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Public Relations, Law, Environmental Pollution

Barbara L. Schoonover* and David J. Sherriff**

THE RELATIONSHIP BETWEEN THE BUSINESS or profession of *public relations* and the law is an interesting one. In most businesses and professions, contacts with the law are largely limited to those in which the law is a regulator of activity. In public relations, however, the relationship is a complementary one, in which the law acts as the formulator of the rules of society and public relations serves as the interpreter of them to the people.

Beyond that, *public relations often can support the law by creating an atmosphere in which the law can more effectively perform its function* of protecting the people and preserving the health of society. Perhaps nowhere is this more evident than in the area of air and water pollution control.

A Typical Problem: Pollution

There can be no doubt that air and water pollution are among the gravest problems facing the country today. Throughout the nation the pollution of our lakes, our streams, and our air is increasing annually at an alarming rate. A few examples will serve to illustrate the scope of the problem.

Today about one-fourth of Lake Erie is all but dead. Some 2600 square miles of water contain almost no oxygen and no fish. The surface is covered with scum. While, in the natural course of events, lakes die over a period of geologic ages, the deterioration of Lake Erie is measured in years.¹ The story of water pollution is repeated in many of the nation's rivers: the Merrimack, Nashua, Hudson, Grand, Arkansas, Columbia, Sacramento—all are severely polluted.²

The reason for the extensive pollution?: United States Public Health Service statistics show that ten times as much industrial waste per million persons went into our waters in 1960 as in 1910, and three times as much municipal waste per million persons.³ In the case of Lake Erie, nearly one and one-half million pounds a day of suspended solids go into the lake from the Detroit River alone.⁴ Cleveland contributes almost a billion and a half gallons of inadequately treated sewage daily.⁵

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¹ Moss, *The Water Crisis* 56 (1967).

² *Ibid.* at 57.

³ *Id.* at 61.

⁴ *Id.* at 63.

⁵ *Id.* at 67.

Other cities along the lake add their share to the volume of waste products fouling the lake.

The pollution of our air is just as serious. Every large American city has dirty air. The federal government estimates that more than 60 large urban areas throughout the nation have extremely serious air pollution problems and probably no American city of more than 50,000 people enjoys clean air all year long.⁶

William Wise, in his book, *Killer Smog*,⁷ makes a startling prediction if the air pollution in our cities is not reduced:

The conditions are favorable for [a large-scale tragedy] in any of a dozen of the nation's most populous cities. A mass of still air drifting slowly eastward, an intense thermal inversion, and then five, six, seven days of increasingly poisonous smog. The air will look bronze, almost copper-colored, as it did during New York's 1966 Thanksgiving smog. It will smell "smoky" to some, while to others it will seem to be "distinctly sulfurous." Thousands will notice a burning sensation in their eyes; other thousands will develop symptoms of bronchitis or asthma for the first time; additional hundreds—or even thousands—will suffer heart failure or choke to death for lack of oxygen. And when the mortality statistics have been collected and analyzed, the rest of the country will read in its newspapers and hear on its television sets about a vast new killer smog . . . From every appearance, a . . . tragedy is now being prepared in America . . . and there is very little time left in which to prevent it.⁸

This sounds like a science fiction story—but it has already happened; in 1952, in London.

There are, of course, laws on the books to curb air and water pollution. In 1963, Congress passed the Clean Air Act,⁹ which provides guidelines for air pollution control to be implemented at the local level. Local laws vary from area to area. For example, Cleveland enacted in 1957 an Air Pollution Control Ordinance¹⁰ which was amended in 1962.¹¹ The original Act provided for two five-year amnesty periods, to enable local industries to achieve compliance with the code.¹² The second amnesty period expired on December 31, 1967, with a substantial number of industries still not complying with the provisions of the code. Basically, the code regulates the type of equipment which industrial plants may use and sets limits to the amount of pollutants which may be released into the air by industrial polluters. It also provides penalties for those who violate the code. Cleveland's City Council is presently in

⁶ Wise, *Killer Smog* 176 (1968).

⁷ *Ibid.*

⁸ *Id.* at 177.

⁹ 77 Stat. 392 (1963), 42 U.S.C. § 185 (Supp. V., 1963).

¹⁰ Codified Ordinances of City of Cleveland, Part V, sec. 4.00 (1957).

¹¹ *Ibid.*, Part V., sec. 4.00 (1962).

¹² *Id.* at sec. 4.014.

the process of conducting hearings in an effort to adopt a new and stricter code which will (hopefully) achieve the desired results.

The basic law on water pollution is the Federal Water Pollution Control Act,¹³ first passed in 1957 and subsequently amended. The key provision is Section 8A, which states:

The pollution of interstate or navigable waters in or adjacent to any State or States (whether the matter causing or contributing to such pollution is discharged directly into such waters or reaches such waters after discharge into a tributary of such waters) which endangers the health or welfare of any persons, shall be subject to abatement as provided in this Act.

In effect, this Act limits the amount of waste products which industrial plants may release into lakes and streams. The Act is constructed broadly enough to cover almost all major bodies of water in the country. The basic authority for such federal control over water resources is derived from the Commerce Clause of the Constitution,¹⁴ as defined by Chief Justice John Marshall in *Gibbons v. Ogden*:

It is the power to regulate: that is to prescribe the rule by which commerce is to be governed. This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent and acknowledges no limitations other than are prescribed in the Constitution.¹⁵

These laws exist, but obviously they are not being sufficiently enforced. And this raises the question, "Why?"

There are many reasons, of which these five seem to be most significant:

1. *The laws, particularly at the local level, are often poorly constructed*; so poorly that local authorities often have been reluctant to test them in court. Most violators are subject only to a shutdown order by the city, and these orders are generally appealable to an administrative body.

In many municipalities the poor construction of the air and water pollution laws reflects the enormous influence and dominance of special interest groups over elected city officials. It is a sad fact that many city officials—both in the executive and legislative branches—were assisted in their election campaigns by the very industrial firms who are the chief offenders in the pollution problem. And it is undeniable that in many cities these officials are reluctant to turn their backs on their benefactors.

2. *There is a shortage of personnel qualified to determine violations.* Qualifications for the work of detecting infringements of the law are

¹³ 70 Stat. 504 (1956).

¹⁴ Art. I, sec. 8, cl. 18.

¹⁵ 22 U.S. (9 Wheat.) 1 (1824).

extremely high, while the salary these men receive is generally quite low. A trained environmental engineer can earn a great deal more in private industry than in working for the government. The problem of competent personnel is one of the gravest in the entire area of air and water pollution control.

3. *There is a shortage both of equipment and of funds to enforce the law.* As a corollary to the personnel problem, adequate equipment has not been readily available to enforcement officials. Lack of money to purchase such equipment has, of course, been a major—and probably the most important—factor.

Government today must determine priorities in spending public funds, and, until recently, allocations to air and water pollution control boards have not been extensive. The fact that public funds have been unavailable has also, in the past, struck a critical blow at those who are attempting to arouse public awareness of the problem and thus eliminate it.

4. *Pollution problems cut across political boundaries.* Even if they were enforced to their practical limits, the laws are inadequate because pollution problems cut across political boundaries. For example, Lake Erie borders on four states—Ohio, New York, Michigan, and Pennsylvania. Action taken by Cleveland or by Ohio working alone would have only a partial effect.

Similarly, air pollution cannot be eliminated by a municipality working by itself. Even if Cleveland eliminated all the air polluters within its boundaries, the city's air would still be fouled by pollution from suburban concentrations. Attacking the problems on a municipal or, in some cases, even on a state basis, is not sufficient. Joint action by groups of cities and states is required. Steps are being taken in this direction, but more progress is needed faster.

5. *There is a lack of general public interest.* This fifth reason for inadequate enforcement of the laws is really the most important one. Governments tends to rate the importance of a problem by the degree of demand by the public for action. In other words, in government, as in many other areas, the squeaking wheel gets the most grease.

This is the real key to solving the problem. If public demand calls for action on pollution—and calls for it strongly—then government will answer that demand. However, until recently, the public, nationwide, has been conspicuously silent on the subject of pollution, and even today groups concerned about the problem are having difficulty in securing adequate support.

For example, here in Cleveland a citizens group was forced to postpone for a year the submission of an anti-air pollution bill to the Ohio Legislature because they were unable to get enough signatures on the

petition. In the story which appeared in the Cleveland newspapers,¹⁶ the coordinator for the group said that the signatures had to be collected in at least 44 Ohio counties and that it was difficult to arouse interest in some of the smaller rural communities. It is not only lack of interest in rural communities, but lack of interest nationwide.

Why this unconcern on the part of the public? Primarily because the people have not been made aware of the extent and urgency of the problem. Arousing the public is the single most important prerequisite for action.

And that's where public relations comes in.

Public Relations About Law and Pollution

The business of public relations is to inform the people and to create an atmosphere conducive to action. When combined with the techniques of advertising, it can be of powerful assistance in mobilizing for a cause. Such things as the fund raising campaigns for United Appeal and the Heart Fund and the Cancer Society, and the current anti-cigarette campaign, are instances of skilled informing of the people of problems, and of securing their involvement and action.

In the last year or so, public relations and advertising have begun to be used specifically in the anti-air and water pollution fight. Most people have seen the television commercial on "there's still time to get a clean glass of water" and have been urged to send for a government brochure telling what "you can do to curb water pollution." Both of these are laudable, though limited, attempts at arousing public interest. But a far more concentrated and extensive campaign is necessary.

In Cleveland, the capabilities of public relations were used in order to secure public support and involvement in a specific anti-pollution effort. This was the campaign for passage of the \$100 million water pollution bond issue which appeared on the November 1968 ballot. A Cleveland public relations firm was retained to conduct the campaign—which used all the trappings of an election campaign: billboards, flyers, bumper stickers, radio commercials, bus posters, etc. All of these told the same story: "Don't Let a Great Lake Die." And they showed the results of continued inaction: the skeleton of a fish killed by pollution. The support of the newspapers and various citizens groups was also secured.

The success of the effort is shown by the fact that the voters passed the bond issue, and \$100 million now can be used to fight pollution in Lake Erie.

The effort was, like the two others mentioned earlier, a limited one—in this case limited to one specific project in one specific city. But it does serve to illustrate the type of activity which can be successful both

¹⁶ Cleveland Press (Dec. 28, 1968).

in informing the public and in securing their demand for action to enact and enforce anti-pollution laws.

Public relations activity to change laws should be undertaken on a national scale. The story on pollution must be presented factually and dramatically on a saturation basis—using the full capabilities of radio, television, newspapers and periodicals.

At the same time, in each of the 60 regions of major pollution, local saturation campaigns should be conducted. These should add to the publicity and advertising to channel the active participation of area social, fraternal, business, civic, and special interest groups in getting the message across, that the laws need changing and enforcement. In addition to telling the pollution story locally, these campaigns should also outline the specific courses of action which the public should take.

These 61 concurrent campaigns (one national and sixty local) would not be an inexpensive undertaking. The total cost would be somewhere in the neighborhood of \$50 million at the minimum.

But this \$50 million expenditure could well turn out to be the best investment ever made by the interested citizens of this country—for it could well mean the difference between a healthy nation down through the decades and death by suffocation for the fish who must live in the waters and the people who must breathe the air.