

A POISONOUS PAST

Colin Gordon

Gerald Markowitz and David Rosner. *Deceit and Denial: The Deadly Politics of Industrial Pollution*. Berkeley: University of California Press, 2002. xx + 408 pp. Illustrations, photographs, maps, notes, and index. \$34.95 (cloth); \$19.95 (paper).

Federal protection of the environment, food safety, and occupational health now routinely relies on the oxymoron of "voluntary compliance." The current Administration has undertaken a broad effort to restructure federal advisory committees to both the Center for Disease Control and Health and Human Services, displacing "renowned scientists" with, as the National Resources Defense Council notes acidly, "pro-industry representatives with questionable expertise." In recent months alone, the Environmental Protection Agency (EPA) has delayed smog abatement requirements, reversed or weakened restrictions (in violation of international agreements) on the use of the pesticides atrazine, methyl bromide, and carbofuran, and only reluctantly withdrawn a proposal to loosen the regulations that govern screening of low-income children for lead poisoning. And a proposed expansion of the Patriot Act features provisions that would both limit citizen access to information about possible risks from local chemical plants and grant companies broad immunity from civil liability.¹

These facts, mere illustrations of a deregulatory impulse that is now three decades old, underscore (even as they ignore) the remarkable history uncovered by David Rosner and Gerald Markowitz in *Deceit and Denial: The Deadly Politics of Industrial Pollution*. From two paradigmatic case studies—lead in the first half of the twentieth century, and plastics in the latter half—the authors draw three important ethical and political conclusions. First, the economic principle that "there is no reason to hold up production of useful products if danger has not been proven" has proven disastrous in terms of occupational health, public health, and environmental health (p. 6). Second, leading firms and trade associations have proven unable and unwilling to consider the "externalities" of modern industry (death, sickness, environmental degradation) as much more than a marketing or public relations challenge. And third, the very institutions that might be expected to broach these questions less

cynically—including science, medicine, and government—have (at least in the American setting) been bought off, distracted, or captured by vested industrial interests.

The power and originality of this account rests on its extensive use of company and industry records collected as part of the “discovery” stage in recent legal proceedings in New York City (lead) and Louisiana (polyvinyl chloride). One of the ongoing dilemmas (and frustrations) faced by historians of American public policy is that business interests, whose resources and demands are so central to the political system, are often silent in the archival record. Private interests, of course, have no statutory obligation to make their historical records available and, when they do so, invariably cull collections or restrict access in such a way as to present that history in the most favorable light. The documents plumbed by Rosner and Markowitz, by contrast, open doors onto a world rarely glimpsed by historians: the cynical, anxious, and occasionally criminal deliberations of firms and trade associations on matters of industry research, corporate liability, public policy, and public relations.

The first half of the book deals with the history of lead poisoning, first as an occupational hazard for painters and workers in leaded gas refineries into the 1920s and later as broader public health concern as the toxicity of leaded paint (especially for children) became increasingly apparent. Despite a “drumbeat of articles” documenting the dangers of lead paint by the late 1920s, both National Lead and the Lead Industries Association refused to view threats to public health as anything but a marketing obstacle (p. 43). As Rosner and Markowitz demonstrate, the industry’s response was both to blame the victim by attributing poisoning to “pica” (the early-twentieth-century effort to pathologize teething) and—more damningly—to bury public concern beneath a blizzard of claims that lead was actually a boon to child health and domestic hygiene. As one promotional campaign boasted, “lead helps to guard your health” (p. 82). This, as the authors underscore, is the point at which the industry crossed the line from denial to deceit. Over time, lead interests retreated in the face of overwhelming evidence of the occupational and public health risks of lead paint and leaded gasoline—although it is shocking to be reminded how long (into the 1970s and 1980s) this took. And even as these episodes wound to a political and economic (although not legal) conclusion, the industry continued to defend itself against new interest in the environmental impact of lead and renewed interest in occupational exposure (an issue of both labor rights and reproductive politics) at much lower thresholds.

Just as lead neatly represented the early history of industrial pollution, plastics neatly represented the same intersection of occupational, public, and environmental health in the later years of the twentieth century. While marked by similar concerns, motives, and culpability, the response of the

plastics industry played out in a very different context. The products in question, such as polyvinyl chloride, were new and their health implications largely unknown. The atomic peril of the Cold War, coupled with the muckraking of Rachel Carson and Ralph Nader, focused popular attention on issues that, in the early twentieth century, had been largely settled by industry insiders and proprietary research. By the 1940s and 1950s, government played a much larger role in industrial regulation and occupational safety. As the reality and fear of cancer intruded, the private and political response could no longer be neatly organized around the question of acceptable or tolerable levels of exposure. And the very nature of plastics, which were virtually ubiquitous in the postwar consumer economy, made it much more difficult for the industry to disentangle—as a matter of public policy or public relations—issues of occupational health, consumer protection, and environmental responsibility.

The postwar plastics industry, like its poisonous predecessors, “operated according to the notion that a product was to be considered safe until proven dangerous” (p. 139). Yet even as evidence of that danger emerged, as Rosner and Markowitz document, the industry insisted that pollution was a local nuisance rather than a health or safety issue and argued (in a campaign which continues to the present day) that the broad consumer benefits of plastics far outweighed scattered concerns as to the occupational or environmental toxicity of particular products (p. 143). The real disease, as the industry maintained, was “public fear of chemicals” (p. 150). Given the increasingly expansive (public, political, and scientific) appreciation of industrial toxins, the industry’s response seems more cynical, more calculating, and more criminally callous than that of the lead industry a generation earlier. As evidence of the occupational (and, by implication, consumer) risk of polyvinyl chloride mounted—first with diagnoses of acroosteolysis among B.F. Goodrich workers in Kentucky, then with European research documenting a carcinogenic threat—the Chemical Manufacturers’ Association (CMA) responded by burying, distorting, or skewering the relevant research results. The most telling episode here came in late 1973 and early 1974, during which time the CMA withheld the industry’s own research from the National Institute for Occupational Safety and Health (NIOSH), only to be confronted a few months later by the deaths of four Goodrich workers of a rare liver cancer.

Rosner and Markowitz leave no ambiguity as to the industry’s actions in these years, titling one chapter “Evidence of an Illegal Conspiracy by Industry” and the next “Damn Liars” (pp. 168, 195). Not long after the Goodrich deaths, NIOSH uncovered the industry’s earlier deception—setting the stage for a confrontation between government and industry over acceptable exposure levels. True to form, “the industry argued over what constituted

good science, shifted the debate from health to economic costs, challenged all statements considered damaging to the industry, and lied about what was known about the cancer-causing potential of vinyl chloride" (p. 231). With the industry's tactics now in plain view, the Occupational Safety and Health Administration (OSHA) established an exposure threshold far lower than the CMA claimed was necessary or feasible. Yet, as Rosner and Markowitz suggest, this was a Pyrrhic victory. A regulatory regime conceived in the flush of postwar prosperity had come of age just as the dismal 1970s took hold. This invited industry to raise the flag of competitive disadvantage or economic feasibility—indeed OSHA's decision to entertain *any* threshold for exposure to a carcinogen like PVC (a level which the industry, despites its protests, accommodated quite painlessly) underscored the cost-benefit analysis implicit in the new regulatory regime.

Deceit and Denial's latter chapters turn to an important (although, as presented here, somewhat discrete) element of this history: the social and political history of environmental racism in the Deep South, especially Louisiana. On its own terms, this is a compelling and shocking story. Rosner and Markowitz trace both the craven smokestack chasing of successive Louisiana governors (interrupted only by Huey Long's crusade against Standard Oil in the 1930s and the brief, moderately environmental interregnum of Buddy Roemer in the late 1980s) and its dramatic environmental and racial implications.² Perhaps the most intriguing and important subplot to this story, as Rosner and Markowitz suggest, is the collision between the state's longstanding economic development strategies (as a 1996 ad trumpeted: "Louisiana—The State Run by a Businessman") and the civil rights movement (p. 271). While able to escape organized labor in the arms of right-to-work states like Louisiana, the oil and chemical industries soon confronted a very different organizational threat to their local practices and political clout.³ Charges of environmental racism were not only pressed (with some success) against American firms and their lapdogs in state politics, but also against international chemical firms (Germany's BASF and Japan's Shintech) looking to escape public scrutiny and regulatory backlash in their own countries by relocating to the "Cancer Alley" of the lower Mississippi.

Deceit and Denial is written with a relentlessly lawyerly pace and logic. The issue, quite clearly, is "what did they know and when did they know it?" Some might see this approach (rooted in the work of Rosner and Markowitz for plaintiffs in recent lead and PVC litigation) as a flaw and as a requirement that this be read alongside scholarly legal briefs for the other side.⁴ I have no such qualms. Like any solid work of history, *Deceit and Denial* stands on the strength of its evidence and argument. Rosner and Markowitz marshal a devastating case, and the overarching question of culpability gives their account a narrative power and an analytical precision too often missing in

historical scholarship. In the larger picture, the historical and legal questions are one and the same: "[T]he legal debates over culpability for childhood lead poisoning revolves in part around historical issues," argues Rosner. "[L]iability and responsibility for damage will be determined by the knowledge of the lead industry: Did they knowingly put danger in the way of children?"⁵

On this question, regarding both lead and plastics, Rosner and Markowitz pull no punches. In each case, the industry disregarded threats to the public health and concealed those threats from workers, government regulators, the scientific community, and the public. National Lead worked to "obscure the relationship between lead, paint, and children's deaths and illnesses" (p. 41). The Lead Industries Association "did everything in its power to obscure the health dangers associated with lead," even to the point of marketing lead paint directly to children—a tack which was "particularly cynical in that it sought to turn the truth on its head. Lead was a toxin promoted as healthful" (pp. 45, 85). Similarly, as Rosner and Markowitz charge and document, plastics producers met evidence of occupational and environmental health with obfuscation, silence, and lies. Understanding the threat only in its narrowest economic terms, the industry "planned and executed an elaborate scheme to deceive the government and mislead the public" (p. 168).

While Rosner and Markowitz make a convincing case against the lead and plastics industries, they leave some tantalizing questions hanging. This is meant less as a criticism of *Deceit and Denial* (which, on its own terms, is virtually flawless) than as a suggestion of the ways in which we might understand this story against the larger political economy of the American century. Why did the American response to industrial pollution unfold in this way? What can this story tell us about the relationships between corporate power on one hand, and law, science and good government on the other?

One gets the sense at various points in this story that the American case is exceptional—that public health triumphed over corporate myopia earlier and more decisively in settings like Western Europe, Canada, or Australia. But we are never really told why. There are a number of plausible explanations. Perhaps the absence of national health insurance weakened the public health movement and removed any real incentive for the government to go after the offending companies (in the way states strapped by Medicaid inflation would eventually confront the tobacco industry). Perhaps this is just another example of the notorious political privilege enjoyed by American business interests—a consequence of both the generic logic of democratic capitalism and the peculiar logic of American democratic capitalism. Perhaps the combination of a weak federal state and competitive local economic development policies so exaggerated the political clout of these industries and firms that they were able, through good times and bad, to hold the public interest hostage to the threat of disinvestment. Perhaps the American system of

science and higher education, so uniquely dependent on private funding, was simply incapable of providing any sort of an objective benchmark for the claims of proprietary research.

At every turn in this story, business calls the shots. This is evident in the ability of interests (especially early in the century) to keep the state at bay. It is evident in the ability of interests (especially later in the century) to capture and control what political regulation does intrude. And it is evident in the blanket assumption, as one observer of the 1920s put it, "that a little thing like industrial poisoning should not be allowed to stand in the way of a great industrial advance" (p. 26). Over the course of the century, as Rosner and Markowitz suggest, this deference is transformed from a blind faith (driven in part by state weakness) in corporate governance to a more subtle accession "to the presumed integrity and technological sophistication of the industries themselves" (p. 151). In some respects, the few occasions when the state gains the upper hand are afforded by divisions in the business front, as when the CMA turns its back on the PVC industry in the hope of salvaging its larger reputation, or when the automobile industry finally abandons its defense of leaded gasoline (pp. 206, 117).

As a parable of business privilege, this story plays out most dramatically on the research front. "Most scientific studies of the health effects of toxic substances," as Rosner and Markowitz establish early on, "have been done by researchers in the employ of industry or in universities with financial ties to members of that industry" (p. 5). In the lead and PVC cases, industrial standards (especially workplace exposure thresholds) are established less on scientific grounds than as "bargains struck between industry leaders and public health officials" (pp. 20-1, 109). More seriously, the core research itself is largely controlled by the industries in question through the establishment of proprietary research labs, the carrot-and-stick of private research support, or the bald determination to quash unflattering results. This was a pattern, as Rosner and Markowitz painstakingly document, abetted by both patterns of institutional funding and episodic recourse to deception, denial, cover-up, and conspiracy. One cannot understand this story, as the editor of one medical journal reminds us, without understanding "that science can be bought and paid for" (p. 230).

Deceit and Denial is less successful in setting all of this against a broader understanding of the American political system and considering the ways in which the peculiarities of the American state might have facilitated or compounded or encouraged the triumph of corporate wealth over public health. On this score, there are two issues that I wish had received more systematic attention.

The first of these is labor. The old Sombartian assumption that relative prosperity fattened and distracted the American worker has, of course, been

laid to waste by a generation (now nearly two) of labor history. Yet the fact remains that labor organization and labor radicalism in the United States has always been more tenuous, more episodic, and more fragmented than that of its industrialized peers. What has this meant for the American history of occupational health? Labor does have a sporadic presence in this account, and this alone probably captures its relative influence in confronting employers and shaping public policy. But Rosner and Markowitz are silent on the larger context for labor's health and environmental policies. In a setting in which sectoral bargaining ("silos of solidarity") trumps local and national labor policies, the American labor movement has always had an uneasy relationship with environmentalism—especially when regulatory intervention (think spotted owls) threatens local employment. In turn, while business interests routinely capture regulatory politics, labor remains very much on the sidelines. It is astonishing (but hardly remarked upon here), for example, how little substantive influence the labor movement has in or around OSHA. The reader is left with a pretty clear sense that organized labor was not so marginalized in other national settings, but the comparison is not fleshed out.

The second issue is federalism. The high water mark for federal regulation of occupational and environmental health came in the early 1970s. Prior to this, and especially prior to the "big bang" of federal innovation in the 1930s and 1940s, regulatory responsibility fell to the states. In occupational health, as in many other areas of business regulation, federated responsibility exaggerated the political clout of industry interests and diminished—or at least fragmented—the countervailing power of the states. Individual states were reluctant to act (at least without the assurance that all or neighboring states would follow suit), and local business interests could use the specter of competitive disadvantage to stave off state action.⁶ As a result, public regulation of private interests was least likely where it was most needed—a problem borne out by the ability of the lead industry to stall or weaken state-level efforts to set occupational standards for leaded gasoline in the 1920s or labeling standards for "toxic finishes" in the 1940s and 1950s (pp. 21-34, 95, 100).

The PVC story unfolds in a context of much more expansive federal power, but the establishment of OSHA in 1970 was followed almost immediately by an anti-regulatory backlash determined to undermine federal power and return authority to the states. In this respect, the sordid history of the chemical industry in Louisiana that closes *Deceit and Denial* also offers a damning indictment of the regulatory federalism that opens and closes the twentieth century. Rosner and Markowitz underscore the necessarily competitive and promotional logic of state-level economic development efforts, the ease with which the industry is able to capture state and local politics, the reluctance of the state to confront industrial patrons, and the tremendous obstacles faced by local environmental, civil rights, and scientific communities. These latter

chapters, in short, offer a remarkable case study of the political and regulatory dynamics that cut across the full sweep of the twentieth century—even if these dynamics (particularly the complex relationship between business interests and politics at both the state and federal levels) are not as clear elsewhere in the book.

Colin Gordon, associate professor of history, University of Iowa, is the author of *New Deals: Business, Labor, and Politics in America, 1920-1935* (1994), *Dead On Arrival: The Politics of Health Care in Twentieth Century America* (2003), and numerous articles on modern American public policy. He is currently working on a history of local public policy (zoning, taxation, economic development) in postwar St. Louis.

1. See *Federal Register: Environmental Protection Agency Semiannual Regulatory Agenda* (May 2003); National Resources Defense Council, "The Bush Record" (2003) at <http://www.nrdc.org/bushrecord/>; and Sect 202, Draft of Domestic Security Enforcement Act of 2003 at <http://www.publicintegrity.org/>

2. In this sense, this chapter offers a damning epilogue to James Cobb, *The Selling of the South: The Southern Crusade for Industrial Development, 1936-1980* (1982).

3. A similar pattern is noted in Jefferson Cowie, *Capital Moves: RCA's Seventy-Year Quest for Cheap Labor* (1999).

4. See, for example, Peter C. English, *Old Paint: A Medical History of Childhood Lead-Paint Poisoning in the United States to 1980* (2001), a book which grew out of the author's reading of the same documentary trail for the lead industry.

5. Rosner quoted in Patricia Cohen, "History for Hire in Industry Lawsuits," *New York Times*, June 14, 2003.

6. David Moss, "Kindling a Flame Under Federalism: Progressive Reformers, Corporate Elites, and the Phosphorous Match Campaign of 1909-1912," *Business History Review* 68:2 (1994): 244-75.