BOOK NOTE

Evidence, Proof and Probability by Sir Richard Eggleston (2nd Ed., Weidenfeld and Nicolson, London, 1983) pp. i-xiv, 1-274. Price $29.95. ISBN 0 297 78262 2 (hardback); ISBN 0 297 78263 0 (soft cover).

Sir Richard Eggleston is an atypical lawyer: one who is equally at home with a difficult charge to a jury and with the complex formulae that form part of the sciences of mathematics and economics. As an eminent barrister, a distinguished federal judge and, in more recent times, an academic lawyer, he has demonstrated that mathematical theory can be applied to advantage to the laws of evidence.

In 1978 Sir Richard published the first edition of *Evidence, Proof and Probability*. The work broke new ground and it was well received. It succeeded in explaining difficult concepts to both lawyers and laymen in terms which they could understand. Many no doubt did, as Sir Richard expected. They stopped reading when they came to the first equation. But many read on and found that the explanations which were provided made the mathematics comprehensible to them. At least one member of Australia's highest judicial tribunal read on, and was influenced by what he read.[1]

The laws of evidence were expounded with disarming simplicity and the purpose for which each was designed was explained. The way in which probability theory could assist in achieving these purposes was then demonstrated by use of examples drawn from the decided cases. Well known decisions such as *Ratten v. The Queen*[2], *Myers v. D.P.P.*[3], and *Holloway v. McFeeters*[4] come to be seen in a new light. The reader was brought gently to an understanding that the fact finding process could be aided by a scientific approach. This approach was not held out as a panacea for the infirmities of our present system. There was no attempt to suggest that the judge or jury could be replaced by a machine. The message was that their job could be done better if they came to grips with relevant mathematical concepts.

This remains the thrust of the present edition. The message is advanced with renewed fervour. There has been some rewriting to take account of the more recent literature and case law. The author has gone into greater depth in dealing with mathematical theories. One is struck by the increase in the number of formulae and the diagrams that have been added to the text. The reader should not be daunted by this development because the accompanying text makes clear even the most complex set of letters and figures. The quality of exposition has been maintained.

The chapter headings read like a text on evidence. The Course of a Trial; Probability, Relevance and Admissibility; Similar Fact Evidence; The Burden of Proof; The Criminal Standard of Proof; The Civil Standard of Proof and so on. The arrangement is useful because it allows the reader with a particular evidentiary problem to find examples in the place where he expects to find them. The simple form of citation with which other branches of the humanities are familiar is used to good effect and the footnotes are collected at the end of the work.

Evidence, Proof and Probability is an outstanding contribution to legal literature. Having read it, one is left regretting that Australia does not have a system similar to that in England whereby retired judges may be recalled to the Bench from time to time as the caseload demands.

R. R. S. TRACEY*

[1] *Perry v. R* (1982) 44 A.L.R. 449, 460; *T.N.T. Management v. Brooks* (1979) 23 A.L.R. 345, 352-6 *per* Murphy J.
[2] [1972] A.C. 378.
[3] [1965] A.C. 1001.
[4] (1956) 94 C.L.R. 470.
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