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Governing Nature

By

EARL FINBAR MURPHY

Chicago: Quadrangle Books. 1967

Pp. 332. \$7.50

In *Governing Nature*, Professor Earl Finbar Murphy has attempted a broad-gauged review and analysis of past, present, and projected future efforts of man to control the resources of his environment. The stress is on the quality control of renewable resources, which recent legislation has justifiably emphasized.

The author has managed to avoid falling into the trap represented by Lincoln's celebrated comment, "For those who like this kind of a book, this is the kind of a book they will like." This is no mean feat for a book dealing with the conservation field, where diatribes from both ends of the spectrum have been more the rule than the exception. Professor Murphy has tried to strike a balance between the exploitation and conservation of the environment, primarily by suggesting a greater emphasis on economics as a tool in altering the historical view of air, water, and land as free goods, and in reconciling the various demands on the renewable resources.

After an historical review of man's attitudes toward his environment, Professor Murphy turns to an analysis, essentially in economic terms, of the sufficiency of various renewable resources, and the costs to society of allowing these resources to become degraded. This is followed by a discussion of some of the ecological aspects of present resource demands, and a thorough treatment of the chemical and biological risks implicit in our current societal outlook toward the environmental resources. The book recognizes, as an unfortunate fact of life, the dangerous atmosphere of ecological ignorance in which many, if not most, of our public resource decisions are now made. One need look no further than the recent water supply problems of the Everglades National Park to sustain that charge.

It is somewhat surprising that the author, himself a law professor, does not devote more time to considering the legal and administrative aspects of resources control and allocation, especially in light of his statement that

Because cost-benefit analysis for a long while yet, perhaps a generation, will be no more than a guideline to policy, these constraints [regulations imposed by public agencies] will play a large role,

perhaps even the major part, in protecting the renewable resources. Economic techniques may oust constraints from this importance, but at the present—for better or worse—legal limitations imposed by public agencies are more significant.¹

Although some discussion of legal concepts is included, many pressing problems are touched upon only lightly. The shortcomings of the public hearing device, agency client bias, federal/state conflicts over the control of resources, and the effectiveness of litigation by private conservationists all deserve greater attention than they receive.

One wonders, finally, what audience *Governing Nature* is designed to reach. If the author had the professional reader in mind, then much of the historical material could have been concisely summarized, and the reader referred to more specialized works of history for the details. This would have left more space available for a greater in-depth discussion of the book's central issue—the present interplay between law, economics, science, and politics in the conservation of renewable resources. Furthermore, Professor Murphy's effort—commendable to the lay reader—to avoid burdening the book with excessive footnotes will not be graciously received by scholars in the field. Although the book has obviously been thoroughly researched, the reader is too often left in the dark regarding source materials.

There is a continuing need for a work of this scope which is written to acquaint the layman with the pressing need for more effective environmental quality control, and to arouse his concern for the problems in this area. I am afraid that the average reader is going to find *Governing Nature* a difficult exercise in this respect. Unexplained words of art, in both the legal and economic fields, are used throughout the book in a manner which will be discouraging to the uninitiated. Moreover, the author has strayed into unnecessarily pedantic phrasing, which detracts from the continuity of the thoughts that are being expressed.

The overall thrust of the book is toward an economic solution of our environmental problems, and Professor Murphy is more sanguine in this regard than I would be. He asserts that

The solution of any problem man has in his relation to environment cannot be solved by catastrophic events such as nuclear war, or by a nostalgic effort to return to a simple past in the manner of the Amish, or by appeals to altruism in the style of the early American

1. E. Murphy, *Governing Nature* 239 (1967).

Conservationist movement, or by an unrestrained exploitation. The only answer lies in working the whole mass of renewable resources out of the category of free goods and into a cost-benefit analysis reflective of the total price paid for their development.²

The current lack of sophistication in cost-benefit analysis is amply proved by its recent history as a technique in resources planning. This can no doubt be improved, but without a concurrent change in public attitude toward the conservation ethic (and greater altruism would be a good start), it is difficult to see how the benefits of a viable environment are going to be effectively recognized.

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2. *Id.* at 284.

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