

AN OUTLINE OF THE LAW OF EVIDENCE. By Rupert Cross and Nancy Wilkins. [London: Butterworths. 1964. xxxv + 244 pp. £1.7s. 6d.].

STUDY GUIDE TO EVIDENCE. By H. A. P. Picards. [London: Sweet and Maxwell. 1965. viii + 56 pp. 12s. 6d.].

It may be said to be unfair to Cross and Wilkins' book to couple it in a review with Picarda's *Study Guide*. The main and, I think, sufficient justification for such a course lies in the fact that both books are intended primarily as aids to students taking examinations in the law of evidence.

Cross and Wilkins, self-styled as "an aging academic and a very newly fledged barrister", have written their *Outline* mainly for students taking the English bar examinations but also for candidates for police promotion examinations and to serve as an introduction or as a means of revision for university students. The book is in the article and explanation form of Cross and Jones' *Introduction to Criminal Law*.

An *outline*, as may be expected bears a family likeness to Professor Cross' larger *Evidence* and to the evidence chapter (chapter 19) in Cross and Jones' *Introduction to Criminal Law*. But the book is no more condensation of the former or expansion (with civil additions) of the latter. Particularly, the order in which topics are treated varies among the three. *Outline* adopts, however, most of the changes in order of treatment that the second edition of *Evidence* effected as against the first edition and it also carries its equivalent of *Evidence*, second edition's new chapter on Proof of Frequently Recurring Matters. A further difference in arrangement between *Evidence* and *Outline* is that the latter is divided into Parts, one dealing with Proof, one with Admissibility and the third, Miscellaneous. The division between Proof and Admissibility is, I believe, helpful to the student though the "grave doubts" expressed by Professor Cross in the Preface to the second edition of *Evidence* "whether the order of the chapters in a book on evidence is really important" bear on this and must be given great weight. Finally on the relations between Professor Cross' offspring in the field of evidence, notice was given in the Preface of the 1964 edition of *Introduction to Criminal Law* that with the appearance earlier in that year *Outline*, the evidence chapter in the former book would probably be omitted in subsequent editions.

The article and explanation form used in *Outline* is in the black-letter tradition of the law. One or more rules of a fairly high order of generality are set out in an Article (77 in all), which is then followed by an explanation. The explanations place the rule in their context in the law of evidence, give rationale for the rules, and illustrative cases. The explanations make the more instructive reading, though they will probably be the subject of less underlining by students than the rules. If the rules invite memorising, the explanations offer understanding. The three chapters in Part III — Miscellaneous — are not in article and explanation form. The first two of these, on Proof of Frequently Recurring Facts and Particular Criminal Cases, show the application in a helpful way of the earlier-given rules in a number of common situations. The third reproduce and comments upon the Judges Rules of 1964.

Little could be objected to in the substance of the book and the writing is generally highly lucid. Quibbles could perhaps be raised as to some of the classifications suggested, on the basis that the subjects being classified are not always of the same order, e.g., items of judicial evidence as including facts along with testimony, hearsay, documents and things (p. 17) and proof of handwriting by opinion

evidence or by comparison in Article 54, or on the basis that the distinction is not clearly indicated by the expressions used to make them, *e.g.* testimony and documents as against hearsay in the first example above. There are some slightly strange usages, *e.g.* the inadmissibility of "easily manufactured evidence" (Art. 62) and fraud being proved "under exceptions to the hearsay rule" (p. 218). There is little point in dwelling on the order or place of treatment of the topics dealt with, but it is perhaps odd that Judgments as Evidence of the Facts on which they are based is treated under the Admissibility part and distinctly from Opinion, and that admissibility of similar fact evidence is dealt with in a chapter on Disposition. Odd, but at the same time understandable in a work of this nature. The Introduction contains a short statement of the salient features of the procedure in civil and criminal cases which should prove helpful to students studying evidence before having studied procedure.

Page reference to parts of judgments reproduced are not always given (*e.g.* p. 28), and would acknowledgment of the phrase "the risk of non-persuasion" be a mere "frill"? The use of capitals in headings appearing more than once is not always consistent (*e.g.*, the headings to the Introduction and chapters 3 and 15).

Despite reservations about the format, which probably should rather be expressed as reservation about the form of the examinations that the book is primarily intended as a means of preparation for, this book clearly fills a gap in the literature on evidence. It may even have, in subsequent editions, increased scope for students if Cross' *Evidence* continues to grow in size. It could also serve as a handy introduction to the English law of evidence in those jurisdictions, including Singapore and Malaysia, where Stephen's Indian Evidence Ordinance applies but where regard is still widely had to the English law.

Picarda's *Study Guide* is designed to help the student by posing questions and supplying references where he might find the answers as opposed to giving him the rules and some explanation of them. In many ways Picarda's procedure could afford a better understanding of the subject eventually, though knowledge will be gained piece-meal and might be difficult to digest without some prior grounding in basic principles. The question technique might be better for consolidating than for initial learning. Picarda's order of treatment of topics comes close to being the reverse of the order in Cross and Wilkins' book, illustrating again the divergence of viewpoints on this matter. The questions are generally pointed and pertinent. References are to cases, leading texts and periodical literature, and are to some extent overlapping, although reference to Cross' *Evidence* and Nokes' *Introduction to Evidence* seem to be given usually in the alternative. References to Nokes usually precede and also seem to outnumber those to Cross', for reasons perhaps peculiar to the publishers. Cross and Wilkins' book is not referred to at all though published in the preceding year. Picarda's Preface, at which date all available sources are stated to have been taken into account, is dated "St. Valentine's Day, 1965," the month and day of which is not known to this reviewer.