Introduction

The infrastructure is almost by definition the foundation of our economy and in many ways of our society. Our quarterly publication by that name seeks to cover its full breadth and to do so at a practical depth. We don’t have quite as many footnotes as a full-blown law review, but we try to penetrate below the level of superficial description to a surprising depth.

Peter Lacouture, the editor of this volume, has helpfully classified our various articles into subject fields extending to a fair sample of the broad panorama, which is the infrastructure—man’s and woman’s appendages to and modifications of the planet for the support and enrichment of human life. A fair number of articles in this volume concern energy in a variety of forms and its cousin, the environment. Some of this material is fairly narrowly focused, as on water-located wind farms. Other material covers the waterfront, as in a book review of Daniel Yergin’s *The Quest*, involving all aspects of the evolving story of energy.

Selection of subjects for treatment in *Infrastructure*, either for assignment or among articles spontaneously submitted to us, follows a number of criteria. Sometimes we have favored offerings containing novel and thoughtful treatment of subjects of continuing interest. Sometimes we have sought topical articles on matters of strong current interest, like the environmental complications of shale gas recovery. In some cases, we have focused on a small but challenging part of the big picture. Sometimes we have tried to provide a panoramic view. Everything has been measured by the level of interest and the presumed degree of usefulness, as best we can estimate it. Occasionally we have had unusual opportunities, such as to publish Alfred Kahn’s personal remarks at a recent conference in his honor, not long before his death.

One aspect of the various topics that we have tried to emphasize is the need for balance. Since a large proportion of the membership of this section consists of lawyers whose principal representation is of companies engaged in furnishing infrastructure services, we have sought to avoid special pleading in our clients’ economic interest. These articles are certainly not without expressions of opinion—it would be pretty dull stuff without them—but there has been a real effort to provide a balance of opinions, giving the reader a full picture of pros and cons. Not surprisingly, this aspect of things is almost second nature to experienced attorneys, who are constantly engaged in dealing with views contrary to those of their clients. And, as a judge, I don’t have to be reminded that every dispute has at least two sides.

Selection of authors has been another concern. For the most part we have called on members of the section who have worked in these fields for years and know them both theoretically and, perhaps in a special way, practically. Our section is composed of people who have actually tried to deal with many of the problems that they discuss and analyze. But in a number of situations, we have reached outside the section to tap the resources of acknowledged experts in fields like nuclear power and to professional leaders whose views command attention. And in these efforts to recruit talent, we have also sought to avoid propagandists and pleaders for special causes.
In bringing the articles up to date, we have asked the authors to do just that: to report any notable developments since their piece was written. For example, the article on high-speed rail was written before this development became politically controversial and its federal financing was opposed and rejected in some states as a wasteful use of resources. Whatever the author (in this instance, myself) may have thought of this point of view, these changing perspectives have been faithfully reported.

The most arresting instance of changing attitudes toward infrastructure developments has been the growing skepticism toward belief in climate change traceable to the emission of greenhouse gases. This entire phenomenon is critical to the full picture of energy production and use, and its honest and thorough treatment has been a primary concern of the authors and editors.

Hopefully, this volume will prove of interest, since its contents have been largely dictated by their presumed interest to the membership of this section, most of whom draw their livelihood from these activities and developments. The authors, of course, include lawyers whose practice involves the very phenomena described in Infrastructure, as well as academic, business, and government leaders in these fields and many other experts, including critics of developing practices involving the infrastructure. As an editor and occasional author, I think that this is an honest effort to provide you with the best in Infrastructure and in the infrastructure, and we hope you will enjoy it.

The Honorable Richard D. Cudahy
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