

# LAW AND CONTEMPORARY PROBLEMS

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## FOREWORD

Optimal utilization of our vitally important water resources poses a national challenge that has defied the mechanical application of stereotyped formulae. The problems that demand resolution, on both organizational and policy-making levels, would sorely tax ingenuity under even the most propitious circumstances, for they are functions of multitudinous, constantly-changing variables whose values in many instances are extremely difficult, if not impossible, to assess. The matter is further complicated by the obtrusion of extraneous factors that operate effectively to foreclose consideration and exploration of many possibly promising avenues of inquiry.

Some of our most besetting difficulties inhere in the philosophy and machinery of our federal system of government. Diffusion and confusion of authority and other sovereign attributes between and among governmental units and their instrumentalities has not only obscured appropriate objectives, but has conducted internecine jealousy, evasion of responsibility, and shameful waste of a priceless natural asset. This is not to say, of course, that the existing patterns of intergovernmental relationships are wholly incompatible with the prudent husbanding and use of our water resources. It does, however, suggest that a high order of legislative and administrative skill, firmly bolstered by informed public opinion, is necessary to formulate and implement a rational program.

Certain broad concepts, lately emerged, have, in fact, gained general recognition and acceptance and have afforded the necessary foci for comprehensive water resources planning, development, and operation. The most significant of these has been the integrated drainage-basin approach. As translated into action in the Tennessee River Valley, it has fired the imagination of the world. The transferability of this total experience to other locales is at least questionable, however, in light of the peculiar milieu in which the Authority was conceived, born, and nurtured. Still, in modified form, and with varying degrees of success, this experiment has quite extensively been repeated, and has constituted and will doubtless continue to constitute a standard for emulation and comparison.

Perhaps less well-known and understood is the rather recently inaugurated United States Department of Agriculture-sponsored small watershed program. Although somewhat limited in scope and lacking a national or even truly regional or basin-wide

orientation, it does have the virtue of continuity. It may, moreover, conceivably be so administered as to effect water resources management on a scale much grander than that envisaged by its framers. Experience, however, has been too brief and inconclusive to date to permit firm evaluation of the program or intelligent speculation as to its likely future course.

Probably the most highly emotive issue affecting water resources concerns the role that is to be played by private enterprise in its exploitation. A "partnership" policy of the sort currently heralded would introduce no novel principle and would perhaps seem to be justifiable on historical grounds. But to what extent—if at all—would it comport with the public interest as this has now come to be conceived? Crucial and far-reaching decisions must ultimately be made in this area. Is it fatuous to hope that the process may be governed by objective factual analysis and reasoning, and not primarily by passions?

Partisan debate has also been stirred by the fact that, for better or for worse, many water resources activities have tended in recent years to become centered in the national government and its various instrumentalities. Vigorous criticism has been leveled not only at this realignment of civil functions, but at the increasingly tangled skein of national water resources administration that threatens seriously to thwart effective action. Alternative organizational schemes that have been proposed approach this latter problem in terms of competing theoretical postulates, and their adherents have loyally touted them as panaceas for our water woes—as perhaps they may well be. But ideal solutions must be circumscribed by what is politically possible, and powerful vested-interest groups, congressional and otherwise, can be relied upon obdurately and resourcefully to resist any thorough-going attempts to alter the status quo.

Apart from these organizational obstacles, certain fundamental policy issues must also be recognized and resolved. During the past decade, these issues have been the subject of intensive study by various official and quasi-official groups which, perhaps not surprisingly, despite their markedly divergent political and philosophical proclivities, have advanced proposals that are in most cases quite reconcilable. But, again, the extent to which these recommendations will be realized may largely be determined by quite immaterial and irrational considerations, if the past affords any reliable basis for prediction.

Certainly, a sound water resources program that faithfully reflects national needs and aspirations should not be beyond the attainment of an enlightened public in a democratic society. It is to a furtherance of this objective, therefore, that this symposium is confidently addressed.

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