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Book Review: Criminal Evidence, by Jon R. Waltz

CRIMINAL EVIDENCE By JON R. WALTZ, CHICAGO: Nelson-Hall Company Inc., 1975. Pp. xi, 454, (\$14.00 U.S.)

Jon Waltz is the co-author of that excellent book *The Trial of Jack Ruby*. One of the most attractive qualities of that book is its ability to be both interesting and informative; to describe the legal concepts and trial tactics in an intelligent fashion without being simplistic or pandering to the merely sensational. Waltz's co-author, John Kaplan showed a similar ability in his *Marijuana: The New Prohibition*.

If there is a New Journalism, which adds art to reportage, then Waltz and Kaplan are in the vanguard of the New Legal Journalism. I hope they will not be offended by that description because it is meant as a sincere compliment to writers who can take a complicated subject and make it comprehensible without recourse to simple-minded one-liner rules and, yet, at the same time, avoid jargon.

In the Preface to *Criminal Evidence*, Waltz promises that his book will be written in English rather than legalese or academese. He succeeds very well.

Criminal Evidence is meant to be a book for non-specialists, particularly law enforcement officers. In these days, when adult education and continuing, in-service training seem to be one of the few areas of tertiary education which is showing any signs of growth, this book should be the first of many such efforts.

A law student studying the field of evidence would find this book most useful. Although it is aimed at a United States market, the first seven chapters describe basic rules of evidence in a way which a Canadian law student or teacher would find quite illuminating. One exception might be Waltz's discussion of assertive and non-assertive conduct, but then who could possibly make that area intelligible.

Waltz has surprisingly little on the reform of the law (although the Uniform Rules are shortly mentioned at every appropriate point) and on the United States Constitution. Considering his audience are working policemen, perhaps this is proper. For similar reasons, no doubt, a quarter of the book's contents is taken up with scientific evidence — toxicology, forensic pathology, photographic evidence, microanalysis, neutron activation analysis, fingerprinting, firearms, voiceprints, questioned documents, polygraph and speed testing. I am sure Canadian police would appreciate a book with similar coverage. Waltz's chapter on privileges, with concentration on professional privilege and the legal position of the informer shows an intelligent catering for a specific audience.

Waltz's chapters on the privilege against self-incrimination, searches and confessions are typically clear and are conspicuous for their lack of controversy. They are scholarly in the sense that they show a commendable neutrality. They do not recommend or condemn Inbau interrogation techniques. Neither do they criticize the United States Supreme Court decisions in *Miranda* and similar cases. Waltz advises his readers that it might be inadvisable to put too much faith in the effects of the allegedly remedial *Omnibus Crime Control and Safe Streets Act* of 1968. The overall impres-

sion of these chapters of *Criminal Evidence* is that the most important rules for the average case are really not very different from the New Judges' Rules or the law in Canada before the unfortunate decisions of our Supreme Court in *Wray* and *Hogan*. Waltz fortunately avoids the hermeneutic monologues on the United States Constitution so dear to many of his colleagues in the law teaching profession.

Evidence has always been a difficult subject in the law school curriculum. The subject has too often been taught by some professor with too little practical experience who makes the subject too academic and the students do not really get any feel for the evidentiary problems of real-life trial work. Alternatively, evidence classes have been presented by a practitioner who has years of practical experience but who finds it difficult to impart his knowledge. Instead, he tends to be anecdotal and cynical and students are subjected to the short-cuts of practice without, once again, gaining any feel for the trial process.

Waltz's presentation provides a good middle ground. I like his very economical presentation of the rules which are supplemented by frank statements about the illogicality or impracticality of those rules. He cites the facts and ratios of cases but, more importantly, makes good use of sample examinations and cross-examinations.

Let us hope that Canadian lawyers will be inspired by Waltz's book to write a similar one.

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