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BOOK REVIEW

LOUISIANA EVIDENCE LAW. By George W. Pugh. The Bobbs-Merrill Company, Inc., New York, New York, 1974.

Joe W. Sanders*

As early as 1824, Edward Livingston proposed a code of evidence for Louisiana. His proposal never became a reality. In the early 1960's, the Louisiana State Law Institute began work on a code of evidence. Because of budgetary limitations and other factors, this project was later suspended. Thus, two admirable efforts to systematize the law of evidence failed.

Louisiana evidence law is presently scattered in the constitutions, codes, statutes, and court decisions. It has been aptly described as "an area of law marked by confusion rather than consistency, marked by controversy, and shrouded by a superficial aura of confidence. . . ."¹

Louisiana Evidence Law is a praiseworthy compendium of evidence law, drawn from diverse sources — constitutions, statutes, codes, law review writings, and court decisions. It is divided into eight chapters: Source and Applicability of Louisiana Evidence Rules; Relevancy; Witnesses; Privileged Communications; Constitutional Considerations; The Hearsay Rule; Evidentiary Considerations Affecting Appeal; and Miscellaneous. Helpful aids to the researcher include an analytical table of contents, a table of cases, and a well-prepared index. The material has been made readily accessible.

The format of the publication is similar to that developed in Malone and Guerry's *Studies in Louisiana Torts Law* (1970), a work that has proved highly useful to the bench and bar of Louisiana.

The 700-page volume is comprehensive. It, of course, includes the three basic exclusionary rules: relevance, first hand knowledge, and parol. But it also treats the subject matter of other areas normally covered in a text book on evidence, including the constitutional considerations so prominent in criminal litigation during recent years.

Probably no other evidentiary rule has given the bench and bar more difficulty than the so-called "hearsay rule." Hearsay is a perennial problem at all judicial levels. Hearsay has been defined as an out-of-court statement offered in evidence to prove the truth of its

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1. Papale, *Editorial: Reflections on the Proposed Louisiana Code of Evidence*, 12 LOYOLA L. REV. 51, 52 (1965-66).

content.² As a general rule, hearsay is inadmissible, but there are numerous exceptions to the rule.

Two legal questions recur in the cases: (1) Is a given out-of-court statement hearsay? (2) Does a given hearsay statement fall within any of the exceptions to the hearsay rule? These inquiries often lead into the dark corners of evidence law. Chapter 6 identifies the hearsay problems and delineates the methods of analysis.

Chapter 5, dealing with constitutional considerations affecting admissibility of evidence, will be especially helpful to judges, district attorneys, and defense counsel in criminal cases. It explores search and seizure, self-incrimination, confessions, confrontation, and identification procedures. The leading decisions of the United States Supreme Court, as well as those of the Supreme Court of Louisiana, are cited and analyzed.

Professor Pugh is a legal scholar of great ability. For more than twenty years, he has taught the course in evidence at the Louisiana State University Law School. Much of his classroom analysis is contained in the present volume. In the preface, he writes:

A study of this volume, it is hoped, will convince the reader that Louisiana evidence law is sorely in need of comprehensive revision and reform. Our evidentiary rules have been haphazard, even mysterious, in origin, uneven in application. Instead of detailed, complex, often obscure rules, an orderly statement of simplified principles is needed. Louisiana, it is submitted, should give very serious thought to adopting a code of evidence along lines similar to the proposed Federal Rules of Evidence; it is hoped that by collecting and organizing much of the applicable legislation and commentary, this book will encourage and further that effort.

I believe that the hope of the author will be fulfilled and that this book will serve as a stimulus to systematize evidence in Louisiana. But it will do more. It will serve as a reference book and research tool in the Louisiana law of evidence. As such, it will be an invaluable aid to judges, district attorneys, lawyers, law clerks, and law students.

2. *State v. Gonzales*, 258 La. 103, 107, 245 So. 2d 372, 373 (1971); G. PUGH, *LOUISIANA EVIDENCE LAW* 388 (1974).

