

regulate "radiological" issues. (Murphy and La Pierre contend its "underlying premise" nevertheless is concern about "radiological safety.")

Pesonen added that lawyers involved in the California initiative have prepared a confidential memorandum for use in possible court suits. A summary of this memorandum was made available to California officials who raised questions about including the initiative on the ballot. "We persuaded them to leave it alone," Pesonen said. He also suggested that if the Forum's legal position were really strong, then the nuclear industry would presumably go to court in advance to block the balloting. (A Forum spokesman said that possibility had been "much discussed" but "most lawyers shied away" from challenging the laws before they go into effect.)

Other lawyers in the antinuclear movement suggested that the California initiative might be valid because it leaves it to the subjective judgment of the legislature to determine the adequacy of safety systems and radioactive waste disposal plans before reactors can be built. Thus, there is, in a sense, no regulatory standard being

imposed. "The heart of the matter is whether the state can flat out say 'No' to this technology," one lawyer said. "If the technology is accepted by the states, then regulation is mostly in the hands of the [federal] Nuclear Regulatory Commission. But was this technology mandated upon the states?"

Green, the law professor who suspects the Supreme Court might well find in favor of industry, nevertheless believes it would be possible to cast state laws in such a way that state regulation of nuclear energy would be valid. One way, he says, might be to make the laws applicable to all forms of power, not just nuclear.

Vermont, meanwhile, has successfully imposed regulations on a nuclear power plant with the utility's acquiescence. A few years ago the Vermont Yankee Nuclear Power Corporation signed an agreement with the state and several conservation groups whereby it agreed voluntarily, among other things, to submit to regulation by various state boards. Murphy and La Pierre suggest that Vermont Yankee took this action to facilitate state approval of a bond issue it needed. "Since a

company which proposes to operate a nuclear power plant is exposed to many areas of state regulation unrelated to radiation protection, there are many points at which pressure can be applied and the company's need for a good business environment may provide a ready backdoor to state regulation of nuclear power plants," they warn.

Neither side expects the legal issues to have much effect on the balloting in various states. As to what difference it will make if any states adopt laws that are later found invalid, Murphy and La Pierre warn that there could be "a great deal of confusion and delay." They add that some utilities, leery of "even the small risk" that the antinuclear laws will be upheld, may choose fossil fuel plants rather than nuclear. They also suggest that, if states try to regulate nuclear power through various "borderline" approaches, Congress may have to "impose federal regulation of all aspects of the power field." On the other hand, if enough states want to clamp down on nuclear plants, the resulting political pressures might well lead Congress to change its own stance toward nuclear energy.—PHILIP M. BOFFEY

## Ruckelshaus: What Happened to Mr. Clean?

William D. Ruckelshaus, the first and highly respected chief of the Environmental Protection Agency (EPA) and later a hero of Nixon's "Saturday Night Massacre," has recently come in for a fair amount of criticism for doing what many former government officials do: settling down to a lucrative law practice in Washington and offering his services to the type of clients whose activities he formerly regulated.

Although the Ruckelshaus move was not unusual, it has bothered a number of environmental activists and public interest lawyers who had hoped for "better" from him. Some environmentalists see him as "working the other side of the street" because that's where the money is; others are simply uncomfortable that he has seen fit to represent some clients—most particularly, the makers of cancer-causing vinyl chloride, whose interests, they believe, run directly counter to those of the public.

*Science* visited Ruckelshaus at his Faragut Square office\* to see what he thought about all this. Ruckelshaus is characterized as a super-smoothie by those who distrust him, and certainly it would be difficult to throw him on the defensive. At 43, he has waxed plumpish but is by no means complacent, either about the questions that have been raised about his present job, the state of American society, or the state of the world. He is restless. He wishes he had eight lives in order to do all the things he wants to do. During the interview he repeatedly leapt from his couch to stride about the room before sitting down again. From time to time he emitted rays of frustration. But his frustration is balanced by an easy and rather good sense of humor.

\*Ruckelshaus last June formed the firm of Ruckelshaus, Beveridge, Fairbanks, and Diamond. Richard M. Fairbanks was the environment man on Nixon's Domestic Council; Henry L. Diamond was New York governor Nelson Rockefeller's commissioner for environmental protection.

He brought up the conflict of interest topic right away, saying that the role of former government officials representing clients before their old agencies was a legitimate issue and one to which he had given much thought. He is satisfied that he is not violating any ethical standards, including his own.

Others are not entirely satisfied. Mark Green, a Ralph Nader lawyer, believes questions are raised by the fact that his name automatically gives Ruckelshaus preferential access to and enhances his credibility at EPA and on Capitol Hill. (Ruckelshaus doesn't think so.) William Butler, of the Environmental Defense Fund (EDF), is dissatisfied not so much with the man as with the system: "It's sad that there is no way a man like that can earn money and remain in the spotlight and still be on our side of the fence," he says.

Money, undoubtedly, has something to do with it; but Ruckelshaus believes that, if he worked on the public interest side, he would be in far greater danger of running into conflict of interest problems vis-à-vis his old agency, since public interest groups frequently engage in legal action against EPA. More to the point, though, he really isn't the activist type. Ruckelshaus is a lawyer from a long line of lawyers. His personal view of what constitutes the pub-

lic interest is not that of activists who view the world as a battle between the vested interests and the public, a view he believes is a "gross distortion." To him, "the highest morality in a free society is the morality of process," and if he is battling, it is not so much for a cause as for process.

This does not mean he has forsaken "public interest" causes. He helped set up the year-old Council for Public Interest Law, headed by Charles Halpern, whose purpose is to find stable sources of funding for this type of advocacy. Since stepping down from EPA in 1973 he has lent his name to environmental fund-raising appeals. He also has policy-making positions with other public-minded groups such as the Institute for Congress, the Urban Institute, the 20th Century Fund, and the Indiana privacy commission.

Still, there are those, like Gustave Speth of the National Resources Defense Council, who can't quite forgive him for representing what Speth calls "a substantial group of very bad actors."

The worst actor, in some people's opinion, is the Society of the Plastics Industry, which includes most makers of polyvinyl chloride (which has been implicated as the cause of a usually rare form of liver cancer that occurs frequently among workers in polyvinyl chloride plants). Ruckelshaus says his first impulse was to turn down the plastics makers because of "the impression it would give people" if he took them on. But he decided that wasn't a good reason, so he agreed to represent them on the condition that they would make available to the government all their technical information on emissions control capability and would agree to engage in further research in cooperation with the government.

Ruckelshaus believes much can be done to improve procedures for setting standards on toxic materials. In the case of vinyl chloride, when the time came to set standards for emissions in the plants, the parties weighed in with data to support their cases; the data were so conflicting that the Occupational Safety and Health Administration threw up its hands in bewilderment and ended by setting an arbitrary standard that no one liked. Because no one can even agree on the facts, says Ruckelshaus, the debate never progresses to the really crucial question, which centers around the degree of risk that is to be deemed socially and environmentally acceptable. Ruckelshaus would like to see—in every case in which a new devilish substance is discovered—the structuring of an independent research program designed by all parties involved—industry, labor, government, and concerned citizens. A review group of scientists of "unquestioned integrity" would design a research program



*William D. Ruckelshaus*

that would be funded jointly by all concerned. In this way, he believes, data could be generated that everyone could agree on, and the matter of acceptable risks, which policy-makers have so far evaded, could then be tackled.

Other work for which Ruckelshaus has been criticized has been on behalf of the Commonwealth of Puerto Rico. The Ruckelshaus firm is seeking an exemption from the Clean Air Act so that one of the island's power plants can continue to burn high sulfur oil. Environmentalists see this as an attempt to make an end run around a law he was formerly charged with enforcing. Ruckelshaus insists that the waiver is justified because no adverse health effects are involved (a point some environmentalists dispute) and because the island's economy can ill afford to pay an additional \$25 million a year to use low-sulfur oil.

And then there is the Concorde, another on the list of environmental bad guys. Ruckelshaus has been hired as counsel by the British government during efforts to secure landing rights in this country for the Anglo-French supersonic transport. Russell Train, his successor at EPA, has said the agency believes that letting the plane into the country would be "undesirable," because of the noise. Ruckelshaus, who says his only duty is to explain American environmental laws to the British and help them understand what all the fuss is about here, admits the plane is "noisy as hell," and sympathizes with those who may find themselves living under its path. He doesn't seem to give much of a hoot whether the landings are permitted; again his concern is with "process," and he voiced great admiration for the open and orderly way Secretary of Transportation William Coleman has conducted the deliberations. "He sees the morality of the problem."

Ruckelshaus is attracted by the "small is beautiful" philosophy which involves low growth, small technology, and radical scaling down of lifestyles, but he doubts that it is feasible in a large industrial nation, heavily dependent economically on the production of such things as Freon-propelled deodorant sprays. He believes that the nation should be realistic and seek to steer a middle course of limited and realizable goals.

A central Ruckelshaus theme, and one that relates to the suspicion concerning his current activities, is "the erosion of trust" in American society. Watergate, the war, and the bloated and unkept promises of the Kennedy-Johnson years have created general feelings of betrayal and skepticism. There has been a "blind lashing out" and a search for scapegoats. In the case of the energy crisis, for example, "most of the country tends to blame the oil companies." The government isn't doing anything to bring people in touch with reality, settling instead for a "hodge-podge of compromises" to keep citizens from howling about gasoline prices.

Ruckelshaus thinks that all it would take would be a little honesty to persuade the public of the need to conserve energy. If he were Gerald Ford, he would skip Congress and go straight to the people, via television, with the facts. "I think the response would be overwhelming."

Ruckelshaus seems optimistic that, with honesty and the unclogging of processes, this country's problems can be handled. About the world, though, he feels rather grim. "In 60 years there will be 11 billion people on earth—how in the hell are we going to deal with that? And here we are running around this country in an election year debating bussing!" The world has 30 years of oil left and no one is doing anything about it! And there is no international body of any stature that exists to call attention to long-term, global problems.

One wonders if Ruckelshaus's next career jump might be into a global arena. He admits his present job "is not the best place for action" on matters that most concern him, and he says he would like someday to get back into government. (Ruckelshaus is, after all, a politician—he was Republican majority leader in the Indiana legislature, and a strong contender against Birch Bayh for the U.S. Senate in 1968.) Although some now feel he has changed colors, Ruckelshaus doesn't believe any of his activities have been inconsistent. Those who looked to him as the White Knight of the environment simply had him pegged wrong, and "I can't base my life on the expectations of others."

—CONSTANCE HOLDEN