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# Readings

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## The Dioxin Drama

### **Dying from Dioxin: A Citizen's Guide to Reclaiming Our Health and Rebuilding Democracy**

by Lois Marie Gibbs  
(South End Press, 1995) 362 pp.

#### **Reviewed by Michael Gough**

Lois Gibbs, organizer of the Love Canal Homeowners' Association and the "mother of Superfund," and a number of her colleagues have written *Dying from Dioxin: A Citizen's Guide to Reclaiming Our Health and Rebuilding Democracy*.

We are all dying, but not from dioxin. Gibbs's recommendations will not allow us to reclaim our health which, so far as I know, has not been lost. Her recipe for rebuilding democracy includes shutting down industries and services that pollute, and levying taxes on any surviving businesses in order to fund worker retraining programs.

This is a bad book, filled with misstatements and half-truths. It will surely find readers among those who believe that environmental toxins are a major cause of human misery and disease; those who want to get even with "the system"; and those who are looking for explanations of disease and death that no expert can provide. Those familiar with the technical, legal, and governmental issues surrounding dioxin might want to read the book to understand Gibbs's tactics. I suggest that those readers borrow the book from a library.

Readers of Michael Fumento's book *Science under Siege* will recognize Gibbs's tactics. They worked at Love Canal. Blame everything on a specific evil, Love Canal, and say it over and over

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again. They worked for the passage of Superfund. Blame every conceivable health effect on a more general evil, waste dumps, and say it over and over again. Dioxin is the next logical step in Gibbs's move from the specific to the general; it is literally everywhere and produced in worrisome amounts, according to Gibbs, by just about every human activity. I can summarize her discussion of the science: Dioxin can cause every disease known to man, and it is doing so right now across America.

The first part of the book purports to discuss what scientists know about dioxin, and it is largely based on the Environmental Protection Agency's (EPA) 1994 "Dioxin Reassessment." To understand the misrepresentations in Gibbs's book, it is helpful to know something about the \$6 million, four years in-the-making, 2,000-page reassessment. Academic scientists wrote the first seven and a half chapters that summarize toxicologic and epidemiologic findings. A friend of mine characterized them as "book reports." EPA scientists wrote the rest of the nine-chapter report, and they translated the material in the earlier chapters into a "risk characterization." The characterization claims that exposures to dioxin that are only 10 to 100 times higher than the exposures we all encounter every day can cause a multitude of human diseases, including cancer.

Gibbs glosses over the review of the dioxin reassessment conducted by the EPA's Science Advisory Board (SAB): "*The SAB disagreed with the EPA only in its interpretation of some of these scientific findings.*" (Emphasis added.) Indeed. The SAB disagreed only with the parts written by the EPA.

The SAB said that the EPA's risk characterization chapter has "a tendency to overstate the possibility for danger," and faulted it because "important uncertainties . . . are not fully characterized." The board said that the EPA's cancer risk estimate "suffers from its reliance on the

standard EPA default assumptions. . . . The Committee suggests that EPA consider, in future revisions, alternative models, allowing for minimal response at low environmental levels of exposure."

Use of alternative models would reduce the EPA's cancer-risk estimate; some would reduce it to zero. Most telling, the SAB concluded that "chloracne [a skin disease] is the only lesion of note clearly established as being related to TCDD [dioxin] exposure."

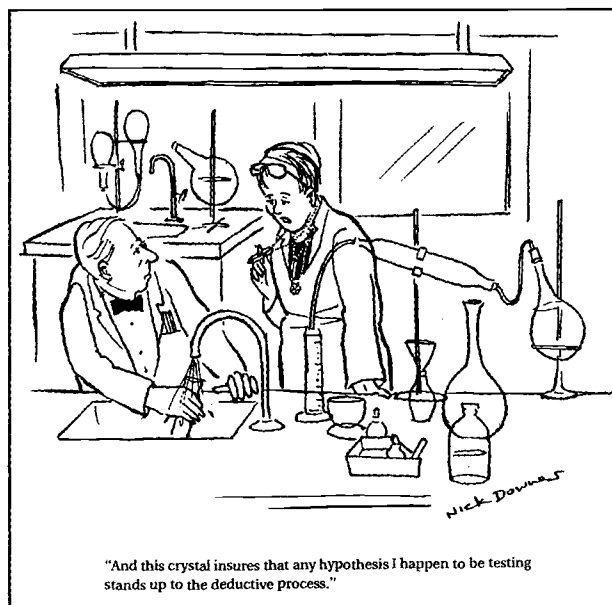
The board told the EPA to rewrite its risk-characterization chapter. Some of the people that Gibbs lists as collaborators on her book were members of the SAB committee that reviewed the dioxin reassessment. Their willingness to brush aside the SAB's rejection of the EPA's risk characterization captures their attitude about science and facts.

Parts of Gibbs's reporting about science are amusing. Gibbs warns that environmental exposures have left us "full" or "almost full" of dioxin. What a mental picture! Only a few more breaths of urban air and, pow, I may explode! It is wrong, of course. As a result of a 1976 chemical plant explosion, some residents of the town of Seveso, Italy, have 10,000 times as much dioxin in their bodies as the average American. Those whopping exposures caused chloracne, nothing else.

The second part of the book explains how to organize friends and neighbors to reduce dioxin exposure. It provides a handy list of dioxin sources that should be eliminated. Medical waste incinerators are at the top of the list because, according to the EPA's 1994 document, those incinerators produce about 5.1 kilograms of dioxin-like chemicals each year. To Gibbs's credit, she acknowledges that the American Hospital Association had challenged the estimate, noting that the EPA admits its "estimate may be high, but not substantially so."

Today the EPA might admit that its 1994 estimate was "substantially" high. The agency's current estimate is 0.17 kilograms, a reduction of more than 96 percent. Much of the reduction came from the EPA's utilization of the American Hospital Association's more realistic methods for estimating emissions, and the rest from improvements in incinerators.

Gibbs's list of other dioxin sources includes: municipal solid-waste incinerators, hazardous waste incinerators, cement kilns, pulp and paper mills, chemical manufacturing (especially production of polyvinyl chloride, herbicides, pesticides, and chlorinated solvents, dyes, and pigments), wood burning, metal smelting and refining, wastewater treatment plants, coal burning, motor-vehicle



fuel, chlorine gas production, petroleum refining, forest fires, electrical equipment, and "other sources." Quite a list.

Dioxin contains chlorine. Without chlorine, there is no dioxin. The solution is simple: ban or otherwise eliminate chlorine from manufacture and commerce. (I didn't find this nuance in Gibbs's book, but some people who argue for doing away with chlorine make exceptions for its use in disinfecting water and producing pharmaceuticals. That ol' devil, risk-benefit, pops up everywhere.)

Gibbs recognizes that many people with jobs see environmental bans as a threat to their livelihoods. There is a simple solution: Superfund. "A charge on chlorine could go to a Superfund to assist workers in the industry to transition into similar paying jobs outside the chlorine industry." If Gibbs successfully eliminates all of the dioxin sources she lists, there will not be many jobs to "transition" into.

In a thorough reading of the second part of the book, the informed reader will pick up many reporting errors. For instance, organized citizen outrage is credited with closing the Columbus, Ohio municipal incinerator. Quite a dramatic story; but according to the city, the reason was far more mundane. A court decision eliminated Columbus's authority to require that trash be taken to the incinerator for disposal. As a result, landfills opened up, disposal costs dropped, and the incinerator was priced out of business. Economics, not outrage, closed the incinerator.

Gibbs's success, as with everyone's success or lack thereof in public life, depends on the media.

Number 11 of her 12 organizing principles is "Target the Media." She writes, "In most media outlets, the decisionmakers are the editors, and the way to get them to cover you is to spoon-feed them a story they can use without much work." Gibbs then lists 16 points to remember when spoon-feeding reporters; among them, "Never lie," and "Never tell half-truths."

Good advice from Gibbs, who in *Dying from Dioxin* repeats that 56 percent of the children at Love Canal were born with birth defects. What difference does it make that competent investigators have failed to find any health consequences from the exposures at Love Canal? Gibbs's disdain for the media is matched by her disdain for the facts. Perhaps there is hope that the media will bite back and examine her spoon-fed stories.

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## Free the Ranges

### Public Lands and Private Rights: The Failure of Scientific Management

by Robert H. Nelson  
(Lanham: Rowman & Littlefields, 1995) 373 pp.

#### Reviewed by Richard L. Gordon

Author Robert H. Nelson is a leading critic of U.S. public land management policy and a former analyst with the office of policy analysis in the Department of the Interior. Since retiring from the department to the University of Maryland, Nelson has written *Public Lands and Private Rights: The Failure of Scientific Management*.

This book contains a collection of 16 papers offering a comprehensive overview of public land management policy. Nelson focuses primarily on forests and ranges, recognizing that the majority of public lands are dedicated to ranchers, national forests, or both. The book includes a thorough history of public land management policy, with specific analysis of the Forest Service and public ranges; a discussion of attempts to implement planning programs in the Forest Service and the Bureau of Land Management (BLM); a trio of essays focusing on fruitless proposals to change public land policy in the 1980s; and a review of policy changes

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in disparate areas of public land management.

Two important principles underlie Nelson's work: drawbacks of the ideologies influencing public policy, and problems of achieving efficient property rights assignments. Nelson rightly argues that neither the progressive concept of "scientific management" nor the later concept of "interest-group liberalism" provides a satisfactory model for public policy. According to Nelson, exponents of maintaining and expanding regulation widely ignore system defects and are "often curiously lacking in historical perspective." Nelson's discussion of property rights focuses on the conflict between preexisting rights and greater private ownership. He properly recognizes that those with preexisting rights granted by public policy resist reform, and sensibly concludes that it may be necessary to grant them explicit property rights in order to quell their opposition to private ownership.

The first essay discusses a 1979 internal memo on public land policy. Nelson reveals what is commonly acknowledged—that two conflicting forms of land policy operated at the same time. The first policy consisted of formal, but untenable, legal requirements. The second policy consisted of efficient land use by informal, illegal practice. He gives evidence of the persistence of wrong-headedness in public land management by demonstrating that the two opposing policies were, surprisingly, applied to both agricultural policy in the central states as long ago as the early 19th century, and to more recent western ranching and forestry developments.

The author provides two more case studies to demonstrate the failings of scientific management policies. The first case study concerns the Forest Service, where scientific management was adopted by administrators who believed they could plan better than commercial interests, and prevent an otherwise certain shortage of timber. The disparity between the Forest Service's ambitions and its actual achievements manifested itself in erroneous forecasts of timber shortages and persistent inefficiency, especially compared with superior management policies developed at the same time by private interests.

Nelson's second case study, disasters within the BLM, focuses on the agency's persistent dismissal of relevant economic principles. For instance, the bureau fostered grazing despite evidence that pointed to the possibility of more profitable uses of land. Readers familiar with the sustainable

development craze will appreciate Nelson's criticisms of the bureau's sustainable yield concept. He asserts that both the sustainable yield and multiple use approaches, like all approaches that depart from well-established economic principles, are ambiguous and therefore useless.

Nelson follows his discussions of the Forest Service and the BLM with an in-depth analysis of the sagebrush rebellion. He examines its proposals regarding the transfer of lands to the states and the shortcomings of its privatization initiatives, underlying problems that inspired the rebellion, and possible solutions. Nelson calls the sagebrush rebellion an incoherent movement resulting from concerns that federal policies would harm established interests. The rebellion ultimately failed, at least in part because of popular misgivings that state ownership would not be an improvement over federal administration.

In contrast to the rural founders of the sagebrush rebellion, the privatization movement was developed by "intellectuals" attracted to the efficiency advantages of private ownership. The Reagan administration alienated critical constituencies when it implemented privatization legislation—notably preservationists and public land users. Those with long-held rights feared exorbitant user fees. Moreover, they suspected that transferring public lands to private ownership would mean a reduction in controls.

Nelson discusses the economics of federal land management that necessitate major policy changes. He suggests moving gradually to a system that provides recreation on public lands more efficiently and ends federal involvement in several other realms. He extends the implications of the sagebrush rebellion to argue for abolition of the Bureau of Mines (which was effected after publication in 1995), and for dismantling the Department of the Interior. He also advocates the abolition of the BLM, the Bureau of Reclamation, and the Geological Survey, plus the radical reduction of the scope of the National Park Service, the Fish and Wildlife Service, and the Bureau of Indian Affairs by a combination of privatization and transfers to the states and other federal agencies. He proposes state assumption of responsibility for the majority of BLM lands, sale of mineral rights retained under private lands; transfer of the best wilderness to the National Park Service; and establishment of a public corporation to operate BLM-controlled forests in Oregon. He also advocates a similar mix of transfers and public corporations for the Bureau

of Reclamation's water projects and national parks, although he suspects that inflated estimates of the worth of the land will discourage optimal disposal policies.

Nelson's anthology provides the most thorough treatment of public land issues in more than a decade. His grasp of tensions inherent in the debate is particularly astute. For example, he points out that the majority of public land is concentrated in a few western states, resulting in extensive subsidies for these areas. Nelson believes that limiting federal involvement in public lands will reduce the problem of subsidies and the threat of imposing eastern sensibilities on the west.

Although there is much to recommend in the book, *Public Lands and Private Rights: The Failure of Scientific Management* is not without shortcomings. Nelson's policy proposals are timid, particularly his advocacy of transferring authority from one government agency to another. Instead, more privatization and abolition seem appropriate. Nelson's support of transferring management to public corporations is particularly weak in light of the demonstrated failures of public corporations when compared to private industry. His restraint appears to arise from an unwillingness to approach or comment on unfamiliar issues. Rather than being too timid, he should suggest proposals which seem tenable, even if the options are inferior.

Overall, Nelson's analysis of public land management does much to counter the deficiency of analysis about which he complains. He provides a sound appraisal of the system that identifies and demolishes its rationalizations.

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## A Matter of Justice

### Private Rights & Public Illusions

by Tibor Machan

(Transaction Publishers, 1995) 379 pp.

### Reviewed by Gene Healy

Irving Kristol once wrote in the pages of this magazine that "no reasonable person is in principle opposed to all forms of government regulation." In his new book *Private Rights &*

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*Public Illusions*, Tibor Machan begs to differ; he argues that “government regulation is morally wrong.”

Machan, a professor of philosophy at Auburn University, is an accomplished political theorist and the author of, among other works, *Individuals and Their Rights*, a neo-Aristotelian defense of natural rights. Thus, when he writes that “the fact is that proponents of deregulation are not presenting a powerful and persuasive moral case,” he deserves our attention.

### Ideas and Consequences

What Machan finds disturbing is that the case for limited government and unfettered exchange is largely made on consequentialist grounds. As he puts it, “The idea of the worth and rights of the individual simply cannot find a place in the standard utilitarian cost-benefit analysis favored by many economists.” Utilitarian arguments need not operate to the exclusion of (other) normative ones; yet they often do. For example, in a *Reason* magazine interview last year, Milton Friedman had this to say about compulsory education: “The marginal benefit from having 91 percent of people in school rather than 90 percent does not justify making it compulsory. But if in the absence of compulsory education, only 50 percent would be literate, then I can regard it as appropriate.” Machan would doubtless regard compulsion in this area as inappropriate, whatever its effects.

In Machan’s view, there are reasons to support freedom apart from the fact that it “works”; indeed, there are reasons to support it even when it does not. He notes that “some policy or institution could fail to be cost-effective and yet be quite appropriate. One need only think of the constitutional protections of the rights of the accused and criminals to appreciate this fact. One does not even ask the question whether it is cost-effective to protect the rights of the accused. It is a matter of justice, not of utility.”

In contrast to John Rawls’s “justice as fairness,” Machan posits “justice as liberty”—by which he means (political) recognition of the inviolable sovereignty of each individual. In Machan’s moral universe, each individual is equipped with the standard Lockean package: rights to life, liberty, and property. Machan bases his theory of rights on an Aristotelian conception of man as a self-directed, rational creature, capa-

ble of achieving the good life through actualizing his human potential. Rights are necessary for individual human flourishing; Regulation is wrong because it violates these natural rights, infringing on the realm of human sovereignty necessary for free choice and self-development. Much of the territory Machan covers in *Private Rights & Public Illusions*—the incompatibility of negative liberty and positive rights, the paternalistic nature of the welfare state—is familiar to advocates of limited government, but it is ground worth treading more than once.

### Prior Restraint

Where Machan breaks new ground is in his discussion of the problem of “prior restraint.” The phrase is most commonly associated with First Amendment cases where, since *Near v. Minnesota*, the Court has held that abuses of freedom of the press, such as libel, can only be punished after the fact. Machan uses the concept of prior restraint more broadly, to refer to restrictions or burdens imposed on individuals who have not been found guilty of any crime. According to Machan, the prohibition of prior restraint is a political (and moral) principle essential to a free society—one that is honored mostly in the breach when it comes to regulation. He writes, “The toy maker, dress manufacturer, barber, or restaurateur who is forced by the state to meet various requirements set by a regulatory agency, and thus forced to incur expenses, hardships, even ruin, simply has not done anything wrong to another person.” One wonders how many of the *Federal Register*’s 70,000-plus pages of rules would survive Machan’s categorical prohibition on prior restraint.

Those who do not share Machan’s unyielding conception of rights may blanch at his sweeping indictment of the current system. Yet his discussion of prior restraint points out a disturbing incongruity in that system. In the exercise of its most fundamental duty—bringing murderers to justice—the state is required to observe due process scrupulously: law enforcement officials must show probable cause to get a search warrant, and cannot compel the suspect to incriminate himself. Such restrictions do not apply, however, when officials seek to ensure that workplace safety regulations or child labor laws are being observed.

Surely the civil rights violations and threats to the rule of law posed by regulation are as worthy of concern as the economic burden it imposes. Public discontent with the current regulatory regime is not based solely on the monetary costs it exacts and the perverse consequences that issue from it; "bureaucrat" is an epithet largely because bureaucrats exercise prior restraint. The regulatory approach to governance often treats innocent citizens as suspects and leaves them unsure of whether they are complying with the law. Machan makes a compelling case that in a free society, one that respects its citizens as agents capable of foresight and free choice, potential conflicts and rights violations are better handled before the fact by contract, after the fact by tort.

### The Marketplace of Ideas

In the chapter entitled "Should Business Be Regulated?", Machan underscores another interesting incongruity in the current system—that commerce is more heavily regulated than expression. American public policy has, in the main, taken a laissez-faire approach toward spiritual matters, and, for at least the last 60 years, pursued a policy of strict oversight with regard to material ones. Thus, newspapers are largely free from prior restraint, whereas dry cleaners are not. Machan argues that this disparity has its roots in a false, Cartesian distinction that splits human life into separate spiritual and physical components. In contrast, Machan "regard[s] human beings as integrated, whole beings . . . a view that requires a consistent regulatory approach to all human professions." Thus, Machan sees no principled difference between OSHA and a Ministry of Poetry.

Indeed, it is ironic that many of those who speak most eloquently about the "marketplace of ideas"—Justice Holmes, for example—exhibit so

little trust in the actual, corporeal market. To make the type of consequentialist argument Machan frowns upon: if government tends to be ham-fisted with regard to spiritual matters, will it not demonstrate the same incompetence in material ones?

### Economists vs. Ethicists?

*Private Rights & Public Illusions* is a worthwhile volume, perhaps particularly for economists and others who are more familiar with the practical arguments against the regulatory state. Machan argues convincingly that "economic arguments must be supplemented by normative arguments," and then goes on to supply such arguments in abundance. *Regulation's* readers may find it rather refreshing to read a book on the subject that contains only two graphs and is virtually devoid of statistics.

One caveat, however, is that Machan has perhaps drawn too sharp a distinction between economics and morals. In a world of scarcity, efficiency is a moral issue, though surely not the sole moral issue. Nor should the fact that economists operate in a utilitarian framework necessarily be taken to imply moral skepticism on their part. The fact that the case for deregulation is often made in the language of utility reflects little more than a prudent division of labor among advocates of limited government. Economists tend to consider it easier to assess the impact of policies than to access moral truth.

We can agree with Machan that the case for limited government should not depend on the conviction that all government regulation is inefficient, since, as he notes, "on occasion, regulatory measures taken by government can have overall beneficent results"; nonetheless, it is perhaps testimony to the effectiveness of the case made by economists that Machan seems hard pressed to come up with an example.