

Environmentalism, "Environmental Justice," and the Uses of History

MICHAEL SEAN QUINN

Mark Dowie, *Losing Ground: American Environmentalism at the Close of the Twentieth Century* (Cambridge, MA: The MIT Press, 1995), 317 pages, \$25.00.

Harold C. Barnett, *Toxic Debts and the Superfund Dilemma* (Chapel Hill, NC: University of North Carolina Press, 1994), 334 pages, \$19.55.

Robert D. Bullard, ed., *Unequal Protection: Environmental Justice & Communities of Color* (San Francisco, CA: Sierra Club Books, 1994), 892 pages, \$25.00.

An environmental claim is an insurance claim that is typically handled by the environmental unit of an insurer or any litigation consequent upon such a claim. So far, so circular. Typically, environmental claims concern whether there is bodily injury or property damage resulting from pollution or toxicity, whether there is a presence of pollutants amounting to a wrongful (constructive) eviction, whether—and under what circumstances—pollution can be covered under a property policy, and so forth. In general, therefore, environmental claims are concerned with injuries caused by the sort of events and processes with which the social and political movement known as "environmentalism" has concerned itself. Often, these claims concern exposures and hazards presented by nature, but not pristine nature. Instead, they are injuries inflicted by a natural order which has already been adversely impacted by human activity—frequently industrial or chemical processing.

Environmental claims are cutting-edge stuff in the insurance world and very exciting. They are also conceptually rich, scientifically intriguing, and legally interesting. Moreover, environmental claims

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interface with all sorts of rapidly changing modes of living. Politics, ideology, technology, and ideas about social organization all impact environmental claims, and those change quickly. Medical knowledge regarding the diagnosis, etiology, and treatment of toxic injuries is improving. The natural sciences which concern the environment are growing even more rapidly. Values, morals, and ethics pertaining to the environment are becoming more and more explicit, systematic, and elaborated, although debate continues apace. Even fundamental concepts are expanding, deepening, and changing: Terms like "pollution," "environment," "ecology," and so forth, are like this.

Applicable legal principles, which are perpetually gappy, contest with each other vigorously across jurisdictions. They fill in, create their own exceptions, and even turn into their opposites, now and then. Jazzy legal strategies, such as the class action seeking damages for toxic injuries, have found their way into the environmental claims matrix. Legal uncertainty abounds. Law professors revel in this kind of controversy, but it drives many others crazy, including hard-working adjusters.

The technology of claims itself is rapidly changing. The advent and then widespread use of the computer in the last quarter of a century as a pervasive tool of claims handling exemplifies this point. The impact of the computer on the practices and law of claims handling is hard to underestimate. Finally, the organizational structures of both clients and insurers are—to use contemporary jargon—"reengineering" themselves at virtually all times.

Probably everyone involved in the litigation of environmental insurance disputes keeps an eye on these various domains for litigation ideas. Computer use by and the organizational transformation of insurers, for example, surely (partly) explain the explosive rise of bad-faith law in recent years. And there are other nonlegal sources of litigation ideas. Interestingly, the history of environmentalism itself—conceived as a social movement—may be a rich source. This is especially true of ideas pertaining to discovery in the litigation process or to the more informal inquiries which are pursued during the insurance claims process. The general approach of this column is to examine several volumes of historiography which have, to one degree or another, focused on "environmentalism" as a sociopolitical movement—or, at least, development—in the United States. The bottom line is to suggest that evenings spent reading such prose may be not only lively but professionally stimulating (and, rewarding) in quite concrete ways.¹

Histories of environmentalism fall on a continuum between two polar opposite points. At one end, some histories are detached,

objective, critical, balanced, and comprehensive. At the other end, they are polemical, (really) advocacy-in-disguise, subjective in approach, and personal. From the point of view of pure history, the former of the polar opposite points is to be preferred. Similarly, from the point of view of presenting part of a book to a court in support, say, of some sort of discovery motion, the more objective (and hence, academic) the history, the better. From the point of view of getting ideas for handling claims (or processing lawsuits), works of either sort may be helpful, and lively writings hold readers longer.

This column discusses three works of history. Each is the work of an amateur in the sense that none is the product of a professor of history. One of these books is also quite personal. For the purposes of this review, "historiography" is defined broadly to include any extended chronological narratives—even those substantially shaped by sociology, political science, or economics. My intent is to paint a portrait of what's going on among historically-minded, environmentally-oriented intellectuals and to sketch some suggestions about the practical uses of environmental historiography for insurers, policyholders, and their lawyers. Like everything else, the writing of history is subject to fashions. The most recent preoccupation of the cognoscentis is "environmental justice." Perhaps it bears emphasizing that "environmental justice" has nothing to do with whether the courts are correctly applying the law. Indeed, litigation is not one of the topics which preoccupies any of the books under review here. All of them are historico-economic-political studies, and none of them is in any sense a legal history.²

Losing Ground

Mark Dowie's *Losing Ground: American Environmentalism at the Close of the Twentieth Century* is one of the most recent general histories of American environmentalism. Although it makes some stab at being comprehensive, it is quite a personal book. The historical account it presents of the phases of American environmentalism resembles very closely the one suggested by Kirkpatrick Sale in his short, lucid, and moderate history of American environmentalism, *Green Revolution: The American Environmental Movement, 1962-1992* (New York: Hill & Wang, 1993). Both Sale and Dowie parse the history of American environmentalism as consisting of four stages: (1) conservation and preservation (1900-1960); (2) electoral politics, lobbying, and litigation (1970-early 1980s); (3) constructive engagement with corporate America (1980s); and (4) a more radical, less-compromising "Fourth Wave" (1990s). (Dowie and Sale agree on the

phases of the American environmental movement, but Sale does not actually use the term "Fourth Wave.")

Sale emphasizes the astounding achievements of the environmental movement. His book, which is in a cheap, small paperback version, can be read in a couple of hours. It contains a wonderful tabulation of environmentally significant events since 1962. That chart alone is worth the price of the book. In contrast, Dowie reviews the same events and finds a history of habitual accommodation, apparent legislative victories masking genuine losses, and losses before administrative agencies essentially emasculating most of what was not compromised away legislatively. According to Dowie, the spirit of compromise has corrupted the environmental movement. In general, he thinks that actors who approach political conflict with an antecedent mind-set favoring compromise get less than they could. In effect, Dowie argues that the best compromises result from democratic conflicts where compromise is not the goal. According to Dowie, the ideology of compromise has led the environmental movement to such low points as embracing President Clinton, who—according to Dowie—"had an atrocious environmental record as governor of Arkansas." Dowie suggests that Clinton made Gore his running mate precisely because Gore was environmentally correct.

Another deficiency in the environmental movement, according to Dowie, is its elitism. It is well-known that the First Wave, the conservation and preservation movement, was white, prosperous, and upper class. Dowie presents convincing-looking evidence that American environmentalism has been shot through with racial injustice. Mainline environmental groups have, even recently, tended to be lily-white; for example, American business has tended to visit pollution discriminatorily upon people of color, and environmentalism has not raised the issue, until recently. Even EPA has consistently disfavored the interests of nonwhites.

In general, Dowie faults the environmental movement for being insufficiently populist—out of touch with grassroots America. Dowie acknowledges, as he must, that there is an anti-environmental theme running through some of American populism, such as the Sagebrush Movement. By whatever name, there is substantial property-owner unrest in the western part of the United States, and much of it is negatively focused on conservation, preservation, and environmental management. This concatenation of dissatisfactions is sufficiently significant to be featured on the cover of the October 23, 1995, issue of *Time* magazine.

In spite of such evidence, Dowie believes that the future of environmentalism lies with people and not with traditional mainline

organizations. He believes that the spirit of compromise has pushed a "once-effective movement to the brink of irrelevance," and he thinks that the standard sources of both membership and money are on the verge of drying up. Much of the membership of environmental organizations results from direct mailing, and Dowie argues that this source is just about depleted. He also suggests that the Third Wave of environmentalism, a constructive engagement with corporate America, has depended too heavily on corporate contributions. Not only have these corporations infiltrated environmental organizations with personnel, but also they have penetrated the ideology of environmentalism. Dowie is particularly critical of mainstream environmentalism's embracing cost-benefit analysis.

According to Dowie, environmentalism is deep in the American psyche. Nevertheless, in order to be relevant in the future, a number of changes are important. Diversity of membership in environmental groups, racial justice, a more radical idealism, and a more feminist image of nature must all be embraced. Even the definition of "environment" must be "expanded to include factory interiors and poor peoples' kitchens," according to Dowie.

Dowie presents a bleak historical picture. According to him, while the environmental movement grew larger, richer, and more active, toxicity basically grew worse. The environmental movement compromised, accommodated, picked fights it could not win, and centralized its focus on Washington, while pollution continued unabated in the hinterlands. Moreover, environmentalism has spawned a new multibillion dollar business, namely, pollution cleanup. The Superfund effort is an example. It created a \$130-billion industry which has become a lobbying force to be reckoned with. Its interests are not identical with environmentalism. Dowie finds it mad that the environmental movement thinks that it can win lobbying fights when business lobbies outspend environmental lobbies by a ratio of 10 to 1.

At the same time, Dowie is not particularly sanguine about the effectiveness of using radical political methods on behalf of environmentalism. He has nothing but disgust for the spiking of trees, for example. Nevertheless, he believes that imaginative, nonviolent radicalism is important to the environmental political process. Indeed, the following encapsulates his view almost perfectly:

When government and the environmental movement both play mediatory roles and compromise on environmental issues, it is left to "radicals" to create the extreme position to counter the megatechnological position, be it preservation of pristine wilderness or a

toxic-free world. Between two such extremes some degree of environmental protection can, hopefully, be brokered through compromise. But when radicals are excluded from the process, as they are by both government and mainstream environmentalists, there is no extreme against which to negotiate. Government, polluters, and environmentalists are then negotiating in relative harmony. The result is scant progress.

Readers can profitably juxtapose this quote and the rest of Dowie's book against Gregg Easterbrook's *A Moment on the Earth*, which was reviewed in the last issue of this journal. Easterbrook's book is subtitled *The Coming Age of Environmental Optimism*, and it argues that the United States is undergoing vast environmental improvement. In contrast, Dowie's book could have been subtitled, *Continuing Environmental Pessimism and Decline*. As political and technological argument, Easterbrook's book is by far the better. It is absurd to suggest, for example, as Dowie does, that cost-benefit analysis should play no role in the arguments of environmentalists.³ On the other hand, Dowie's book exemplifies the authentic disappointments and frustrations of frontline environmentalists.

Losing Ground could prove an extremely useful source for generating ideas in the practical contexts of environmental claims. The following is not, exactly, a rule of law, but it is a valuable heuristic meta-rule for pursuing legal victories: *Intentional polluters don't get insurance coverage*. (This could be called Quinn's First Meta-Rule-of-Thumb of Environmental Insurance Litigation.) Dowie's book addresses this rule. Insurers and lawyers who have doubts about the viability of a particular claim are well-advised to look for indicia of intentionality as one of the steps toward evaluating a claim. If it turns out to be true that an insured located a business in a poor part of the county, one would want to know why. If the business thought there would be weaker opposition to the location of the plant in a poor neighborhood, the insurer might wish again to know why. If the people who made the decision were willing to say, either in investigation or in discovery, that they were concerned about environmental opposition and that they wanted to avoid it, one might wish to know why they anticipated environmental opposition. One answer could be, "There is always environmental opposition." This claim was less true years ago than it is now. Another answer might be, "We expected environmental opposition, because we expected hazardous emissions, toxic waste, and pollution." A beginning point here would be the polluter's site-location studies which were performed before the plant was built, expanded, modified, or what have you.

Dowie shockingly summarizes some material on the extent to which race and class have figured in differential pollution. Fines are said to be lower for violations of pollution laws in minority areas. EPA apparently takes "much longer to address hazards in minority communities that it [does] in white communities." When cleanup is ordered, EPA tends to order containment procedures in minority areas, and permanent treatments in white areas. Air quality studies tend to suggest that pollution is worse in minority areas. Incinerators are more likely to be in minority areas. Two hundred million tons of radioactive waste lie in tailings piles on Indian reservations, and serious cancers in these locations appear to be many times the national average. "Pollution-induced asthma among inner city blacks is many times higher than the average for whites. It kills five times as many blacks as whites. Black urban male children are almost three times more likely to die of asthma than their white counterparts." Dowie assumes all the reports he recounts are true. They may not be, or they may not be methodologically unimpeachable. Nevertheless, they are disturbing.

For the purposes of investigation and discovery in the service of *Intentional polluters don't get insurance coverage*, perhaps the most interesting material Dowie discusses is a 1987 report of the United Church of Christ, *Toxic Waste and Race: A National Report on the Racial and Socioeconomic Characteristics of Communities with Hazardous-Waste Sites* and a 1984 report by the Cerrell Associates for the California Waste Management Board, *Political Difficulties Facing Waste-to-Energy Conversion Plant Sitings*. According to the "Cerrell Report," some neighborhoods are more likely than others to mount successful resistance campaigns against such conversion plants:

All socioeconomic groupings tend to resent nearby sitings of major facilities, but middle and upper class socioeconomic strata possess better resources to effectuate their opposition. Middle and higher socioeconomic strata neighborhoods should not fall within the one-mile and five-mile radius of the proposed site.

According to Dowie, this report "became the handbook for site location in the toxic-waste industry." If the particulars of this type of evidence can be developed in a specific case, the polluter's insurance claim is placed in a new and dramatic light. Nor does this information consist merely of abusive irrelevancies. After all, the fundamental heuristic principle is: *Intentional polluters don't get insurance coverage*. And if an insured has documents reflecting on the kinds of points made in the "Cerrell Report," then Quinn's First Meta-Rule-of-Thumb is satisfied.

A book like Dowie's is not simply a treasure trove for insurers resisting pollution claims. Policyholders seeking coverage can also use it in important ways. Quinn's Second Meta-Rule-of-Thumb for Environmental Insurance Litigation is this: *The worse-off the environment is, the more likely the courts will find insurance coverage.* (Quinn's two Meta-Rules-of-Thumb are not exactly consistent.) A book like Dowie's can be used to gather clues as to how a policyholder can support that kind of case if it chooses to try. If a policyholder proceeds on the basis of Quinn's Second Meta-Rule, the policyholder is faced with a very tricky problem. To the extent that the policyholder suggests that the environment is getting worse, and thereby implies that insurance money should be made available, the policyholder will look bad if it made a material contribution to the pollution problem. I'm not sure I see a satisfactory way out of this, in general, but then, lawsuits are worked out in the realm of particular facts, and not merely in the realm of general rules and heady theorizing.

Toxic Debts

Losing Ground is not the only book published recently which is critical of environmentalism. Harold C. Barnett, a professor of economics at the University of Rhode Island, published an extremely interesting book entitled *Toxic Debts and the Superfund Dilemma*. Barnett recounts the history of the Superfund, beginning with the legislative struggle before its first enactment and continuing until approximately 1990. According to Barnett, the Superfund before SARA largely failed because of "the absence of cleanup standards, the preference for containment versus permanent treatment technologies, the strategies applied to promote fund—and responsible party—financed cleanup and the program's budget constraints." According to Barnett, these difficulties are rooted in the unresolved conflict over who would pay the "toxic debt." One of the principal upshots of *Toxic Debts* is that the "failure to resolve how clean is clean is a manifestation of a more general inability to resolve conflict over economic and environmental values." Environmentalists bear some of the responsibility for this.

Barnett's book, in contrast to Dowie's, is heavy going. It is filled with financial and economic data, details about the efforts and arguments of lobbyists, and theoretical economic analyses. Nevertheless, it has sprightly parts. For example, its discussion of the "Sewergate" incident in the early 1980s is a pure pleasure. Barnett does not explicitly take up issues of distributional "environmental justice." *Toxic Debts* is much more concerned with why the political forces of environmentalism could not translate Superfund legislation into mean-

ingful reality. This failure calls for explanation, according to Barnett, precisely because there was so much public and congressional sentiment favoring Superfund. Very roughly speaking, Barnett explains these phenomena in terms of the intense and sustained lobbying efforts of American industry, and the popularity of the social deregulation program of the Reagan administration. According to Barnett, it is paradoxical that there was substantial public favor for environmental cleanup, but substantial support for Reagan's "Get the Government Off Our Backs" effort at the same time.

The thrust of Barnett's discussion tends to run counter to the view of Dowie that race and class prejudice explain the lack of environmental justice in America. According to Barnett, the problems are to be found within the structure of the government, the structure of the lobbying system, and in the power that industry has to obstruct legislation and subsequent regulation.

Toxic Debts is a dull book, but if one wants facts and figures demonstrating the difficulties Superfund has had over its lifetime, this is a very good place to start. It is not directly about environmental claims, in the sense described earlier, and—alas—it lacks a specifically human dimension. Further, this book contains a substantial amount of valuable information regarding who lobbied for what and who testified about what during the congressional authorization and reauthorization processes.

Fortunately, the book is ultimately not as pessimistic as it originally projects itself, and "Sewergate" made the difference. According to Barnett, Superfund made substantial progress in its aftermath. Just as Easterbrook identified William Reilly as an environmental hero, Barnett similarly identifies him—along with William Ruckelshaus—as a major force in improving Superfund performance in the late 1980s.

Unequal Protection

Dowie's claims about environmental injustice are dramatically fleshed out in an anthology edited by Robert D. Bullard, a professor of sociology and a specialist in the relationship between environmental problems and race.⁴ *Unequal Protection: Environmental Justice & Communities of Color* consists of 16 essays. Three of them are, more or less, political analyses of what the authors term "environmental justice." Most environmental thinking has concerned whether to clean up, how much to clean up, whether to cut off pollution at its source, how to do these things in the most efficient manner (economically speaking), and who should pay. In summary, then, environmental thinking has consisted mainly of goal setting, considerations of efficiency, and matters of fairness. Issues of environmental justice, in

contrast, have to do with distributional issues, such as whether the burden of pollution is falling more heavily on one class or racial group than another. In general, the key idea is race or its equivalent. A great deal of energy is currently going into thinking about these issues.⁵

Unequal Protection is a book with a mission. It presupposes that American society is substantially unjust from an environmental point of view, and the 14 out of 16 essays which are not broad political analyses are accounts of different instances of environmental injustice or various events designed to combat this injustice. One essay discusses the struggle of the (mostly) black citizens of Warren County, North Carolina, to deal with PCBs which were dumped there. Another reviews the frustrating history of getting a Superfund designation for a black neighborhood in Texarkana, Texas. Two essays deal with lead poisoning: One concerns a lead smelter next to the (black) West Dallas Projects, while the other pertains to a similar series of events in Oakland, California. In fact, several essays concern environmental issues in California, while two of them pertain to the role of minority women in various environmental movements.

Unequal Protection has several uses for lawyers and claims people concerned with environmental claims. First, it contains an extensive bibliography on the relationship between pollution activities and minority groups. Second, many of the essays contained in the book are first-hand accounts of environmental activities conducted by minority groups. This is the stuff of which thematic historical accounts will be made. The people who wrote these accounts are obviously approachable, and they may either have information or have access to people who have information which might, in a variety of cases not discussed in the book, tend to establish intentional conduct.

Curiously, one of the weaknesses of the book is also one of its strengths. Much of the book is written by nonwriters. As a result, many nuances are missing and lots of questions go undiscussed. At the same time, there is an authenticity to these essays which is attractive. To say of this book that it is written largely by nonprofessional amateurs is not to insult it. There is a long and distinguished tradition of "amateurism" in democratic societies, and it is to be honored. At the same time, a book like this one cannot take up the complex issues of scientific causation which are central to many environmental claims. As a general rule, volumes of history are the wrong place to look for that kind of discussion.⁶

Conclusion

One of the interesting subthemes in each of these books reviewed here concerns lobbying and testimony before congressional commit-

tees. Any policyholder who did not actively campaign against Superfund, and who now faces liability, might be able to develop an interesting picture of its insurers by developing materials and discovery about its insurers' involvement in anti-Superfund lobbying activities.

It is worth keeping in mind that the relationship between environmentalism and American racial consciousness is a complex matter. It has been recognized for a long time that the reawakening of moral zeal accomplished by the civil rights movement was an influential factor in the creation of the environmental movement.⁷ Also, it remains paradoxical why environmentalism failed to pick up race issues for as long as it did.

The empirical evidence pertaining to the lack of "environmental justice" is beginning to receive attention in the law reviews. For the most part, this means that law professors are turning skeptical, critical, and—some would say—jaundiced eyes on the evidence. According to the dominant law review literature, seminal studies of environmental racism and environmental injustice appear to be flawed.⁸ When all of the dust settles, and all of the nits are picked correctly, it doesn't take a rocket scientist to remember the adage "Bad, smelly stuff flows downhill." If that maxim has any applicability to a capitalist democratic order, one would expect that the social costs of pollution production and disposal would fall disproportionately on the weaker social groups. Combine this observation with three others: Poor people generally have less power than wealthy people, the poor have a hard time getting organized for politics, and discrete and insular minorities generally have less power than majorities. When these four—obviously true—propositions are combined, the rational and dispassionate observer will have to acknowledge that there is a presumption in favor of the existence of an inequitable distribution of environmental burdens. We live in a world filled with information, much of which does not fit with other information we have. Worldly information, therefore, generates few political conclusions so well-established that they are unsusceptible to academic skepticism. We live in a confusing world where uncertainty is the order of the day, but where decisions and actions are required. Common sense, therefore, is necessary, if one is to see what is going on. This conclusion is true even though common sense should be continually—if not continuously—subject to learned, logical, and rigorous critique.

Notes

1. There is even poetry about pollution. See A.R. Ammons, *Garbage* (New York: W.W. Norton, 1993). This 100-plus-page poem, which is dedicated "to the bacteria, tumble

bugs, scavengers, [and] wordsmiths—the transfigurers [and] restorers” and which contains the line “garbage has to be the poetry of our time” is about lots of things.

2. For an interesting legal history of some aspects of environmental law, including the regulation of toxic waste—and therefore Superfund—see Rosemary O’Leary, *Environmental Change: Federal Courts and the EPA* (Philadelphia, PA: Temple University Press, 1993). O’Leary is a professor of public administration and environmental studies. The book does not discuss the insurance aspects of environmental enforcement.

3. For an appealing, understandable, interesting account of cost-benefit analysis in the context of environmental thinking, see Stephen Breyer, *Breaking the Vicious Circle: Toward Effective Risk Regulation* (Cambridge, MA: Harvard University Press, 1993). The author was then Chief Judge on the First Circuit when he wrote the book. He is now a Justice on the United States Supreme Court.

4. Professor Bullard has published a fascinating series of studies on these problems, including *Dumping in Dixie: Race, Class, and Environmental Quality* (Boulder, CO: Westview Press, 1990), *Invisible Houston: The Black Experience in Boom and Bust* (College Station, TX: Texas A&M University Press, 1987), and *Confronting Environmental Racism: Voices from the Grass Roots* (Boston, MA: South End Press, 1992).

5. A fair amount of writing on these matters can now be found in the law review literature. For example, one of the political analyses in *Unequal Protection* is written by Regina Austin and Michael Schill, both law professors, and it is entitled “Black, Brown, Red, and Poisons.” This essay is a variation on a widely cited paper of theirs entitled “Black, Brown, Poor, and Poisoned: Minority Grass Roots Environmentalism and the Quest of Eco-Justice,” which appeared in what was perhaps the first lawyer/law professor symposium on environmental justice. Symposium, “Environmental Equity in the 1990s: Pollution, Poverty, and Political Empowerment,” 1 *Kan. J.L. & Pub. Policy* 1 (1991). This literature is now large enough to have generated a published bibliography. See Robert W. Collins, “Review of the Legal Literature on Environmental Racism, Environmental Equity, and Environmental Justice,” 9 (1) *J. Env. L. and Litigation* 121 (1994).

6. There are exceptions to the rule. See Peter Schuck, *Agent Orange* (New Haven, CT: Yale University Press, 1988).

7. Victor B. Scheffer, *The Shaping of Environmentalism in America* (Seattle, WA: University of Washington Press, 1991)(an engaging, personal history of American environmentalism in the 1970s). For a slightly more comprehensive account of the environmental movement, which also takes up matters of race and class, see Robert Gottlieb, *Forcing the Spring: The Transformation of the American Environmental Movement* (Washington, DC, and Covelo, CA: Island Press, 1993).

8. A large number of these problems are comprehensively reviewed by Lynn E. Blais, the University of Texas Law School, in an article entitled, “Markets, Politics, and Environmental Justice,” which is forthcoming. See Vicki Been, “Locally Undesirable Land Uses in Minority Neighborhoods: Disproportionate Siting or Market Dynamics?” 103 *Yale L.J.* 1383 (1994); Richard J. Lazarus, “Pursuing ‘Environmental Justice’: The Distributional Effects of Environmental Protection,” 87 *Nw. U.L. Rev.* 787 (1983); Douglas L. Anderton et al., “Hazardous Waste Facilities: ‘Environmental Equity’ Issues in Metropolitan Areas,” 18 *Evaluation Rev.* 123 (1994); James T. Hamilton, “Testing for Environmental Racism: Prejudice, Profits, Political Power?” 14 *J. Pol. Analysis & Management* 107 (1995); James T. Hamilton, “Politics and Social Costs: Estimating the

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Impact of Collective Action on Hazardous Waste Facilities," 24 *Rand J. Econ.* 101 (1993); Robert Bullard, "The Legacy of American Apartheid and Environmental Racism," 9 *St. Johns J. of Legal Commentary* 445 (1994) (Bullard challenges the studies of Been and Anderton); and Adam D. Schwartz, "The Law of Environmental Justice: A Research Pathfinder," 25 *Env. L. Rptr* 10543 (October 1995) (good bibliography of decided cases and law review sources). Professor Blais reviews all of this material in her very helpful piece. See also Christopher Boerner and Thomas Lambert, "Environmental Justice," 118 *The Public Interest* 61 (Winter 1995). See also Jim Schwab, *Deeper Shades of Green: The Rise of Blue-Collar and Minority Environmentalism in the United States* (San Francisco, CA: Sierra Club Books, 1994) and Andrew Szasz, *EcoPopulism: Toxic Waste and the Movement for Environmental Justice* (Minneapolis, MN: University of Minnesota Press, 1994).



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