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### Books Noted

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## BOOKS NOTED

**AESOP IN THE COURTS.** By Aron Steuer. New York: Law-Arts Publishers, Inc. (1971). Pp. 385. \$9.95.

*Aesop in the Courts* is a collection of short fables similar to those told by the original Aesop, but with the notable exception that the characters who populate the little tales comprise the legal profession. The lessons to be learned from the fables are directed toward the attorney and the judge, supplying them with sage advice relating human nature to practical problems of the legal process.

The "Aesop" of these fables is Aron Steuer, an Associate Justice in the Appellate Division of the New York Supreme Court. He first began publishing them anonymously as a regular feature of the *New York Law Journal*. The fables proved so popular that they have now been handsomely bound into a collection that any member of the legal profession with an avocation for philosophy, or an appreciation for satire, would be pleased to own.

Written in a fine style, each short fable (they average two pages each) is a complete lesson in itself. From these lessons, the reader may learn a variety of things. For example, judges are often appointed for reasons other than competence, and the criminal justice system would collapse if all defendants pleaded not guilty. Some of them simply illuminate the ironies of life, e.g., a professional witness is unable to recover for injuries received on a negligently maintained court stairway because of the absence of witnesses. As the above examples suggest, these lessons do not reveal wisdom previously unknown. By use of the fable, however, Justice Steuer is able to present bits of knowledge in a way that is both fresh and amusing.

Justice Steuer's greatest achievement is his use of the moral. Each is a succinct summary or comment upon the facts of the fable. Often they make use, in a sarcastic manner, of famous sayings or proverbs. Representative examples are the morals used in the lessons previously discussed: "The value of the appointive over the elective systems of selecting judges lies in the responsibility of the appointing officer;" or "[d]ecapitation is one way to cure a toothache, though not always the best advised;" and "[i]t is the shoemaker's children who traditionally go barefoot."

As can be expected in a collection of this size, all the fables are not of the same quality. The best are miniature masterpieces and the majority mildly amusing. The reader would benefit from approaching each individually, rather than reading them all in one sitting. Moreover, the order in which the fables appear is of no significance, so skipping about is also to be encouraged.

**THE ENVIRONMENTAL LAW HANDBOOK.** By Norman J. Landau & Paul D. Rheingold. New York: Ballantine Books. 1971. Pp. 496. Paperback \$1.25.

There is no more graphic demonstration of the repudiation of the doctrine of enlightened self-interest than the rape of our environment. In view of the incredible deviousness of polluters who spend fortunes upon sanctimonious advertising, those with any sagacity whatsoever have come to recognize that coercion is the only method of stopping polluters from profiteering at the expense of our posterity. Among these advocates are attorneys Norman J. Landau and Paul D. Rheingold. Their *Environmental Law Handbook* is the latest in the genre of activist manuals acquainting the public with

the legal aspects of a prevalent social problem. In it the authors have ambitiously undertaken to explain to the public every aspect of environmental litigation from class actions to venue, adopting the premise that the environmentalist is cognizant that legal rights exist, or can be developed, to protect the environment, and is commensurately sophisticated to comprehend the nuances of invoking legal process. Also included are highly practical discussions including advice on funding a lawsuit and selecting and paying a lawyer to prosecute it.

The authors are both members of the New York Bar with wide experience in environmental litigation. Paul D. Rheingold is a private practitioner and a member of the faculty of Rutgers University School of Law. The author of *Civil Cause of Action for Lung Damage Due to Pollution of the Urban Atmosphere*, an article considered a landmark in its field, Mr. Rheingold is also National Secretary of the American Trial Lawyers Association. Norman J. Landau is Trial Counsel for the Interstate Sanitation Commission and is a member of the Board of Governors of the American Trial Lawyers Association.

Lawyers who are new to the rapidly developing field of environmental law will also find this book informative, for it contains virtually all of the current developments in environmental litigation. The introductory chapter is intended primarily for the layman. It explains the theory of the private lawsuit, how a private corporation or even the Government may be enjoined from polluting or compelled to pay damages resulting from its acts. A list of the legal theories available to bring a polluter to court is very complete; it contains the standard negligence, nuisance, trespass mechanisms, as well as the more exotic actions including antitrust suits, shareholders derivative suits and inverse condemnation. The authors waste little time lamenting the despoliation of the environment and immediately grapple with such intricate problems as standing, governmental immunity, exhaustion of administrative remedies, jurisdiction, venue and consolidation of cases. This, in addition to a candid discussion of defenses available to the polluter, apprises the layman of the intricacy of the law in this area and informs him that a successful pollution suit is no mean feat. Reading the book itself is no mean feat for the layman. Indeed, the authors are compelled as early as page 50 to include an aside acknowledging the intricacy of the applicable law and admonishing the reader that pollution will not be abated by simple law suits. After being reminded of the justness of his cause the reader is urged to "push on." Excerpts in chapter two from five leading articles in the area help considerably to clarify the material compacted into chapter one. The attorney will be pleased to find the inclusion of both footnotes and a bibliography of other leading articles.

Chapters three and four contain the most legally germane information in the book. Chapter three lists all the federal statutes that have been enacted to protect the environment. The newcomer to the field will undoubtedly be impressed by the volume and breadth of the legislation — a feeling quickly followed by dismay at the failure of over 23 separate statutes to produce meaningful results. The chapter closes with the text of a model air pollution ordinance which the state of New Jersey has recommended to its municipalities for passage. The authors propose it for the reader's edification and urge citizen efforts towards its general adoption. The ordinance, which employs the primitive but effective Ringelmann Smoke Chart, is generally acceptable with one major reservation. It lacks any reference to enforcement whatsoever, designating neither an enforcing agency nor delineating methods of enforcement. As such, the ordinance contains the same flaw

as much of the existing legislation in the area and threatens to become merely another pious statement in a long line of ineffectual sophistry. Hopefully, in addition to providing weaponry for private suits, the volume of applicable legislation will impress upon the public the chronic inaction by government at both state and federal levels. For it is inaction that has produced the sorry state of affairs in which citizens must individually undertake to enforce the laws their government has sworn to uphold.

In contrast, chapter four, entitled *What the Courts Have Done So Far for the Environment*, illustrates the prominent role played by the judiciary in environmental protection. The authors have digested cases which they feel to be landmarks in the area, quoting at length from several opinions. The authors' research provides the practitioner with viable precedents in several areas, including: injunctions and punitive damages for air pollution by both private parties and cities; standing of public interest groups to sue for pollution; the novel application of theories from other areas of the law such as strict liability and antitrust violations, and the difficult problem of proof of causation of damages by air polluters. The chapter concludes with excerpts from several judicial opinions, primarily from cases involving governmental agencies, with language pertinent to private litigation italicized.

The next two chapters deal with suits presently pending against industry and government in the pollution area. The discussions provide valuable ideas for possible suits as well as advising the attorney of pending cases to watch for future precedents. Of special value to the practitioner are reproductions of the pleadings and exhibits from the pending cases. Similarly, the last chapter, dealing with methods of proof in environmental cases, serves to apprise the practitioner of the intricacy and volume of proof needed in this area to convince a court that a legal wrong has been committed. This chapter eruditely emphasizes the discovery devices and procedures needed to prove an entire case. The authors here devote considerable discussion to expert testimony — a crucial element in proving any pollution case. Excerpts from trial transcripts are used very effectively to illustrate the type of testimony which must be elicited from expert witnesses.

On balance, the authors' technique of challenging the layman by placing before him many of the tools and much of the language of the legal profession seems preferable to patronizing him with endless discussions of abstract legal theory. The attorney, on the other hand, will find the book more taxing than challenging for the primary emphasis upon educating the layman has produced a text that is organized somewhat inefficiently and is frequently repetitious. This is to be expected, however, whenever an author undertakes the schizophrenic task of educating, in a single volume, two groups with vastly differing experience. Nevertheless, both groups will be rewarded for their perseverance. The layman, advised of his environmental rights, will now be able to channel some of the frustration that has gone so far as to produce vandalism by numerous modern day Robin Hoods into concerted legal action. The attorney undertaking environmental litigation will now have at his fingertips all of the major cases in this complex area as well as considerable insight into the requisite strategy to produce victory for his clients. The ultimate beneficiary of this work will, of course, be the environmental movement, for one of the major problems in a nationwide legal movement is the danger that a poorly prepared and ineptly handled case will generate an unfavorable precedent which will set the entire movement back ten years.