

## University of Miami Law Review

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Volume 7 | Number 2

Article 28

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2-1-1953

### HANDBOOK OF THE LAW OF EVIDENCE. By John Evarts Tracy. New York: Prentice-Hall, Inc., 1952.

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#### Recommended Citation

Edward L. Forer, *HANDBOOK OF THE LAW OF EVIDENCE*. By John Evarts Tracy. New York: Prentice-Hall, Inc., 1952., 7 U. Miami L. Rev. 285 (1953)

Available at: <https://repository.law.miami.edu/umlr/vol7/iss2/28>

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The section concludes with Dr. Wolbert's summary with respect to the pipe line transportation wherein he points out that the:

1. Industrial pattern developed was conducive to the maintenance of free competition.
2. Regulatory authority of the Interstate Commerce Commission is sufficient to curb abuse on the part of pipe line companies.
3. Divorcement of pipe lines *per se* would not contribute to a program designed to prevent abusive restraint of trade and undue use of leverage made possible by large aggregations of power and on the contrary it would render a disservice to many of the independent operators presently engaged in the industry.

Inconsistencies of Antitrust Law enforcement are decried and cogently discussed by Dr. Wolbert with particular reference to the divergent attitudes and philosophies of "soft Competition" and "hard Competition." It is pointed out that any program of industrial regulation should be consistent and in accord with the actualities of industrial operations and should be characterized by a pragmatic approach rather than an esoteric one.

Needless to say, this judicious analysis will be of keen interest to the oil and transportation industry. However, it seems to this reviewer that this case study of an industry serves another purpose as it is an excellent example of the painstaking process requiring expert knowledge not only in law, but in many other fields which must be followed in order to satisfactorily solve the complex problems of our day. There is an increasing recognition of the fact that the lawyer today, and more so in the future, will be required to have an adequate basic perception and understanding of all economic, social and technical factors if he is to guide his client in a suitable manner and in the additional task of helping to formulate legislation which will not ruin our economy. The study is well documented and the extensive footnotes contain a wealth of valuable information regarding the technical aspects of the industry.

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HANDBOOK OF THE LAW OF EVIDENCE. By John Evarts Tracy. New York: Prentice-Hall, Inc., 1952. Pp. 382. \$5.35.

Unlike many books published today, this one is aptly described by its title. As Mr. Tracy writes in his introduction, the book makes no pretense of being an exhaustive treatise on the law of evidence. Quite to the contrary, its function is twofold; first, to provide a young lawyer, who can not afford and indeed has no real need for Dean Wigmore's great treatise, with some work on evidence for his personal library; second, to provide the attorney just before or during the course of a trial a quick answer to his evidence

problems. In short, it strives to be and succeeds in being a handbook rather than a textbook.

Mr. Tracy's work differs from the ordinary legal treatise in that it does not stop with an abstract statement of principles but instead goes into some of the perplexing practical problems facing the attorney in trial work, and does so in a clear and understandable way. A simple illustration of this can be found in the first chapter entitled "How to Use Judicial Admissions in Trials," in which the author makes the distinction between a judicial admission of fact and a stipulation that a certain witness, if called, would so testify. Instead of making a distinction of mere words, Mr. Tracy sets up the situation, places the all-important questions and answers into the mouths of the lawyers in his small drama and then proceeds to give the reader the legal significance of each type of stipulation. It is a simple method of teaching legal principles which remains in the reader's mind long after the usual unrelated dry statement of law has passed into the limbo of the dimly remembered or totally forgotten fact.

It is noticeable that Mr. Tracy makes no attempt to avoid or sidestep the many inconsistencies and difficult problems of application of some of the archaic rules of evidence. Thus, for example, in his chapter on the admissibility of evidence he raises the question of maintenance of the separation of function between jury and judge in a trial, where it is impossible for the judge to rule on a question of law unless a question of fact is first resolved. Again Mr. Tracy resorts to his little courtroom drama, points out the court's dilemma, the resolution of the problem by various courts and the fact that none of these is a really satisfactory solution, and then goes into the so-called "coincidence cases" in which the question of fact which must be settled before a preliminary ruling can be made is also determinative of the ultimate legal issue.

Well balanced from the aspect of the weight placed on the various main and sub-classifications of the law of evidence, the handbook does not make the mistake of trying to delineate each of the myriad and elusive exceptions to the hearsay rule as a rule unto itself. Rather, accepting the textwriters' division of the exceptions into fourteen main heads, Mr. Tracy discusses each briefly and thus confines his chapter on hearsay to a reasonable length as compared with the usual case book which devotes from a third to a half of its contents to that patched and pitiful conglomeration which we lawyers so glibly characterize as a rule of law. Included also are chapters on the burden of proof, documentary evidence, the parol evidence rule, circumstantial evidence, a superlative chapter on witnesses and many others. In addition the user is blessed with a well thought out descriptive word index.

From the foregoing it must be obvious that this reviewer wholeheartedly recommends Mr. Tracy's handbook as having more than adequately accomplished the purposes for which it was designed.

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