

SHAPING NUCLEAR WASTE POLICY AT THE JUNCTURE OF FEDERAL AND STATE LAW

LAWRENCE FLINT*

Abstract: Nuclear waste has long been the Achilles' heel of the civilian nuclear power industry. The spent nuclear fuel that reactors generate remains radioactive for hundreds of thousands of years; however, all the spent fuel that has been generated to date is stored in temporary, short-term facilities. As the federal government struggles to develop a permanent solution, many temporary storage facilities are nearing capacity. A few states in which civilian reactors are located have placed severe constraints on the construction of additional needed storage, potentially causing the shutdown of the federally-financed reactors. In part because of this pressure from the states, Congress has sought to create a federal, centralized interim storage facility while development of a permanent repository proceeds. This controversial effort has yet to succeed. This note will suggest that a new approach to the interim storage problem is necessary—one that involves granting the federal government exclusive authority over nuclear waste storage facilities.

"[W]here a specific duty is assigned by law, and individual rights depend upon the performance of that duty . . . the individual who considers himself injured, has a right to resort to the laws of his country for a remedy."

—*Marbury v. Madison*¹

INTRODUCTION

On January 31, 1997, several electric utilities operating commercial nuclear reactors petitioned the United States Court of Appeals for the D.C. Circuit for a writ of mandamus to require the federal government to begin accepting highly radioactive spent nuclear fuel from the utilities by a statutory deadline the following January.² Congress set this deadline fifteen years earlier by enacting the Nuclear

* Note Editor, *Duke Law Journal Environmental Affairs Law Review*, 2004-05. This author wishes to thank his brother, Alex, for his help in finishing the notes on this Note.

¹ 5 U.S. (1 Cranch) 137, 166 (1803).

² *See N. States Power Co. v. United States Dep't of Energy*, 124 F.3d 754, 755 (D.C. Cir. 1997) (hereinafter *Norfolk States Power*).

Shaping Nuclear Policy For The 1990s

**James G. McGann, Anna Viden, Jillian
Rafferty**



Shaping Nuclear Policy For The 1990s:

Shaping Nuclear Policy for the 1990s United States. Congress. House. Committee on Armed Services. Defense Policy Panel,1993 **Nuclear Policies in Europe** Bruno Tertrais,2013-09-13 While international security has radically changed since 1989 nuclear weapons remain a subject of debate and contention This paper provides an analytical framework for understanding post Cold War Europe s strategic debates It offers insights into Europe s national nuclear policies and perspectives It examines the possible outcomes of current debates and gives policy recommendations for managing the new nuclear debates faced by Europe and by NATO *Nuclear Weapons and the Environment* John Perry,2021-03-12 In Nuclear Weapons and the Environment John Perry highlights the environmental damage caused by nuclear device testing The failure of the Nuclear Proliferation Treaty and the continued proliferation of nuclear weapons is a grave risk to not only human life but to the environment Pointing to the unstable political situation between a variety of state and non state actors the remediation of nuclear test sites and the risks involved in the production of nuclear weapons Perry makes a clear case for the dire importance of non proliferation **Shaping Nuclear Policy for the 1990s** United States. Congress. House. Committee on Armed Services. Defense Policy Panel,1993 The Nuclear Non-Proliferation Regime Raju G.C. Thomas,2016-07-27 Leading international security scholars and policy advisors from universities think tanks and nuclear weapons laboratories in the United States analyze the future of nuclear weapons proliferation In April 1995 the earlier 1970 Nuclear Non Proliferation Treaty was renewed indefinitely and without change to the original clauses of the treaty The authors examine the continuing relevance or irrelevance of the old treaty the role of coercive sanctions in enforcing restraint and the impact of biological chemical and missile proliferation on the nuclear motives and ambitions of various states Attention is given to proliferation conditions in the former Soviet republics East and South Asia and the Middle East

Monthly Catalogue, United States Public Documents ,1993-08 **The Absolute Weapon Revisited** T. V. Paul,Richard J. Harknett,James J. Wirtz,2000 Discusses the contemporary role of nuclear weapons in international relations

Committee Prints Published by Committee on Armed Services, House of Representatives, ... Congress United States. Congress. House. Committee on Armed Services,1991 **Monthly Catalog of United States Government Publications** United States. Superintendent of Documents,1993 *International Journal* ,1996 The Shape of the Future Donald M Snow,2016-07-01 Now in its millennial edition this popular text outlines an emerging international system that is both distinguishable from the past and stable enough to prevail into the new century Sure to provoke classroom discussion The Shape of the Future is an ideal supplementary text for a range of college courses on the contemporary world How Think Tanks Shape Social Development Policies James G. McGann,Anna Viden,Jillian Rafferty,2014-07-07 Across the globe there are more than four thousand policy institutes or think tanks that research or advocate for economic and social development Yet the relationship between these organizations and the policies they influence is not well understood How Think Tanks

Shape Social Development Policies examines case studies drawn from a range of political and economic systems worldwide to provide a detailed understanding of how think tanks can have an impact on issues such as education policy infrastructure environment and sustainable development economic reform poverty alleviation agricultural and land development and social policy Each chapter provides an overview of the approaches and organizational structures of specific think tanks as well as the political economic and social opportunities and the challenges of the environments in which they operate The contributors study the stages of innovative think tank aided strategies implemented in highly industrialized world powers like the United States and Russia emerging countries such as China India Brazil and South Korea and developing nations that include Ethiopia Kenya and Tanzania Accompanied by an extensive introduction to contextualize the history and theory of policy institutes this comprehensive comparison of policy success stories will be instructive and transferable to other think tanks around the globe Contributors Assefa Admassie Celso Castro Kristina Costa Francisco Cravioto Marek Dabrowski Matt Dann He Fan Rajeev Gowda Oh Seok Hyun Christian Koch Jitinder Kohli R Andreas Kraemer Elena Lazarou William Lyakurwa Ashwin Mahesh Florencia Mezzadra Partha Mukhopadhyay Mcebisi Ndletyana Sridhar Pabbisetty Miguel Pulido Marco Aurelio Ruediger Mar a Bel n S nchez Dmitri Trenin Samuel Wangwe Vanesa Weyrauch Maria Monica Wihardja Rebecca Winthrop Wang Xiaoyi

Nuclear Disarmament in the Twenty-first Century Wade L. Huntley, Mitsuru Kurosawa, Kazumi Mizumoto, 2005-03-06 This work provides a comprehensive examination of the current state and future prospects for nuclear disarmament at the turn of the century The work juxtaposes a sober review of progress made during the last decade with a proactive agenda of proposals for new disarmament initiatives in the next decade Taken together the contributions to this volume suggest that contrary to current conventional wisdom the increasing global cache of nuclear weapons and the waning progress on nuclear disarmament of recent years need not become the defining features of the post Cold War era Rather by examining the new conditions that have emerged at the dawn of the 21st century through both national and issue based perspectives this work reveals how the likelihood of continuing uncertainty and change in world affairs creates opportunities as well as the need for renewed progress toward significant nuclear disarmament

Forecasting Zero: U.S. Nuclear History and the Low Probability of Disarmament [Enlarged Edition] Strategic Studies Institute, Jonathan Pearl, U.S. Army War College, 2013-05-18 This monograph examines the strategic importance of Egypt for the United States by exploring Egypt's role in the Arab Israeli peace process its geographical role providing air and naval access for U S military assets heading to the Persian Gulf and joint training programs With so much at stake in the Middle East the idea of losing Egypt as a strategic ally would be a significant setback for the United States The Egyptian revolution of early 2011 was welcomed by U S officials because the protestors wanted democratic government which conformed to U S ideals and the institution that would shepherd the transition the Egyptian military had close ties with the United States To bolster the U S Egyptian relationship and help keep Egypt on the democratic path the monograph recommends that U S

military aid should not be cut economic aid should be increased and U S administration officials should not oppose congressional conditions tying aid

Non-proliferation Agreements, Arrangements and Responses York Centre for International and Security Studies,1997 Gizewski P Nuclear disarmament S 1 12 Cameron J An outsider s critique of the 93 2 Programme S 13 24 Keeley J F Stretching the envelope S 25 34 Fraser D Operationalizing verification S 55 58 Acharya A Boutin J D K Nuclear weapon free zones in the New World Order S 117 144 Deibert R J Enclosed encounters The politics of planetary Surveillance S 145 168 Krause K Cross cultural dimensions of multilateral non proliferation and arms control dialogues S 181 206

U.S.-UK Nuclear Cooperation After 50 Years Jenifer Mackby,Paul Cornish,2008-07-02 As Britain and the United States commemorate five decades of the special nuclear relationship embodied in the 1958 Mutual Defense Agreement MDA two leading research institutes one on either side of the Atlantic have collaborated to examine that history The Center for Strategic and International Studies in Washington D C and the Royal Institute of International Affairs Chatham House London enlisted senior officials scientists academics and members of industry who have been involved in the implementation of the MDA over the years The contributors were asked to recount how the U S UK nuclear relationship flourished despite such obstacles as the halt in the scientific cooperation that had spurred the Manhattan Project the Suez crisis and sharp disagreements over scientific political and technical issues They were also asked to look to the future of this unparalleled transatlantic relationship Abstracts from 36 oral histories taken with among others Des Browne UK secretary of state for defence James Schlesinger former U S secretary of energy and Harold Brown former U S secretary of defense add to the historical dimension of this work The resulting collection of histories analyses and anecdotes provides valuable reading for an understanding of how the two nations were drawn together by a common threat during a turbulent era as well as how they will face future challenges in a radically changed security environment Amazon com [Proliferation Watch](#) ,1992

[Congress and Foreign Policy](#) ,1991 **Arms Control in Europe** United States. Congress. House. Committee on Foreign Affairs. Subcommittee on Arms Control, International Security, and Science,1989 [A Nuclear Weapons-Free World?](#) Nick Ritchie,2012-10-29 President Obama and the UK Labour and Coalition governments have all backed the renewed momentum for serious progress towards a world free of nuclear weapons whilst the UK finds itself embarked on a controversial and expensive programme to renew its Trident nuclear weapons system What does the UK process tell about the prospects for disarmament

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Shaping Nuclear Policy For The 1990s Introduction

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