

MACRAE ON EVIDENCE

Peter Y. Atkinson, Carswell, Toronto, 1976, 666 pp.

A Carswell Student Edition, \$22.50

B.G. BROWNING*

The Carswell Company is releasing a series of titles of standard texts in paperback student editions, each, apart from binding and some rather minor other differences, comparable to the original editions but at significantly lower prices. For that factor alone this student reviewer gives thanks! Only insofar as the nature of the cover and binding differs from the original does production economy show, at least in this and the three other titles of this series which I have used. One of these others, Waters', *Law of Trusts in Canada*, I have used fairly extensively since November, 1976 but despite its size (1070 pages) there is no sign of binding wear.

MacRae On Evidence was first published in 1928 as volume IV of the Canadian Encyclopedic Digest (Ontario) and it has appeared in various guises since then as volume VII of C.E.D. (2nd.), as a separate volume, and latterly as volume XI C.E.D. (3rd). Now we see it in its latest form under the aegis of Mr. Atkinson whose modest acceptance of the edition's shortcomings contained in the preface follows a statement which I believe merits quotation:

I have attempted to retain as much as possible of the original text but this has been difficult due to the substantial developments which have occurred in the law of evidence since this book was last edited. As a result, a number of chapters and portions of chapters have been rewritten. I have also attempted to alter the format of the book in order to make its contents more readily accessible. As a result, many new subheadings have been added as has a comprehensive index which was lacking in the earlier work.

As I attempted to develop a peg upon which to hang this review the thought occurred to me that I could analogize a professor's role to that of a guide laying a cord through the forest of a new subject so that students could find their way in — and out. A good text on the subject then allows those students to paint over the cord, thus laying their own and more permanent paths. *MacRae* is not such a text. With respect to Mr. Atkinson what he provides is a catalogue of all the trees of the forest

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together with a few large warning signs. Navigation through the forest then becomes a matter of 'go to the large oak, turn right and walk toward the ash and you will find the exit behind the stand of white birch 15' north of the ash.' In case we are tempted to stray from those paths the warning signs serve the purpose of the cautions on early navigators' charts "here be dragons". This may be a perfectly valid way of finding one's way out of the thicket but it is a rather intimidating prospect in the initial stages.

This edition, like its predecessors, is a comprehensive and 'encyclopedic' treatment of the Law of Evidence. Such a treatment is never totally satisfying to the reader; it is not meant to be a coherent progression but a source of assistance. The real test of a book such as this is the question "does it help?" and, to this, I would answer "yes". In the three weeks or so that I had it consciously under review I tried to treat it as a reference source and not as a book which I was reviewing. Whenever I turned to it I was satisfied; descriptions are generally crisp and clear and the structure of the work coupled with an effective title classification system, a comprehensive table of cases and, for the first time in *MacRae*, an index make using the book a relatively simple matter. Very recent cases are considered and the totality of this work on Evidence is impressive.

On the negative side, it can, I think, be said that it is *too* comprehensive and much could be deleted without threatening either the student or the practitioner with voids in their knowledge. I cannot, for example, seriously imagine myself in the position of telling any judge that:

On a charge of supplying liquor to Indians evidence may be given that after the day of the alleged offence all the Indians on the Reserve were drunk.

On second thoughts, perhaps that should remain if only for its evocative power.

This book is now on sale at a student price of \$22.50. For students who frequently study away from their law library it would be a useful acquisition. Those whose habits are more library centred should not find it difficult to exist, as they have to this point, without a personal copy.