
Judith A. Layzer. *Open for Business: Conservatives' Opposition to Environmental Regulation*. Cambridge, MA: MIT Press, 2012. xviii + 499 pp. ISBN 978-0-262-01827-2, \$37.00 (cloth).

The environmental movement in the United States started in the late 1960s and blossomed in the 1970s. The creation of the U.S. Environmental Protection Agency (EPA), the passing of the Clean Air and Clean Water Acts, and the birth of Earth Day—with the support of government, industry, and business—are just a few examples of what evolved during the early part of this extraordinary movement—a movement that informed the structure of environmental policy that exists today. But how did we go from this unified, pro-environmental stance to one in which government protection of the environment became the equivalent to attacking business interests—a stance in which businesses are considered to be either “evil, polluting entities” on the one hand, or “heroes” that create jobs and promote economic vitality, on the other? More importantly, how did the evolution of this conflict shape the regulatory process and affect regulatory outcomes? This is the question that is addressed in Judith A. Layzer’s book, *Open for Business: Conservatives' Opposition to Environmental Regulation*. Layzer argues that contemporary conservative ideas have had an important and mitigating effect on environmental policy—one that is easily underestimated. In part, this can be explained by the conservative movement’s effectiveness at shaping both how and what policy questions come to the table, and not just how they affect policies once they are in place. The author concludes that the consequences of both the direct and indirect (“low profile”) attacks against environmental regulation by conservatives have led to significant delays in the adoption of regulatory measures, the rollback of existing regulations, and a discrediting of the environmental narrative.

Open for Business begins by outlining a roadmap for how the author will measure both the effect and the effectiveness of the conservative movement’s fight against environmental regulation. The rest of the book is dedicated to providing a rich and detailed historic accounting of the behind-the-scenes political machinations affecting environmental regulation from the late 1960s through the presidential tenure of George W. Bush. This is the real contribution of the book. For those who are unfamiliar with the political scene of this time period, Layzer offers an organized recounting of the political players and their roles in shaping the environmental discussion. To analyze how modern conservative ideals affected environmental regulation, the book focuses on the conservative movement’s differential success at attacking two environmental acts: the Clean

Air Act (CAA) and the Endangered Species Act (ESA). Both of these acts came about through Republican President Richard M. Nixon's bipartisan work with a Democratic Congress to pass several pieces of federal environmental legislation. The CAA introduced national ambient air quality standards that were established to protect human health and welfare. The enactment of the CAA effectively removed environmental regulation from the hands of local and state regulators to that of the federal government through the newly established Environmental Protection Agency (EPA). Three years later, in 1973, the ESA was passed, again with almost full bipartisan support in both houses. The ESA was the first piece of legislation that addressed the importance of protecting biodiversity. The ESA falls under the jurisdiction of the U.S. Fish and Wildlife Service, an agency within the U.S. Department of the Interior.

The evolution of the tools used by conservatives to try to attack the environmental movement is strongly correlated to changes in the understanding of the economics of regulation and the theory of externalities. Unfortunately, this is probably the weakest part of Layzer's work. Although Layzer mentions some of the key economic players involved in the policy debates of the time, she is not as successful at exposing the relationships between the politics behind the policies and the economic debates revolving around issues such as optimal policy instruments, the role of uncertainty and risk, the use of cost-benefit analysis, and efficiency. What Layzer does point out, however, is how cleverly the conservative movement was at playing the academic card. When the economics matched the conservatives' own needs, they adopted them as their own, and when they did not, they pushed the story line of the minority intellectual elite trying to bully the silent majority. For example, the conservative argument that free markets can solve the problems of the environment if governments are not allowed to intervene simply does not hold water when externalities are present. However, that is not the story that the conservative movement spins. The conservatives' story begins and ends with the efficiency of the free market. On the other hand, demanding cost-benefit analysis when adopting a new environmental rule is a brilliant strategy when one can attack all the uncertainty associated with both the cost and benefit estimates, guaranteeing a slowdown in rule adoption.

An important point that Layzer makes in examining the effectiveness of both the direct and indirect conservative attacks on the CAA and ESA is that the role of institutions cannot be ignored. In particular, the CAA falls under the jurisdiction of the EPA, which has a clear mandate to protect human health and welfare. The EPA historically also has had strong allies in Congress that protect the department's budget, as well as a court system that has supported

a restrictive interpretation of the CAA.¹ In contrast, the ESA resides under the purview of the Department of Fish and Wildlife Service within the Department of the Interior. Layzer argues that the Department of Fish and Wildlife Services is a relatively weak agency within Interior, and therefore more prone to political manipulation. This is one reason why conservatives have had more success in weakening the ESA. That being said, it is important to recognize that even though the EPA has much control over the CAA, the states still control the state implementation plans, and state-level politics and control over state-level institutions can have a large effect on regulatory outcomes. For example, there have been recent claims that the Florida Department of Environmental Protection banned the use of phrases such as “climate change,” “global warming,” and “sustainability” from all official communications, e-mails, and reports (*Miami Herald*, March 8, 2015).² This is just another example of how the conservative movement can subvert the environmental message by using a “low-profile” method to co-opt an agency that is responsible for environmental protection.

It is not entirely clear whether Layzer’s evidence meets the standard to claim a causal relationship between contemporary conservative ideas and the resulting set of environmental policy outcomes; however, it provides both the background and framework in which a causal relationship may be examined. The interplay among politics, policy, and institutions is well documented. Layzer provides an impressive set of notes and references that allow the reader to go to the original academic source that she uses and has put forth a book that will become an important resource for those interested in learning about the development of environmental policy.

Linda Bui

Brandeis University

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1. Even with a supportive court system, environmental outcomes can be jeopardized by state governments. A sad example is the New Jersey case against ExxonMobil Corporation. ExxonMobil was found liable for environmental damages that occurred to the natural resources in the Arthur Kill and Newark Bay areas. As described in an op-ed piece of Bradley M. Campbell in *The New York Times* (March 5, 2015), while a judge was deliberating over whether to assess the company for the \$8.9 billion in damages that the state sought, Governor Chris Christie settled the suit for approximately three cents on the dollar. Whether the courts accept the settlement has yet to be determined as of this writing.

2. Korten, Tristram. “In Florida, Officials Ban Term ‘Climate Change.’” *Miami Herald*, March 8, 2015, <http://www.miamiherald.com/news/state/florida/article/12983720.html>.