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Book Reviews

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BOOK REVIEWS

AMERICAN-COLOMBIAN PRIVATE INTERNATIONAL LAW
(BILATERAL STUDIES NO. 5). BY PHANOR J. EDER. New
York: Oceana Publications, 1956. Pp. 95. \$3.50.

American-Colombian Private International Law is the fifth monograph in an important series of bilateral studies in private international law written under the auspices of the Parker School of Foreign and Comparative Law. The purpose of the series is to supplement general treatises on conflict of laws by dealing exclusively with the legal relationships of two specific countries and to refer to the treatment which citizens of one receive under the laws of the other country.

Although private international law as a scientific legal discipline is modern in origin, the recognition of principles for determining the rights of persons in private international relations dates back to antiquity. As early as the days of the Greek city-states, it was evident that foreigners and foreign transactions could not be governed by a consideration of the local law alone. In order to maintain useful foreign intercourse account had to be taken of foreign law. In modern times, the rapid movement of people and goods has forced businessmen and lawyers to focus more and more attention on the laws of other nations. Great pressures exist today against obstacles placed in the way of international intercourse by the diversity of local regulations, and much effort is being expended in attempts to unify the rules of private international law. Nevertheless progress in this field is indeed slow, caused in some measure by the fact that the views held on private international law by the two great systems of modern law (*i.e.*, the common law and its territorial theory, and the civil law and its statutory theory) vary in many important respects.

Universal uniformity in the laws on any subject is logical and appeals to the intellect, but what may seem desirable in one nation may be deemed to be undesirable in another, for political, social, economic and legal attitudes are not uniform throughout the world. Thus, rather than striving solely for the ideal, the Parker School of Foreign and Comparative Law in pursuing its bilateral studies in private international law has made a distinct contribution to understanding the realities of international legal problems existing today.

Mr. Eder's book on *American-Colombian Private International Law* is a pleasure to read. Logically planned and crisply written, it achieves the formidable task of compression and judicious selection of material

without lowering the level of its usefulness. In the very limited space of 95 pages, the author has been able to set out with remarkable conciseness and deep insight some of the most fundamental principles of Colombian private international law relating to business associations, domicile, nationality, domestic relations, property questions, procedural matters, etc. The material is conveniently arranged and the notes on the relevant treatises and case law have a high utility value.

One may regret that the author did not see fit to add a more comprehensive comparative analysis of the approaches to the discussed problems by the two different nations. This would have extended the book's appeal to Latin-American readers. Nonetheless, the monograph, within its scope, is a valuable contribution to international legal scholarship, and should be in the hands of lawyers and businessmen dealing with Colombian affairs.

*A. J. Thomas, Jr.**

FROM EVIDENCE TO PROOF. BY MARSHALL HOUTS. Springfield, Illinois: Charles C. Thomas, Publisher, 1956. Pp. xiv, 396. \$7.50.

This book does not deal with the law of evidence, *i.e.* rules concerning admission and exclusion. Instead it is a discussion of methods of establishing facts. The author starts with the theory that while lawyers are well versed in the rules of admissibility (an assumption which in the experience of this reviewer is only partially justified) they know little or nothing about proof or fact-finding. He thinks that they tend to rely entirely upon the client to furnish the facts while they supply the applicable rules of law, and that they are unaware of the necessity of ascertaining the facts. He attributes this deficiency in part to the law professors without courtroom experience who failed to impress upon their students that facts control law suits.

The author has drawn heavily on the knowledge, skills and experience of judges, attorneys, scientists and psychologists who daily face the problems of fact-finding in the forensic arena. Although no citations of cases are given, the writer has analyzed hundreds of cases where the evidence produced in court actually proved nothing. He has worked out some unique methods of rating and evaluating various types of evidence, and he shows how to separate the wheat from the chaff so that evidence may be converted into proof.

The book has thirty-three chapters ranging in length from two

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to thirty-four pages. Within its pages will be found suggestions on how to establish the facts, to find, interpret, correlate and evaluate evidence in such a wide variety of areas as: witness identification, eye witness testimony, document examinations, photographic evidence, automobile accident cases, mental competency in criminal cases and contested will cases, the polygraph, scientific measurements of intoxication, confession of guilt, blood tests, spectrographic analysis, determination of time of death, poison cases, alibis, hit-run accidents and hair. The author has sought to capture the interest of the reader by the use of such catchy chapter headings as: Eyeball Witnesses, How's Your Alibi?, The Facts, Ma'am, The Sheep and the Goats, Emphasize Your Empathy, Accentuate the Positive, 10,000 Words, Figures Do Lie, The Gossamer Thread, Just a Couple o' Beers, Out Damned Spot, and Death in the Afternoon. Comment on each of the chapters is impossible with the compass of this review.

The author demonstrates the weakness of eye witness identification and gives a number of illustrations of its fallibility. He recounts an experiment to show that it is the most unreliable form of evidence and suggests that it has caused more miscarriages of justice than any other method of proof. One of the more interesting chapters deals with psychological aids to interrogation. The most important of these is, of course, the polygraph (often miscalled the lie detector). The author is concerned not only with the validity of the device but also the variety of uses to which it has been put and techniques in its use. There is also a discussion of narcosis-analysis (the use of drugs) as a means of securing the truth and finally hypnosis for the same purpose. One chapter is devoted to investigations and investigative reports. Here emphasis is placed on the importance of good investigation and able, reliable investigators. Illustrations of reports of investigations and recommendations of reliable investigators in certain cities are included. In the chapter on expert witnesses the author shows how to identify the real expert and unfrock the faker or charlatan. The average lawyer has no idea of the difficulty involved in getting an accurate photograph. This is pointed up by discussion of the danger of distortion through the use of light, lenses, filters, diverging lines, lights and darks and by angle and focus. There is an adequate treatment of documentary evidence in which we are given methods of determining the authenticity of documents and the importance of securing a competent document examiner. One entire chapter deals with methods of determining the speed of automobiles. And the appendix contains a discussion of the variable factors in-

volved in determining the stopping distance of motor vehicles from various speeds. It also includes a set of stopping-distance charts.

The volume is a worthwhile addition to any trial lawyer's library, and most lawyers could certainly learn something from a careful study of its contents. The author has had investigative experience with the Federal Bureau of Investigation and has served as a trial lawyer and judge, and as General Counsel to The Court of Last Resort. His close associations with Erle Stanley Gardner and Dr. LeMoyne Snyder have been of invaluable aid in the preparation of the present volume. The book is printed on heavy white enamel paper and approximately one-fourth of the pages are devoted to photographs, charts, graphs and illustrations. It is equipped with a good index.

There are two mechanical features which detract from the attractiveness of the format. The commentary is often extremely disjointed. There are innumerable short paragraphs frequently containing only one or two sentences and seemingly unconnected with what precedes or follows. There is an annoying use of bold-face type to emphasize a word, phrase or sentence so that a page sometimes gives the appearance of a series of black and white characters. The enamel paper tends to cause a glare and is not at all easy on the eyes. These, however, are minor faults and should not deter those for whom the book was intended from availing themselves of the practical aids offered throughout its pages.

Roy R. Ray*

READY FOR THE PLAINTIFF. BY MELVIN M. BELLI. New York: Henry Holt, Publisher, 1956. Pp. x, 338. \$6.50.

Melvin M. Belli's new book is for the layman. Its price is a modest \$6.50 as compared to \$60 for his massive, three-volume work, *Modern Trials*. But while he writes in this work for the layman to show him what is the law, (trial law principally, and personal injury law specifically) there will be much of interest for the lawyer.

Belli is an old hand at writing and lecturing, as well as trying law suits all over the world, and he has long since learned not to "talk down" to the layman, either on juries or as a book reader. For the lawyer who wants to find out what's going on in modern trial practice, here is a sparkling summary, refreshingly written and sprinkled with enjoyable anecdotes of the courtroom.

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The book should age to become a classic, even as Wellman's *The Art of Cross-Examination* (that latter work, still popular, was first published in 1903!). Belli proves the common law is not straight-jacketed, but that given half a chance, it has the spark of life and the vitality to grow, that it can accommodate itself to changed conditions, as he says, "the same law encompasses the power of the waterwheel and the atom."

The layman, even the lawyer, may read the work in relaxation and for sheer enjoyment, as one would a novel, without even appreciating that which was undoubtedly in the back of Belli's mind when he wrote this book, *i.e.*, to provoke both lawyer and layman to a consideration of the practical as well as the legal problems of the modern trial.

The doctors have, through their public relations, taken the layman into their most esoteric gatherings. They have shown the layman pictures of surgical procedures through television and the program "Medic" did much to acquaint the layman with the problems of doctor and patient. The doctor is aware that the layman at the legislature can legislate him out of business and he, the doctor, knows that as a target for some legislation, or in courts as a malpractice defendant, he is not "the most favored person." The lawyer, as a professional man, is somewhat in the same category.

The idea of the old fashioned lawyer being the counsellor in the community, the person to whom everyone turned for advice and the person who was regarded as the keeper of the collective morals of the community, as well as the interpretator of the common law, hardly exists now, either in the big city or in the country.

Mr. Tutt has been replaced by the labor specialist, the tax specialist, and by him who is more businessman than lawyer, personages the layman never sees. The layman regards the lawyer's fees in about the same light as the fees of other professional men, including doctors: they are either too much or they're only paid for that which the constitution guaranteed, or which Mother Nature would have done anyhow.

So the lawyer is in desperate need of good public relations. Melvin M. Belli's new book, *Ready for the Plaintiff*, is a tremendous step towards that public relations, even though he, in part, and with justice, castigates the activities of some national and state bar associations. It would be a wonderful thing to see some of *READY FOR THE PLAINTIFF* on national TV. The layman then would see that the law is not a dry, technical, psuedo-science, but a living, warm embodi-

ment of all that is necessary and good to protect and maintain our society in this, our democratic country.

There are pictures galore in Belli's new book, which is understandable, since he is the first advocate of demonstrative evidence in court in the United States today. The pictures are gory; they are grim. But, so is trauma and tort on the highway, death and mutilation in industry, castastrohic accidents in air, land, by rail and, under the Jones Act, at sea.

This book has been needed for a long, long time. It is recommended not only that every Texas lawyer read it, but that he give it to his clients, that he give or loan it to his friends on the bench and certainly, show it to legislators. Indeed, it is hoped that it might be turned out subsequently in "pocket parts."

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