has proposed the establishment of a Department of Natural Resources. S. 1431, 92d Cong., 1st Sess. § 3 (1971).



pipeline does. In the final analysis, however, man's ability to survive on this earth and to enjoy quality social, cultural, and aesthetic conditions and experiences will not turn upon government's handling of a single contaminant, or decisions on a particular oil spill. It will turn upon government's ability to develop policies and decision-making models which integrate environmental concerns along with the full range of other important human values.

## II IMPLEMENTING ENVIRONMENTAL POLICY

### *A. Recent Institutional Changes*

In addition to adoption of the National Environmental Policy Act, other changes have been made in the Federal establishment to improve responsiveness to the new importance of environmental concerns. The President, by the submission of Executive Reorganization Plans, has established two new Federal agencies which are primarily concerned with environmental matters. The first was the National Oceanic and Atmospheric Administration within the Department of Commerce.<sup>20</sup> This reorganization involved the transfer of a number of existing resource and environmental agencies to better consolidate the nation's oceanographic effort.

The second reorganization created a new independent agency, the Environmental Protection Agency (EPA).<sup>21</sup> This important Federal reorganization involved the consolidation of existing agencies and programs for water, air and solid waste pollution, and it also removed these agencies from the Executive Departments and created a new independent entity in government. EPA has developed its own constituency and its own institutional viewpoint which are now no longer directly influenced by the divergent and often developmental interests and responsibilities of their former parent departments. EPA provides a new center of activity and source of influence in environmental affairs, and it is a particularly potent one because it commands a large and growing technical staff, a significant budget, and some of the nation's strongest regulatory and enforcement environmental programs.

### *B. Proposed Institutional Changes*

Even with the establishment of the Council of Environmental Quality and the reorganization of many of the Federal agencies, it is

20. Message From The President of the U.S., Reorganization Plan No. 4, H.R. Exec. Doc. No. 365, 91st Cong., 2d Sess. 7 (1970).

21. Message From The President of the U.S., Reorganization Plan No. 3, H.R. Exec. Doc. No. 364, 91st Cong., 2d Sess. 7 (1970).

evident that there is a need for a highly skilled and competently staffed organization to provide a continuing interdisciplinary, professional service in environmental policy analysis.

To fill this need legislation has been introduced in the Senate to establish a National Environmental Policy Institute.<sup>22</sup> The Institute would perform many of the important long-range functions which were recognized in the National Environmental Policy Act, but which have not received adequate attention because of the pressing, more immediate demands being placed upon the Council's resources and personnel.

Some of these long range needs include:

- designing a uniform and comprehensive system of national and worldwide environmental monitoring;
- subjecting available data on urban problems and on domestic natural resources to analysis;
- developing proposed methods for anticipating future and emerging environmental problems before they reach crisis proportions (air and water pollution and the introduction of chemical agents such as lead and mercury into the environment provide classic examples of problems which could have been largely avoided if they had been perceived as a “problem” at an early enough point in time); and
- providing in-depth policy analyses, using systems analysis techniques, of alternative solutions for dealing with environmental problems.

Establishing new national goals and priorities and reevaluating governmental policies for environmental management has led to proposals to restructure existing institutions in order to better facilitate achievement of environmental objectives. The primary target of these reorganizational considerations in the area of environment has been the Department of the Interior. It has long been recognized that duplication and conflict which results from the involvement of a variety of government agencies in environmental concerns could be better dealt with if programs of agencies related to environmental control were brought together in one Federal department.<sup>23</sup> On March 26, 1971, the President proposed a Department of Natural Resources (DNR) to meet this need.<sup>24</sup>

The proposed DNR would merge all of the existing functions of the Department of the Interior with the land use and land manage-

22. S. 1216, 92nd Cong., 1st Sess. (1971) and see Senator Jackson's introductory statement in 117 Cong. Rec. 3110-3118 (daily ed. Mar. 12, 1971).

23. See Mister Z, *The Case For A Department Of Natural Resources*, 1 Natural Resources J. 197 (1961).

24. S. 1431, 92nd Cong., 1st Sess. 3 (1971).

ment functions of the Department of Agriculture including the Forest Service, together with a number of other Federal efforts and functions related to water resources management and energy development. The proposed DNR would have five major divisions: Land and Recreation Resources; Water Resources; Energy and Mineral Resources; Ocean, Atmospheric and Terrestrial Sciences; and Indians and Territories.

### *C. The Need For A National Land Use Policy*

While great strides toward introducing environmental values into all governmental decisions have been made, the nation has not developed institutional machinery and specific laws and policies at the State level to do a comprehensive, coherent job of land use planning and management.

To a very great extent, all environmental management decisions are intimately related to land use decisions. All environmental problems are outgrowths of land use patterns. The collective land use decisions which the nation makes in the future will dictate our success in environmental management; and the land use decisions of today will shape the environment future generations will enjoy.

Presently, land use planning and decision-making, with the exception of Federal lands, is a constitutional function of State government. Most of these decisions at the State and local level, however, are dictated by private decisions following private motives but are influenced, for better or worse, by governmental action. In the past, most of these decisions and actions have been unrelated to environmental values. Clearly, absent fundamental changes, many of them will continue to be dictated by private objectives—very often economic objectives.<sup>25</sup>

The basic authority and responsibility for regulating private land use actions rests with the State governments. States have traditionally applied public standards to private lands through zoning, property taxes, and regulation by delegation to local jurisdictions. Some of the States, notably Hawaii and Colorado, have begun to implement statewide land use planning.<sup>26</sup>

Often, funds to collect data and build a technical staff are lacking. In some states, the resistance to “planning” in any form is difficult to surmount. In every state, the tremendous influence of Federal activities such as highways, water resource projects, airports, and military establishments is largely beyond the control of the State

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25. R. Babcock, *The Zoning Game* (1964).

26. *Hearings on S. 3354 Before the Senate Comm. on Interior and Insular Affairs*, 91st Cong., 2d Sess. (1970).

government. For these reasons, a national land use policy is needed.

A national land use policy can provide a framework within which the spectrum of proposals to utilize environmental resources can be balanced against one another and measured against the demands they collectively impose upon the government. A common structure is needed within which the public can compare alternative proposals to achieve environmental goals.

Legislation has been introduced in the Senate which is designed to make some basic changes in the Nation's management of its land resources. S.632, the "National Land Use Policy Act of 1971," has three major provisions.<sup>27</sup> *First*, it establishes a grant-in-aid program to assist State and local governments in improving their land use planning management capability. *Second*, States are required to exercise "State Rights" and develop and implement a state-wide "environmental, recreational and industrial land use plan." *Third*, the Federal government's responsibility for coordinating Federal land use planning activities, for improving Federal-State relations, and for developing data on land use planning activities, trends and projections is enlarged and centralized.

The continued initiation of Federally financed public works within a state would, under S.632, be contingent upon performance of the state's land-use planning responsibilities. When a state-wide plan has been completed and reviewed by the Federal coordinating body, the Federal agencies would be obliged to act in conformity with it unless compelling reasons of national policy justify exceptions.

### III CURRENT DEVELOPMENTS AND THE NEED FOR A BALANCED ENVIRONMENTAL POLICY

As the national will to preserve a quality environment grows, it is essential that the nation not lose sight of the actual meaning and intent of a national environmental policy. Environmental policy, broadly construed, is concerned with the maintenance and management of those life-support systems—natural and man made—upon which the health, happiness, economic welfare and physical survival of humanity depend. Environmental policy should not be confused with narrow, single purpose efforts to preserve natural or historical aspects of the environment in a perpetually unaltered state. Environ-

27. S. 632, 92nd Cong., 1st Sess. 2 (1971) and see statement by Jackson in 117 Cong. Rec. at 905-19 (daily ed., Feb. 5, 1971). The present Administration has also proposed national land use legislation. See S.992, 92nd Cong., 1st Sess. 2 (1971). The background of this measure is found in CEQ, First Annual Rep., Environmental Quality 1 (1970).

mental quality does not necessarily mean indiscriminate preservation, at the cost of achieving other national objectives, but it does imply a careful examination of all alternative means of meeting legitimate human needs.

Environmental policy is concerned with the total environmental needs of man—ethical, esthetic, physical, and intellectual as well as economic.

In recent months there has been a growing tide of hysterical incantations by some environmental extremists who attribute *all* of the nation's environmental ills to economic growth and to America's large gross national product. These prophets of doom advocate that the adoption of a policy of "no growth" is necessary if environmental problems are to be resolved.

Many of those who advocate a "no growth" policy have themselves flourished in America's growing affluence. Thus they seldom appreciate the consequences that adoption of a "no growth" policy would bring. A policy of "no growth" ignores the interests of millions of Americans for whom the struggle to attain job security and provide the necessities of life for themselves and their families leaves little time for pursuit of abstract notions of environmental aestheticism.

There is a very real danger that the "either-or" tactics of some environmental extremists may jeopardize the whole movement for a liveable environment. Excluding all other alternatives, they ask the country to choose between preservation and progress, between technological advance and environmental degradation. Their dogmatic approach has put economic growth and environmental quality on a collision course.

Those who advocate this point of view are already alienating support that the environmental quality movement can ill afford to lose. By ignoring the interests of millions of Americans for whom job security and the prospect of the good life are decent aspirations, they are turning the fight for environmental quality into a confrontation between the "haves" and the "have nots." The poor people of this country want good jobs and decent housing. They aspire to the material goods and comforts enjoyed as a matter of course by more affluent Americans. Understandably, they do not want to be volunteered as the first victims of some state-backed program of Spartan rigor.

One of the most disturbing aspects of this no growth approach is the tendency to hold science and technology responsible for all of our environmental problems. It takes little effort or imagination to trace almost any environmental problem to some scientific, tech-

nological or engineering development. The indispensable contribution of science, technology and engineering to our well-being is however, easily forgotten, when unreasoning extremists attempt to sacrifice economic growth and public well-being on the altar of ecology. Also, conveniently disregarded is the fact that it is not science and technology, but the way in which they are used that has damaged our environment in the past and constitutes a major threat to the future of environmental quality.

Establishment of a no growth policy accompanied by major cutbacks in areas of scientific and technological advance would soon make this nation a technological Appalachia at a time when we need our best scientific and engineering talent as never before. For now and in the future we must rely heavily on this talent to solve major environmental problems—to provide clean energy, to devise pollution-free manufacturing processes and transportation systems and to develop new techniques for recycling and reusing our resources. The solution to these problems is not to halt economic growth or the development of science and technology, but rather it is to develop responsible programs and policies to guide their use.

#### CONCLUSION

Our national ability to develop a comprehensive, balanced and effective environmental policy in the months and years ahead will be a vital factor in the future achievement of other important national goals. The concept of “environment,” like that of “economics,” cuts across the full fabric of our national life and today is becoming a major influence on a broad range of resource allocation decisions in areas as disparate as transportation, national security, foreign policy, energy consumption, employment, technology development, and many others.

The environmental problems generated by years of corporate greed, by lack of governmental concern, by selfish capitalism and the misguided use of technology reflect fundamental flaws in our governmental institutions and in the laws and procedures by which we sort out the rights and duties of organizations and individuals in our society. Resolving these problems for human ends—to improve the quality of our life—is, in major respects, the most challenging task facing the legal profession in the last one-third of the century.