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IN REPLY PLEASE REFER

TO:

Marie Corbett

September 30th, 1974.

The White Owl
Conservation Awards Committee,
Suite 2705,
1155 Dorchester Blvd. West,
MONTREAL 102, P.Q.

Dear Sir or Madam:

I am writing to place the names of the Canadian Environmental Law Research Foundation and the Canadian Environmental Law Association in the nomination for the White Owl Conservation Award for 1974.

Their joint publication, Environment on Trial: A Citizen's Guide to Ontario Environmental Law, the culmination of more than a year of research, is an achievement of considerable importance both to the environmental movement and to the legal community.

This book does what Dean Martin Friedland of the University of Toronto Faculty of Law and Law Reform Commissions throughout Canada have been recommending in recent months: it makes the law understandable and accessible to the lay man. The editors of this book have made their subject matter interesting and clear to citizen's groups and environmentalists as well as informative to the legal profession. This is a remarkable accomplishment when one considers that the Law Reform Commissions have not yet begun to deal with the subject of environmental law and there are no texts or law reports available in Canada dealing solely with environmental law.

Most important, in only a few short years these two public interest groups have done a great deal to explain environmental rights and responsibilities to the public. They have created an awareness among the public of the role that law plays and can play in the environmental decision-taking process. Environment on Trial, the first publication of this kind in Canada, is the high-light of their three years of work in the environmental education field.

cont'd/.....

The White Owl

September 30th, 1974.

To assist the judges, the staff of the Canadian Environmental Law Association have assembled the enclosed information for your consideration.

I urge you to consider the Foundation and the Association for the White Owl Conservation Award.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Marie Corbett".

Marie Corbett

encl.



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Environmental
Law
Association
L'Association
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du droit
de l'environnement

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Nomination of the
Canadian Environmental Law Association
and the
Canadian Environmental Law Research Foundation

for the

WHITE OWL CONSERVATION AWARD, 1974

for the publication

ENVIRONMENT ON TRIAL:

A CITIZEN'S GUIDE TO ONTARIO ENVIRONMENTAL LAW

September 30, 1974

Introduction

The Canadian Environmental Law Association (CELA) and the Canadian Environmental Law Research Foundation (CELRF) are non-profit organizations founded in 1970 by a coalition of environmentalists, lawyers, and laymen who believe that the law must be used to defend and enhance the environment. They know that preservation of the environment depends upon the involvement and support of the public in environmental issues and decisions and this means participation - but it must not be participation defined solely in light of government objectives. Frequently government agencies and crown corporations are the chief violators of the environment.

Because the law defines the parameters of participation, environmentalists have long understood the importance of citizens obtaining an understanding of their environmental rights and responsibilities. Thus early in their development CELA and CELRF realized the need for publications in each province to explain existing law and to educate the public about the need for legal reform.

CELA and CELRF had to make decisions about the nature of the publication. First, because most environmental laws are administered by the provinces it was decided that one book of Canadian environmental law would be too superficial to be of much use to either environmentalists or lawyers. We had to concentrate on one province. Because Ontario environmental law is as effective as the law in any Canadian province, because the human resources and expertise were available here, and because the market and funding support could be obtained here, Ontario was selected as the provincial model. The wisdom of this decision was reinforced by the fact that Ontario has since indicated its intentions to be the first province to introduce environmental impact assessment legislation - a major component of sound environmental legislation.

CELA and CELRF set several goals for Environment on Trial. First, they recognized that litigation and court room action are last resorts in terms of environmental protection. Thus the editors wished to emphasize the importance of the preventative aspects of environmental law: effective planning and control mechanisms and functional and independent administrative agencies.

Second, the editors wanted to achieve what was described as, if not impossible, then certainly difficult - writing both to laymen and the legal profession. Although it was decided that stress had to be on the lay audience, the editors wanted to be of service to the legal community as well, because most lawyers know very little about environmental law.

Third, the editors wished to produce a work that would have relevance to a wider area than just Ontario. In other words, they wished to publish an analysis that would be a useful educational tool to environmentalists and educators in other provinces and that would serve as a model for publications in other provinces.

Finally, the editors desired to get this book to the public at minimal cost so that price would not be a great deterrent to maximum distribution. To this end funds were obtained from major granting agencies to cover the costs of some of the research plus the printing costs. CELA and CELRF would make up the difference. With only a partial awareness of the scope of the task, these organizations set out to produce the first Canadian publication of its kind in the field of environmental law.

Environment on Trial

The results were very gratifying, and perhaps somewhat remarkable. All of the objectives were achieved which, we must admit, surprised even the editors.

1. The maze of laws surrounding the planning and administration of the environment were made clear to many Ontario citizens for the first time.

2. The editors achieved what was thought to be most difficult. Environment on Trial received praise from both environmental and legal journals.

3. Interest across Canada was extremely high. Orders came to CELA's office from all parts of the country from professionals and individuals. Moreover, large orders appeared from educators who were planning environmental and legal courses in colleges and universities.

4. The forward by J.A. Kennedy, Q.C., former Chairman of the Ontario Municipal Board was an effective addition to the book. Mr. Kennedy became a "folk hero" of sorts to citizens groups as he made attempts to open up the OMB to public (instead of exclusively, developers) participation. Mr. Kennedy's views on environmental law reform were extremely helpful.

5. Finally, widespread distribution was achieved. According to the distributor of Environment on Trial, the book became their best seller, much to their surprise. On the basis of direct-to-the-distributor, prepaid, single-order sales, this publication was a best-seller for a few weeks (best-seller lists are compiled by book stores and hence we could not receive credit for our sales through lists compiled in this manner).

Widespread distribution was assisted by the low price and the binding quality. A book with a stitched binding of 400 pages would normally sell for over \$5.00. With the aid of grants Environment on Trial was sold at \$2.95. Needless to say CELA and CELRF have not profited financially from its sales. And, not unlike other environmental groups, these unique organizations continually face serious financial restraints.

The book reviews and letters which follow, will more objectively explain the public's reaction to Environment on Trial. It gives us great pleasure to present copies of this book to members of the Awards Committee. We thank the Committee in advance for giving consideration to our book for the White Owl Conservation Award.

REFERENCES

Dean Harry Arthurs,
Osgoode Hall Law School,
York University,
Downsview, Ontario

Prof. Lorne Giroux,
Faculty of Law,
Laval University,
Quebec, P.Q.

Wally Raepple,
Elora Gorge Defence Fund,
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Environment on Trial:

A Citizen's Guide to Ontario Environmental Law

had many favourable things said about it
despite the fact the book reviewers refused
to review it - they said it was a text book.
We'll let you decide.

In the meantime here is the Walter Pitman
review which says that our book for the
layman is

"a guide to real environmental success"



WALTER PITMAN

THE TORONTO STAR, Tues., Mar. 19, 1974

A guide to real environmental success

Finally a handbook has been produced for every Ontario citizen who worries about the deterioration of the province's environment.

Environment on Trial, edited by David Estrin and John Swaigen along with James Woodford and Mary Anne Carswell, and published by the Canadian Environmental Law Association and Law Research Foundation, is not just another harrowing description of the horrors of pollution. Nor is it a violent attack on the provincial government and its agencies for their sins of omission and commission.

Rather it is a closely reasoned guide for every citizen who wants to know exactly what his rights are, where responsibility lies for protecting those rights, and precisely how a citizen or group of citizens can ensure that both the public and private sectors are carrying out their responsibilities under existing law.

The major theme of the book is that the environment will not be saved by sporadic assaults on individuals or companies whenever some outrageous action against the public health or welfare is discovered and publicized. These are merely periodic explosions on our newspapers' front pages and disappear into history when some other story captures society's attention.

Estrin and his associates say our personal environmental rights must be protected by the same kind of laws and regulations, and policed in the same way, as our rights over private property. Until that happens, they say, no long-term gains can be expected.

Their first major step towards that ideal would be an environmental bill of rights. This document would include a guarantee of public hearings whenever environmental regulations are being formulated. It would force govern-

ments and private individuals undertaking any project likely to affect the environment to submit a statement spelling out exactly what that effect will be. And it would create an environmental ombudsman and remove the danger to the citizen of having to pay costs when suing for public nuisance.

This book could be a source of acute embarrassment to the civil servants who work for various agencies of the Ministry of the Environment, for it provides detailed instructions for any person who wishes to work through each agency to the limit of its power under provincial law.

And it will be harder from now on for any officer to placate irate citizens with vague excuses for lack of effective action. The handbook recites chapter and verse of every piece of legislation and the specific steps which can be taken to alleviate those situations

which are now disturbing ecologically sensitive and aware people.

At present, projects which will pollute can be given "certificates of approval" from the environment ministry through a secret process which will see that anyone adversely affected doesn't even know about the proposed operation. In spite of all the publicity about water pollution and statements of concern by the Ontario government, only 50 prosecutions took place in the first two years after the present act's proclamation. Fines of those convicted averaged only \$465—and some of the offenders were multi-million dollar enterprises.

Environment on Trial signals the end of the "scare" stage of the environmental warning era, during which thousands of books and articles have been published to shock and titillate the reader with colorful scenarios of planetary

destruction. It's a practical guide to the ways the ordinary citizen can find a solution to his particular environmental hell—whether it be an irresponsible neighbor who won't put in an efficient septic tank, a developer determined to overwhelm a neighborhood with high-rise apartments or a government planning to smash a freeway through his community.

If every concerned Ontario citizen could get his hands on this book, we would really get somewhere in our struggle for clean air and water and an unadulterated wilderness—in short, an environment which could support a good life for future generations.

★ *Walter Pitman, former MP and NDP member of the Legislature for Peterborough, is dean of arts and science at Trent University.*

And here is the hard-hitting
article by Harold Greer about the
Dow Case which appeared in papers across
Canada. This is an example of
how the media with the use
of Environment on Trial
can bring issues to the
attention of the public.

Political smokescreen?

The Brantford Expositor

FRIDAY, MAY 10, 1974

Dow pollution case in law bog

By Harold Greer

Expositor Special Correspondent

TORONTO — "Environment on Trial" is a citizen's guide to environmental law published recently by the Canadian Environmental Law Association. The handy book tells how to take polluters to court whenever, as frequently happens, governments and their bureaucracies are loath to do so.

I thought of "Environment on Trial" after reading the latest progress report from the Ontario government on its legal action against Dow Chemical of Canada Limited. Surely, I thought, the Environmental Law Association would have some

helpful hints on how to handle the Dow Chemical situation even if the Ontario government, and all its high-priced legal help, cannot.

In the Dow case, four years ago the commercial fishing of the St. Clair River system and western Lake Erie was discovered to be ruined by mercury pollution. Dow admitted the mercury had leaked from its plant at Sarnia over a period of years.

Dow refused to pay compensation to the commercial fishermen and, on advice of its insurers, refused to participate with the government in trying to clean up the mess.

Then Environment Minister George Kerr pounded on

his desk in the legislature and swore that "the polluters will pay." And the Ontario government issued a writ for damages against Dow Chemical, and its U.S. parent, in the amount of \$35 million.

No one could claim from outward appearance that the government was reluctant to get Dow Chemical. But some cynics, including this journalist, noted that the government was going to court on some novel and tricky legal arguments which it might well lose after years of litigation. If it really wanted to get Dow, compensate the fishermen and so on, it could have easily passed a statutory law, making it retroactive against Dow Chemi-

cal.

Another cynic was the veteran Liberal MPP for Downsview, Vernon Singer. He claimed the government took the route it did to sweep the issue under the rug. Mr. Singer asks every so often for a progress report. Every time he gets an answer which at least suggests that its action in the Dow case is one of the great political smoke-screens of all time.

Consider the answer he received from Blenus Wright, senior counsel for civil litigation in the attorney-general's department. Mr. Wright's statement before the legislature's estimates committee could be stripped of its legalese to make it more readable. But that would rob it

of the flavor of the following quotes:

"The writ and statement of claim were served on Dow Chemical of Canada Limited on March 16, 1971, and notice of writ and other necessary documents were served on the Dow Chemical Company in the U.S. on the same day. Appearances were filed by both defendants.

"A motion was brought on behalf of the U.S. company to set aside the service of the concurrent writ of summons and statement of claim. The motion was adjourned 'sine die' to allow the defendant to cross-examine John Hilton on his affidavit. On the cross-examination we objected to a number of questions and the defendant brought a motion to compel answers to certain questions. The motion was heard by Master S. McBride and was completed on March 27, 1972.

This column was carried in Southam papers such as the London Free Press and the Ottawa Citizen

(over)

"Master McBride has not as yet given his decision. A decision may not be forthcoming by reason of the fact that we have discontinued our action against the U.S. company and we wrote to the solicitors of Dow Chemical of Canada Limited demanding their statement of defence.

"No statement of defence was received on the due date, but we were served with a demand for particulars by both defendants. The defendants were advised that we would not provide the particulars requested and the defendants brought in a motion for particulars returnable on March 29, 1974, and the defendants filed two affidavits in support of their application.

"On March 29 we made a preliminary objection to the defendant's motion on the basis that if they needed particulars they should have made this request on Nov. 30, 1973 when they asked for postponement of the delivery of their statement of defence. The preliminary objection was dismissed with reasons on April 1, 1974.

"The motion for particulars has now been adjourned 'sine die' because we want to cross-examine the affidavits on the motion for particulars, because really what Dow Canada are saying is that they don't know enough about this action that they can put in a proper statement of defence. So we need more evidence to put before the court on the motion for particulars and that is the reason why we are cross-examining on the affidavits, and that is where it stands at the moment."

So: three years and two months after commencing the action, there is still no statement of defence, which is one of the elementary preliminary stages of litigation. Representing the government in the case has been John J. Robinette, one of the country's big legal names, and the cost to date, exclusive of government personnel, has been \$81,717.

Surely the public interest is not to be sabotaged by such nonsense. Are there no helpful hints from the Environmental Law Association?

Indeed there are. "Environment on Trial" does not deal specifically with the Dow case but it does note that the Criminal Code says that "common nuisances" which endanger the safety or health of the public are indictable offences. There is also a section of the Code which says a court may order a person convicted of an indictable offence to pay compensation to persons who suffer loss or damage as a result of the offence.

Now why do you suppose the government of Ontario didn't think of that?

Nature Canada says

"Environment on Trial will be
valuable in provinces other than
Ontario. Citizens of other provinces
may avoid the pit falls occasioned in
Ontario by heeding its lessons."

"The Canadian environmental movement
owes a debt of gratitude to the
CELRF and to CELA for
this lucid and timely contribution"

Nature Canada

VOLUME 3, NUMBER 1

JANUARY/MARCH 1974

Environment on Trial: A Citizen's Guide to Ontario Environmental Law

Edited by David Estrin and John Swaigen; Associate editors, James Woodford and Mary Anne Carswell. Published by the Canadian Environmental Law Association and the Canadian Environmental Law Research Foundation, Toronto, 1974.

One of the unfortunate generalities applicable to Canadian politics is a widespread individual withdrawal from the governmental process in deference to bureaucracies charged with the definition and implementation of "the public interest." It is easy to conclude that because a government department is assigned a particular task, the responsibility will be discharged. Fortunately, legally-inclined environmentalists have attacked this cancerous state of affairs with a hard-hitting, down-to-earth, readable new book entitled *Environment on Trial: A Citizen's Guide to Ontario Environmental Law*.

In the introduction, the editors establish two purposes for their book: to describe the present Ontario environmental laws, and how to use them; and to point the way to alternatives. Some four hundred information-packed pages later, they conclude the exercise with flying colours.

Following a perspective-setting foreword by J.A. Kennedy, Q.C., a highly respected former Chairman of the Ontario Municipal Board, the book gets down to practical considerations with regard to statutory laws in the areas of air, noise, water, pits and quarries, waste management, litter, pesticides, radiation, provincial parks and land-use planning. Of particular interest to Federation members are the chapters on pesticides and provincial parks. There is a detailed and functional analysis of the Ontario Pesticides Act and its Regulations, including the classification and regulation of pesticides, specific restrictions, the licensing of professional exterminators and the Pesticides License Review Board. More discussion of the federal statutory situation could be given.

It is hoped that the editors will canvass this area more fully when the new federal legislation and regulations expected shortly come about.

The discussion of provincial park designation and management succinctly focuses on the inadequacies of the current classification procedure. It is concluded that the responsibility for the unsatisfactory state of affairs lies with the bureaucracy controlling the parks.

Having established the statutory situation regarding environmental law in Ontario, and in the process destroying the pious statements of politicians that the province's environmental laws are an environmental "Bill of Rights," the editors turn their attentions to the older regime of common (judge-made) law and related remedies. As in the section on statutory law, the book handles well an area which would otherwise be confusing to the layman. The general advantages and disadvantages of pursuing common law remedies are established. For example, while the articulation of a common law right depends solely on the initiative of any citizen, the high costs associated with private actions, the oft-occurring need for some proprietary interest as a prerequisite, and the long delays involved in bringing a civil case to trial may cripple what would otherwise be a method of bypassing inert governmental bureaucracy.

Chapters 13 and 14 and the appendices instruct the ordinary citizen on how to proceed. Discussed in straightforward language are matters such as whether to prosecute in the criminal courts, whether to commence an action for a civil remedy or to initiate a judicial review of a governmental action, or whether the expense factor, time involved and other prerequisites are worth it. Most important, there is a frankly-worded subsection dealing with such crucial factors as when to hire a lawyer (there are occasions when it is a disadvantage!), how to obtain a lawyer's services, how to consult counsel and how to decide whether you can afford a lawyer. The second last chapter, together with most of the appendices, take the layman through the procedures involved in the gathering and presentation of evi-

dence, the various types of environmental litigation. The book's presentation will provide a comprehensive checklist even for lawyers.

Environment on Trial will be valuable in provinces other than Ontario. Citizens of other provinces may avoid the pitfalls occasioned in Ontario by heeding its lessons. The need for a genuine environmental Bill of Rights which concerned citizens can depend upon is undoubtedly a key concept in this regard.

The Canadian environmental movement owes a debt of gratitude to the Canadian Environmental Law Research Foundation and the Canadian Environmental Law Association for this lucid and timely contribution.

George Hunter

The bookshelf

ENVIRONMENT ON TRIAL: A CITIZEN'S GUIDE TO ONTARIO ENVIRONMENTAL LAW. Editors: David Estrin, General Counsel to the Canadian Environmental Law Association, and John Swaigen; Associate Editors: James Woodford, former Executive Director of the Federation of Ontario Naturalists, and Mary Anne Carswell. Contributors include Dr. Donald Chant and Prof. J.G. Nelson. Foreword by J.A. Kennedy, Q.C., former O.M.B. Chairman. Published by the Canadian Environmental Law Association and the Canadian Environmental Law Research Foundation; distributed by New Press. 400 pages, paperback, \$2.95.

Environment On Trial is a practical guide to the laws which exist regarding the environment, how to get the appropriate government agencies to enforce them, and, if government can not or will not act, how to enforce them yourself. Many of the specific issues and statutes relate to Ontario, but much of the book is of value to all Canadians.

Its publication is a logical extension of the work of the Canadian Environmental Law Association, which since its formation has sued, prosecuted, lobbied, politicked, and generally kept the pot boiling in defense of the environment. This book gives the ordinary citizen the benefit of the knowledge and experience acquired by the authors.

There are chapters on different kinds of pollution—air, water, noise, and radiation, among others—detailing the legal remedies that are available. (Sometimes they are to be found in unlikely places: for instance, Ontario Liquor License Board hearings have been used to get action on noise problems.) There are lists of Ontario and federal statutes, with the areas of the environment that they cover and the agencies responsible for enforcing them. There are chapters on the planning process, including provincial parks and land use planning. There are sections, including a valuable appendix on private prosecutions, dealing in detail with various kinds of legal actions—how to choose the best one for your purposes, how to go about it, and what the results might be. Other appendices explain technical terms

and tell where to find important facts for your case. To have all this information, which is common knowledge to most lawyers but few laymen, readily available may well mean the difference between suffering in frustrated silence from environmental pollution, and taking action against it.

All too often, the authors of *Environment On Trial* find themselves compelled to tell us what action we can not take. They expose the inadequacy of the law in its present state: legislation which, although governments point to it to assure the public that they have the situation under control, has had no regulations passed under it and is therefore useless (there are no noise regulations under Ontario's Environmental Protection Act); government processes which make no provision for, and in some cases exclude, public participation even in matters which directly affect the public; judges whose background is in corporation law, and whose objectivity, the authors remark, "may be impaired by the kind of constraints that familiarity and close dealing tend to breed"; government agencies which refuse to enforce the law, preferring to spend their energies shielding polluters. The affair of INCO and the Ministry of Mines and Northern Affairs in Sudbury, in chapter 15, is a classic of its kind.

The book ends by proposing an Environmental Bill of Rights for Canada—not the kind whose main function is to decorate schoolroom walls, but the kind of substantive changes in the law which would permit full public access to the courts, and to all other processes of government in which the fate of the environment is decided.

This book could have been heavy going, considering the complexity of the legislation. But the authors have done their best to make their rather technical material accessible to the ordinary reader; and on the whole they have succeeded. The casual reader, though, will probably find that this book tells him more about its subject than he really wanted to know. Meant more for use than for enjoyment, it will be most valuable to people who have sufficient courage of their convictions to take advantage of the opportunities for action which it

describes. It will also be valuable for students in such fields as environmental studies, geography, planning, engineering, and law. Unfortunately it has no index, though it does have detailed chapter outlines.

The book's main limitation, which the authors acknowledge in their introduction, lies in its basic premise, which is that it is possible to make a significant impact on the issue of environmental degradation by means of legal action. This may not, in fact, be the case: legal action—and political action as well—is inevitably piecemeal, and works through conflicts of (usually economic) interests. The English system of law, of which ours is an offshoot, is and always has been aimed primarily at the protection of property rights, and this traditional bias is built into its very structure. It is also built into the structure of our habits as a people. Almost never are we moved to act unless an issue touches us personally, and rarely does anyone have an interest, in any sense of the word, in the environment which is comparable to his interest in his own economic well-being. Moreover, the court system tends to translate everything into terms of money, even when—as with most environmental issues—it is untranslatable (witness the James Bay project).

Still, insufficient as piecemeal actions on particular issues by groups and individuals may be, they are probably the best we can do. And it may be that, given enough of them, they will grow into something that is more than the sum of its parts. It is to be hoped that *Environment On Trial* succeeds in its aim of encouraging and assisting citizens to assert their environmental rights. Birds and beasts, lakes and streams have no votes, no lobbies, no campaign contributions; they have no defenders save a public aware of its environmental rights and determined to defend them.

David Wood
Pollution Probe, University of Toronto

VOLUME VIII, NUMBER 1

MARCH, 1974

The Law Society of Upper Canada

Gazette

Reviews and Notices

Environment on Trial

By David Estrin

and John Swaigen, Editors, James Woodford and Mary Anne Carswell Associate Editor, Foreword by J. A. Kennedy, Q.C. [Canadian Environmental Association and the Canadian Environmental Law Research Foundation, distributed by New Press, 553 Richmond Street West, Toronto, Ontario M5B 1V6, X.X. and 409 pp 1974—soft cover \$2.95.]

This book is designed to give the citizen an insight into his environmental rights and how he can assert them, legally and politically in order to protect his rights to a clean and attractive environment. The book describes our present environmental laws and how they may be used and points the way to alternatives. The long term goal of the publishers is to obtain the enactment of an environmental bill of rights for Ontario which would ensure the maximum citizen participation in the achievement of a quality environment. After discussing the environmental problems that we face today and their causes there is an explanation of the common legal remedies that are available.

This is essentially a book for the concerned layman. However, every lawyer who has any professional interest in environmental law will find this to be a very valuable book. There is much information found in this book that is very difficult to find elsewhere. There is for example, an extensive and particularly useful bibliography covering all aspects of environmental law under both general and legal titles. It is a timely and well written and easy to understand book. It is a very good example of the type of book that the Federal Law Reform Commission has long advocated in which law is explained in an understandable fashion to the layman.

for ALTERNATIVES

PERSPECTIVES ON SOCIETY AND ENVIRONMENT

Environment on Trial: A Citizen's Guide to Ontario Environmental Law. David Estrin and John Swaigen, eds. Toronto: New Press / Canadian Environmental Law Association, 1974. \$2.95

Anyone who has ever been in court, whether as complainant, defendant, witness or just interested spectator, cannot help but have been overwhelmed by the massive complexity of the legal process. Even traffic charges are a maze through which only the hardy will normally venture, preferring to settle out of court. Environmental law is, of course, a great deal more complex; since it is a new field, the laws dealing specifically with the environment are spotty and sometimes ambiguous, and interpretation of older statutes tends to change constantly. There are jurisdictional conflicts in the areas of both legislation (federal/provincial/municipal) and enforcement (police/bureaucrats in different ministries/different branches of the same agency). To this add a legal system almost feudal in its bias toward the wealthy, sometimes-hostile courts, and enforcement procedures ranging from lax to totally corrupt, and you have a fair picture of the Gordian Knot which Estrin and Swaigen take on in *Environment on Trial*.

And they do indeed take on that knot, telling the reader not only what the law is, but how it is made and administered, what the past record and present problems of environmental enforcement agencies are, and what needs exist in the area of environmental legislation. As well, there are sections on planning a campaign, both in and out of the courts, to get existing laws enforced and stronger ones enacted. Through all this, the message that comes through loud and clear is that the first necessity, in the long run, is a government that cares about people and human values rather than its own skin and that of its bureaucrats and ruling-class supporters.

The book is organized into five sections and many appendices. Part I provides a guide to the division of jurisdiction among the three levels of government and a chart of existing Dominion and Ontario laws and their applicability to environmental issues. As well, there is a commendably illusion-free discussion of the law-making pro-

as well as a brief section on tactics for maximizing citizen input.

Part IV is a "Strategy for Action." There is an incredible amount of fascinating and valuable legal information here, all given without legalistic mystification and in simple, realistic terms. The reader is told, not only what the law is and what each step in the civil or criminal process in which he is involved will be, but how to go about choosing a course of action and how much it will cost. (It is scandalous that anyone taking legal action against a multinational corporation, for instance, should ever have to pay a cent in legal costs.) And if some of the techniques given in "Waging a Campaign" may seem elementary to the seasoned activist, it is to CELA's credit that they provide information for the everyday citizen who may have only a vague idea about how to organize to protect his rights. The final section, "Environmental Law Reform," includes a draft of a possible Environmental Bill of Rights; the care with which this is discussed, and the adequacy of the reforms proposed (including citizen access to governmental information, much of which is now stamped "confidential") is almost unique among procedural reform proposals. This is not to say that they are bulletproof, but they are far better than most schemes of the kind, and would make the dereliction of duty of which Canadian governments have been guilty far less likely.

Twelve appendices include some more specific legal information, e.g. on private prosecutions and small claims court action, as well as useful general information on such problems as noise definitions, where to get water samples

The law journals have been complimentary.

The Law Society of Upper Canada Gazette:

"it is a very good example of the type of book that the Federal Law Reform Commission has long advocated in which law is explained in an understandable fashion to the layman."

The Canadian Bar Review

"Environment on Trial is a welcome addition to environmental material...."

"The book is worthwhile not only as a manual for the concerned citizen but is a source of valuable information and instruction for the lawyer, student and academic. It should be required reading for politicians and civil servants who are charged with protecting the environment, as I am sure they would benefit from a careful acquaintance with its contents."

THE CANADIAN BAR REVIEW

LA REVUE DU BARREAU CANADIEN

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Book Reviews

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Environment On Trial: A Citizen's Guide to Ontario Environmental Law. Edited by DAVID ESTRIN and JOHN SWAIGEN with the assistance of JAMES WOODFORD and MARY ANNE

* Stanley Sadinsky, of the Faculty of Law, Queen's University, Kingston, Ontario.

CARSWELL. Toronto: Canadian Environmental Law Association and Canadian Environmental Law Research Foundation. 1974. Pp. xix, 409. (\$2.95)

The book *Environment On Trial: A Citizen's Guide to Ontario Environmental Law* is a welcome addition to environmental material presently available. The Canadian Environmental Law Association, one of the publishers of the book, has instituted legal proceedings, lobbied and "politicked" in an attempt to conserve the environment and protect individual citizens' environmental rights. This book is written in furtherance of that goal.

The book should become a manual for concerned citizens who are interested in asserting their environmental rights. In addition to discussing the pros and cons of the legislation of general application, the editors explain how lesser known statutes such as The Industrial Safety Act, 1971¹ and the regulations² made thereunder, may be utilized by a person to ensure a more healthy environment. The book advises the reader of the advantages and disadvantages of suing a defendant under common law, the problems of standing and costs in a public interest civil suit, and the tort of malicious prosecution in the event an information is dismissed.

The appendix is full of useful information: an explanation of technical terms, an explanation of a smoke density chart, and instructions on how to gather evidence for private prosecutions. Canadian Environmental Law Association experience in advocating the environmental cause gives the reader insight into how the legislation is or is not utilized by the bureaucratic institutions which have been established to ensure that the environment will not be despoiled for future generations.

In the opinion of the editors, there are three legal tools available today which "offer the best potential of altering the course of our environmental problems".³ These are (1) environmental planning and control mechanisms, (2) effective administrative agencies and (3) judicial review of environmental rights. Although the view is expressed that private litigation should only be supportive of the first two methods of achieving environmental quality, "... given the present mediaeval state, and sometimes complete absence of environmental planning and effective administrative agencies, assertion of citizen initiative based on legal rights must take on greater importance".⁴ Therefore, the main emphasis of the book is judicial protection of the environment.

¹ S.O., 1971, c. 43.

² O. Reg. 259/72, s. 111.

³ P. 6.

⁴ P. 11.