

Duke Environmental Law & Policy Forum

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EDITOR'S NOTE*

The *Duke Environmental Law & Policy Forum* is pleased to present papers from the Third Annual Cummings Colloquium on Environmental Law. The Cummings Colloquium was established in 1995 through a generous gift in honor of Jasper L. Cummings, Jr., a respected attorney from Raleigh, North Carolina. Each year, the Colloquium brings together scholars and practitioners of multiple disciplines to discuss the most challenging contemporary environmental issues. The First Annual Cummings Colloquium, held in April 1996, addressed the emerging non-equilibrium paradigm in ecology and its significance to environmental law and policy.¹ The Second Annual Cummings Colloquium, held in November 1996, examined the growing importance of comparative risk analysis as a tool for making environmental policy decisions.² The Third Annual Cummings Colloquium, "The Rents of Nature: Special Interests and the Puzzle of Environmental Legislation," is presented in this issue. The Fourth Colloquium, "Global Markets for Global Commons: Protecting the Planet with Property Rights," will be held on April 30-May 1, 1999, and will examine the emergence of new global environmental institutions such as internationally tradable pollution allowances.

* Lisa C. Glover, Managing Editor, *Duke Environmental Law and Policy Forum*; Cummings Fellow in Environmental Law, 1997-1998; candidate for Juris Doctorate and Master of Environmental Management degrees, May 1999. This note can also be accessed on the World-Wide Web at <<http://www.law.duke.edu/journals/9DELPGlover>>.

1. See Symposium, *Beyond the Balance of Nature: Environmental Law Faces the New Ecology*, 7 DUKE ENVTL. L. & POL'Y F. 1 (1996).

2. See Symposium, *Risk in the Republic: Comparative Risk Analysis and Public Policy*, 8 DUKE ENVTL. L. & POL'Y F. 1 (1997).

The Third Annual Cummings Colloquium was held on March 26 and 27, 1998, at Duke University and the Durham Arts Council in Durham, North Carolina.³ The Colloquium was opened by Norm Christensen, Dean of Duke University's Nicholas School of the Environment (NSOE); Jonathan Wiener, Associate Professor at Duke Law School and NSOE as well as Director of the Cummings Colloquia; and Christopher Schroeder, Professor of Law and Public Policy and Co-chair of the Center for the Study of the Congress at Duke University.

The keynote address was delivered by Dr. Paul Portney, President of Resources for the Future. Dr. Portney spoke on the legacy of Mancur Olson, both as a person and as a fount of the theories of political economy which inspired this Colloquium. We are very grateful to Dr. Portney, who had already agreed to be a participant in the Colloquium, for stepping in on very short notice to deliver the keynote address.

The second day of the Colloquium was divided into a series of panels. The first three panels focused on the specific environmental laws enacted to address air pollution, hazardous waste, and regulatory reform. The first panel, moderated by Jonathan Wiener, discussed the enactment of the Clean Air Act. R. Shep Melnick, Thomas P. O'Neill, Jr. Professor of American Politics at Boston College, presented his paper,⁴ followed by comments by Steven Shimberg, Vice President for Federal and International Affairs of the National Wildlife Federation, and Greg Wetstone, Legislative Director of the Natural Resources Defense Council.

The second panel focused on hazardous waste legislation such as CERCLA and RCRA, and was moderated by Michael C. Munger, Professor of Political Science at Duke University. Robert V. Percival, Robert Stanton Scholar, Professor of Law, and Director,

3. The Third Annual Cummings Colloquium was sponsored jointly by the Nicholas School of the Environment, the Law School, and the Center for the Study of the Congress at Duke University. Additional support was provided by the *Duke Environmental Law and Policy Forum*, the Environmental Law Society of Duke Law School, and the Duke Graduate & Professional Student Council. Professor Jonathan Wiener, who holds appointments in both the Law School and the Nicholas School of the Environment, serves as director of the Colloquia. He is assisted each year by Cummings Fellows selected from the student body for their achievement and promise in the field of environmental law. The Cummings Fellows for 1997-98 were Laura Ford '98, Lisa Glover '99, and Robert Phocas '98, joint degree students in the Duke Law School and the Nicholas School of the Environment.

4. R. Shep Melnick, *Strange Bedfellows Make Normal Politics: An Essay*, 9 DUKE ENVTL. L. & POL'Y F. 75 (1998).

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Environmental Law Program at the University of Maryland, and Rena I. Steinzor, Associate Professor of Law and Director, Environmental Law Clinic at the University of Maryland, presented their papers,⁵ followed by comments from Steven Shimberg and James Hamilton, Assistant Professor of Public Policy, Economics, and Political Science at Duke University.

The topic of the third panel was regulatory reform. Jonathan Wiener moderated a panel in which Marc Landy, Professor and Chair of the Political Science Department at Boston College, presented his paper.⁶ Greg Wetstone and V. Kerry Smith, Professor of Environmental Economics at Duke University, provided commentary.

After lunch, the fourth panel, moderated by James Hamilton, stepped back to review the overall history of environmental legislation, and focused anew on Olson's theory and "the puzzle of environmental politics." Christopher Schroeder presented his paper,⁷ followed by comments by Donald T. Hornstein, Reef Ivey II Professor of Law at the University of North Carolina School of Law,⁸ and by Marc Landy.

The final panel was entitled "Better Law from a Better Congress: Reform of Lawmaking Institutions." Jonathan Wiener provided an introduction detailing possible reforms to improve environmental lawmaking. Michael Munger then presented his paper,⁹ followed by a spirited discussion among all the panelists and attendees.

5. Robert V. Percival, *Environmental Legislation and the Problem of Collective Action*, 9 DUKE ENVTL. L. & POL'Y F. 9 (1998); Rena I. Steinzor, *The Legislation Of Unintended Consequences*, 9 DUKE ENVTL. L. & POL'Y F. 95 (1998).

6. Marc Landy and Kyle D. Dell, *The Failure of Risk Reform Legislation in the 104th Congress*, 9 DUKE ENVTL. L. & POL'Y F. 113 (1998).

7. Christopher H. Schroeder, *Rational Choice Versus Republican Moment Explanations for Environmental Laws, 1969-73*, 9 DUKE ENVTL. L. & POL'Y F. 29 (1998).

8. Donald T. Hornstein, *Self Interest, Politics, and the Environment - A Response to Professor Schroeder*, 9 DUKE ENVTL. L. & POL'Y F. 61 (1998).

9. Michael C. Munger, *Pangloss Was Right: Reforming Congress is Useless, Expensive, or Harmful*, 9 DUKE ENVTL. L. & POL'Y F. 133 (1998).

