



Literary Resources

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BOOKS

The Making of Environmental Law

Richard J. Lazarus

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By all rights, environmental law should be dead by now. After signing its first modern statutes, President Richard Nixon quickly lost interest and tried to squelch the field in the early 1970s. Similar attempts were made by President Ronald Reagan in the 1980s and Newt Gingrich in the 1990s. They all failed.

Moreover, the problems that environmental law addresses are at odds with the core nature of our political and legal institutions. Politicians are elected from well-defined jurisdictions to limited terms of office. Pollution, in contrast, respects no borders and can take decades to spread or for its effects to appear. The U.S. Constitution decrees decentralized, fragmented and incremental law-making, and protects private property; none of this is conducive to solving environmental problems. The beneficiaries of environmental protection are too diffuse to take collective action, or are as yet unborn.

And yet, environmental law has not only persisted, it has thrived. It has become institutionalized in every industry that manufactures tangible goods or develops land. It has spawned industries of its own. It has actually led to an improved environment, despite tremendous economic growth.

Richard Lazarus, a professor of environmental law at Georgetown University, demonstrates that this persistence is due to the deep and wide public support for environmental protection. *The Making of Environmental Law* is his masterful analysis of the more than three decades of environmental law and its complex intersections with politics, science, the economy, and such historical forces as globalization and the information revolution.

Readers at all levels will benefit from this volume. Newcomers to the field will find their eyes opened to the four-dimensional chessboard nature of the regulatory challenges. Those who have practiced in the field for many years will see connections and trends that had eluded them.

Though Lazarus helps us marvel at how robust the field has been in the face of its past challenges, he ends on a somber note. He declares that the White House, Congress and, increasingly, the judiciary are, for the first time, unified in their opposition to many of environmental law's basic precepts. Time will tell if he sees the future as sharply as the past.