

Louisiana Law Review

Volume 18 | Number 3

April 1958

SELECTED WRITINGS ON EVIDENCE AND TRIAL, by Association of American Law Schools (William T. Fryer, ed.). West Publishing Co., St. Paul, 1957. Pp. 1232. \$10.00.

Oliver P. Carriere

Repository Citation

Oliver P. Carriere, *SELECTED WRITINGS ON EVIDENCE AND TRIAL*, by Association of American Law Schools (William T. Fryer, ed.). West Publishing Co., St. Paul, 1957. Pp. 1232. \$10.00., 18 La. L. Rev. (1958)

Available at: <http://digitalcommons.law.lsu.edu/lalrev/vol18/iss3/13>

This Book Review is brought to you for free and open access by the Law Reviews and Journals at LSU Law Digital Commons. It has been accepted for inclusion in Louisiana Law Review by an authorized editor of LSU Law Digital Commons. For more information, please contact kayla.reed@law.lsu.edu.

This collection of reports illustrates particularly well two misconceptions of the role of legal principles in international relations. To those who underestimate the importance of law in the relations between states, it points out the reliance of foreign offices on legal principles in their day to day conduct of international affairs. This is to say that in those matters that do not conflict with the vital interest of states, which constitute the great bulk of the business of foreign offices, legal principles can and do determine national action. To those who overemphasize the role of law, the author is careful to warn that the advice given by legal officers is not heeded on all occasions. On those international issues where law conflicts with policy, legal principles may be shaped to fit policy or disregarded altogether. Objectivity in defining the law in a decentralized international order is difficult at best, even for the dispassionate British legal officer.

Lord McNair has provided in this work an invaluable addition to the printed sources of international law.

*David Lehman**

SELECTED WRITINGS ON EVIDENCE AND TRIAL, by Association of American Law Schools (William T. Fryer, ed.). West Publishing Co., St. Paul, 1957. Pp. 1232. \$10.00.

This work is a valuable addition to the series of readings in selected areas of the law which have been sponsored by the Association of American Law Schools through the years.

The busy trial lawyer, appellate counsel, judge, student and law professor, will find this work a convenient source book for trial admissibility questions, and in the preparation of briefs on critical evidentiary issues. It is no overstatement to say its value to the practitioner will be unique.

The objectives of the publication are manifold. Some of them have been succinctly noted by Dean Mason Ladd:

“For the benefit of the legal profession, as well as to assist law students and teachers to make better use of periodical references, the Association of American Law Schools is making available Selected Writings on the Law of Evidence

*Instructor in Government, Valparaiso University; Research Assistant at the Center for the Study of American Foreign Policy, The University of Chicago.

and Trial, endeavoring to compile in one volume much of the best legal thought on almost every phase of the law of evidence.

“It is believed that the subject of Evidence is one of the most desirable for the collection of selected writings which include comments and notes in addition to leading articles by eminent and distinguished authorities. Unfortunately, the articles, comments and notes selected appear in over fifty law reviews and other professional journals, and it would be rather hopeless to expect any law office, in fact any library except that of a school, state, or large city law library, to have all of these legal writings. Consequently, this great wealth of source material is lost to the profession because of its unavailability. Even in the law school libraries there is usually but one copy of most reviews and a volume quickly becomes worn-out if some leading article, comment, or note is regularly assigned to large classes.’”¹

The selected materials discuss problems important from the standpoint of practice as well as theory. As one reads these materials, convincing evidence is supplied that the legal scholars who have written in this field are not so much in the “ivory tower” as, upon occasion, some of the more practical-minded critics of American legal education would have us believe.

Considering the contents topically and briefly, we see:

Chapter 1 deals with the mastery of the facts of a case. Lawyers are prone to over-emphasize *the law* and sometimes neglect *the facts*. More realization is necessary to the truism: The law seldom decides the issue, the facts do. As contrasted with the ascertainment of the facts, *the law* is relatively easy to discover in the sense that aids to its discovery are so readily available. Consequently, it may well be said that the first chapter is a “must” reading for all lawyers, young and old.

Chapter 2 deals with “writings.” Sections 1 and 2 pertain to the Authentication of Writings and the best evidence rule. Sections 3, 4, and 5 are devoted to the parol evidence rule. This is a highlight of the work. There are many citations and quotations from the legal periodicals, from Wigmore, Greenleaf,

1. Comments on proposal for publication following completion of selections for reprinting, in letter to publisher dated March 21, 1955, reprinted in Prefatory Note, p. v.

Thayer, Williston, Sir Francis Bacon, the United States Supreme Court, and the Supreme Courts of various states. The mysteries of the parol evidence rule are unveiled and laid bare, plain to the eye, for all to see.

Chapter 3 is concerned with the procedure of admitting and excluding evidence. This chapter will prove interesting to Louisiana lawyers and judges, particularly subsection X of Section 3, dealing with admission and exclusion of evidence in trials without a jury.

Chapter 4 presents a complete coverage of privileges. It runs the gamut: the incidence of privilege, family relations, professional relations, other privileged classes (such as psychotherapists, psychiatrists, official documents, "state secrets") the privilege against self-incrimination, and the privilege against evidence illegally obtained. Criminal and civil lawyers and judges will find this chapter a short cut to the law of evidence, insofar as privileges are concerned. Qualification and examination of witnesses, the opinion rule, expert testimony, relevancy, and scientific evidence are covered in Chapters 5, 6, 7, and 8. Chapter 9 deals with the hearsay rule. The material contained therein is interesting, important, practical, and is meat from "Caesar's table." What more can be said? Burden of proof is covered in Chapter 10. The material on rules in administrative proceedings will be found in Chapter 11. The last chapter deals with reforms being advocated in comprehensive Rules. The Model Code of Evidence and Uniform Rules of Evidence are the subjects of Sections 1 and 2.

The busy lawyer would do well to do what this reviewer did: This reviewer read 10 pages a day of this book for 120 days. There was time for reflective consideration and it was time well spent. The Committee on Selected Articles on Evidence of the Association of American Law Schools is to be commended for a job well done.

*Oliver P. Carriere**

*Judge, Civil District Court, Parish of Orleans.