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Books in Brief

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BOOKS IN BRIEF

CALIFORNIA EVIDENTIARY FOUNDATIONS. By Edward J. Imwinkelried, Richard C. Wydick and James E. Hogan. Charlottesville, Virginia: The Michie Company, 1988. Pp. 501. \$55.00.

*Reviewed by Janeen Kerper**

For California practitioners, *California Evidentiary Foundations* is a welcome expansion of an earlier work which, as a teacher of trial practice, I have frequently recommended to law students and young trial lawyers.

Evidentiary Foundations by Edward J. Imwinkelried, was first published by the Michie Company in 1980. The earlier work contains an excellent general discussion of both the legal and practical rules pertaining to laying foundations and analyzes the differences in presentation between direct and cross-examinations. The reader is then given a step by step explanation of the doctrines and the elements of numerous specific foundations, each followed by a sample foundation consisting of a series of questions and answers drawn from true-to-life trial situations.

The sample foundations are really the heart of the book and most useful to the young practitioner who, although familiar with evidentiary doctrine, may still be grappling with such basic issues as what to ask and how to formulate the question in order to survive an objection in a court of law. The detailed sample foundations provide the young practitioner with a working format for drafting an intelligent series of foundational questions in a wide variety of settings. The foundations illustrated range from the common-place; such as business records and authentication of diagrams and photographs, to the less common foundations; such as the voir dire of a child witness, proof that a witness has failed a polygraph examination, and authentications of X-rays.

Although very thorough in the foundations covered, one of the weaknesses of the earlier work was that the list of foundations was not exhaustive. Most notable of the omissions were those relating to constitutional privileges and the exclusionary rules. This defect

* Professor of Law and Director of Trial Advocacy, California Western School of Law.

is happily remedied in the new work which for the benefit of California practitioners contains an exhaustive explanation of illustrations of U.S. Constitutional and California rules pertaining to search and seizure, confessions and admissions, and pretrial and in-court identifications.

While *Evidentiary Foundations* was written for a general audience, *California Evidentiary Foundations* is specifically tailored for the California trial lawyer. Thus, each section contains citations to and discussions of applicable California Evidence Code sections and pertinent California case authority, as well as references to secondary authority and texts written particularly for California attorneys.

The discussions are of sufficient depth to be of assistance to even the sophisticated practitioner, and the new work preserves and expands on the great strength of its predecessor with well-drafted examples, giving both the experienced and inexperienced trial lawyer excellent models on how to introduce or exclude critical evidence. The work should be considered a "must" for the reference desk of every California trial lawyer.

CIVIL LIABILITY IN CRIMINAL JUSTICE. By H.E. Barrineau, III.
Cincinnati, Ohio: Anderson Publishing Company, 1987. Pp. 97.
No price given.

Civil Liability in Criminal Justice discusses the civil liability of criminal justice practitioners. Local government entities can be held civilly liable for the conduct of police and jail personnel. Sheriffs, police chiefs and mid-level supervisors can also be held personally liable for the misconduct of their subordinates. The basis for such liability is promulgated in 42 United States Code, section 1983. The author details current causes of action and provides a summary of available defenses.

The author concludes by suggesting some remedial principles which criminal justice practitioners should follow to protect themselves against section 1983 liability. In short, the author tells the criminal justice system to "professionalize [itself] in the truest sense." The book is written in clear, simple English, and in its brevity, covers each point sufficiently and with adequate authority.

DWELLING ON THE THRESHOLD: CRITICAL ESSAYS ON MODERN LEGAL THOUGHT. By Allan C. Hutchinson. Agincourt, Ontario, Canada: The Carswell Company Limited, 1988. Pp. 352.
\$49.00.

The author has revised several previously published essays which, along with new material, provide an opportunity to view

traditional jurisprudential questions in a new, creative fashion. The reader is immediately introduced to the author's unusual style in chapter one, which begins with an illustrative dialogue between strangers. The dialogue provides the vehicle which the author uses to frame important jurisprudential questions in a way that piques the reader's curiosity. This inventive style continues throughout the book in chapters ranging from a mock movie script that doubles as a book review, to a fictional court opinion which the author uses to apply jurisprudential doctrine to everyday law. Underlying this clever presentation is an unfettered, lucid analysis of legal doctrine. In short, the author successfully fastens the narrow gap between traditional methodologies and the modern politics of law.

FOREIGN PLAINTIFFS IN PRODUCTS LIABILITY ACTIONS: THE DEFENSE OF FORUM NON CONVENIENS, by Warren Freedman. Westport, Connecticut: Quorum Books, 1988. Pp. 162. \$45.00.

Forum non conveniens is the power of a court under certain circumstances to decline to exercise jurisdiction. It is a discretionary power that courts may utilize—giving deference to the interests of the parties to the litigation and to the competing demands of justice. The doctrine is said to reflect the need for the judicial system to protect its courts and defendants against abuse or injustice by plaintiffs searching for the most advantageous forum in which to litigate their dispute.

This informative study provides a thorough examination of relevant case law involving the doctrine of forum non conveniens. Freedman begins by reviewing the historical development of the doctrine. Next, he takes the reader through the doctrine's use with appropriate case law in a variety of situations. Finally, the Bhopal, India catastrophe is discussed in light of the doctrine.

The book is particularly useful in today's multinational manufacturing environment. American corporations are increasingly facing product liability litigation instituted by foreign plaintiffs. In order to greatly reduce potential exposure to liability, corporations are transferring court proceedings to other jurisdictions, often outside the United States, by successfully petitioning the courts under the doctrine of forum non conveniens.

Roe v. Wade: THE UNTOLD STORY OF THE LANDMARK SUPREME COURT DECISION THAT MADE ABORTION LEGAL. By Marian Faux. New York, New York: MacMilan Publishing Co., 1988. Pp. 370. \$22.50.

The author of this book examines all the critical players in the *Roe v. Wade* decision, including the plaintiff, Norma McCorvey (a.k.a. Jane Roe), and her attorneys, Linda Coffee and Sarah Weddington. The book begins with how these attorneys got involved in the abortion issue, and how they went about “finding” a plaintiff to challenge the Texas abortion law.

The author examines the history of restrictive abortion laws and notes the availability of abortion prior to the mid-nineteenth century. The author then looks at the eventual enactment of many abortion laws.

In addition to tracing the players’ steps in the *Roe* case, the author examines the political and religious forces, both pro-choice and anti-abortion, in the country in the years prior to the *Roe* decision.

The author discusses the support that the *Roe* attorneys received; and Sarah Weddington’s summer in 1971 when she wrote the brief. A highlight of the book was when the author described Ms. Weddington’s arguments in front of the Supreme Court of the United States—her second court appearance ever (her first was when she argued *Roe v. Wade* in front of a three-judge court for the Fifth Circuit).

Also interesting is the author’s treatment of the deliberations of the seven justices, and the Court’s treatment of the issue. The case was reargued with a full Court after Nixon appointed Justices Lewis Powell and William Rehnquist to the Supreme Court.

The author concludes with the reaction to the decision by both pro-choice groups, and anti-abortion groups. She also discusses some post-*Roe* Court decisions.

WOMEN, CRIME, AND CRIMINAL JUSTICE. By Ralph Weisheit and Sue Mahan. Cincinnati, Ohio: Anderson Publishing Co., 1988. Pp. 190. No price given.

This book addresses three main issues: women as offenders, women as victims, and women as criminal justice employees. The authors quote several publications on female criminals, and interpret data from studies conducted on local, national and worldwide levels in an attempt to describe the modern female criminal and female crime. Next, the authors discuss laws which most affect women, and explain how the administration of justice is different with women as opposed to men. The book addresses the life of

women in prison and how they are treated in mixed prisons as well as prisons exclusively for women. Next, the book discusses four crimes against women: incest, rape, battery, and harassment. The authors discuss the victims, the offenders, and how society creates the situation of the crime. Last, the book discusses occupations for women in criminal justice, including: lawyer, judge, law professor, police officer, prison guard and prison administrator. Throughout the book, the authors emphasize the need to further study society's influence on the different issues discussed.

