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Examination of Witnesses in Criminal Cases

Hannah Steeves

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Criminal Law Reform: A Reflexive Analysis,” and Alana Klein’s “Feminism and the Criminalisation of HIV Non-disclosure,” both of which focus on the HIV non-disclosure debate in the context of Canadian law, advocacy, policy, and philosophical discussion.

Another contribution, Aslak Syse’s “Criminal Law and Contagious Diseases – A Nordic Perspective,” reflects on the experience of chairing a Norwegian Law Commission charged with considering the effectiveness of penal sanctions in combatting HIV infections. Ceri Evans, senior sexual health advisor, has another refreshing and useful contribution in “The Impact of Criminalising Disease Transmission on the Healthcare Profession-Patient Relationship,” in which she brings practical experience to the discussion. Leslie E Wolf provides an excellent and readable overview in her “Criminal HIV Exposure Statutes and Public Health in the United States,” and Karl Laird considers related British case law in his “Criminalizing Contagion – Questioning the Paradigm.” Also noteworthy, Michael Hanne offers a wide-ranging consideration of the role and effect of the language in “Crime and Disease: Contagion by Metaphor.”

While the primary focus of this volume is on legal, social, and public health concerns arising out of our response to HIV, there are a few notable considerations of different historical and rhetorical matters. I was particularly struck by Kerri A Inglis’s “Leprosy and the Law: the ‘Criminalization’ of Hansen’s Disease in Hawai’i, 1865-1969.” Her historical account invites the reader to consider that the legal regime created to respond to a particular set of health concerns can seem—with the benefit of hindsight—to be more informed by racial concerns of the day and to have imposed a cure far worse than the disease.

Criminalizing Contagion is a wide-ranging collection of essays that considers legal and ethical issues in a variety of jurisdictional, historical, sociological, rhetorical, and experiential analytical frameworks. The volume would be an excellent addition to a university library. It would also assist any practitioner or policy-maker involved in consideration of issues relating to and arising out of the non-disclosure of HIV or, indeed, any of the many intersections between law and contagion.

REVIEWED BY
CHARLES DAVIDSON,
Lawyer
Guelph, ON

***Examination of Witnesses in Criminal Cases.* By Earl J Levy. 7th ed. Toronto: Carswell, 2016. cxxvi, 782 p. Includes bibliographic references and index. ISBN 978-0-7798-7245-9 (hardcover) \$220.00.**

The newest edition of *Examination of Witnesses in Criminal Cases* maintains its status as a key text on the topic. Author Earl J Levy, a national leader in the area of criminal law, has worked with the Criminal Lawyers’ Association, taught criminal law courses at various Canadian law schools, and has over 50 years experience as a litigator. The book, now

in its seventh edition, contains necessary updates, and improvements have been made to both format and content while maintaining a similar, logical overview as in previous editions.

Levy, over the course of 782 pages, offers his readers practical advice on dealing with issues that present themselves to counsel during examination, cross-examination, and re-examination. The content is covered in a systemic manner, containing both a thorough analysis of the law and suggestions for practical application of techniques. The author provides sample dialogue(s), specific legislation, and complex case studies broken down to display the varying perspectives of all those involved in the process of examination at all levels of the Canadian court system. The book covers not only techniques for interviewing and questioning, but also the types of witnesses that may be examined, the varying personalities witnesses may present, and the different approaches and issues that may be associated with each.

A few minor changes have been made to the organization and formatting. The previously visually overwhelming presentation of chapters, sections, and subsections has been reduced to single line headers that correspond better with the simplified table of contents. Several chapters have been rearranged, renamed, or have had content divided between other chapters. Of note, the categories of witnesses have been combined with the chapter on cross-examination techniques, and the chapter covering courtroom manner has centred on how to connect with a jury. Several other chapters have been rearranged, but the continued inclusion of cartoons provides the reader with the lighter side of what can sometimes be a heavy subject.

The most significant change to Levy’s text is the addition of a new chapter, *The Age of Information and Defence Implication*. Although the chapter includes discussions of case law, how technology has forced significant changes to specific legislation, and how electronic evidence may potentially be accessed and used, there are notable gaps. For example, the analysis focusses primarily on electronic devices such as computers and social media solely as Facebook; all other forms of social media are excluded. There are also no samples of dialogue from the examination of witnesses. However, there is in-depth coverage of search warrants relating to electronic devices, and attention is called to the fact that this area of law will continue to develop at an accelerated pace.

Both experienced practitioners and first-year law students would be well served by consulting Levy’s work. The language and organization, combined with the depth of content, makes it accessible to a wide-ranging audience. Levy simplifies the law through the avoidance of legalese, making the text accessible even to those without a legal education. In the introduction, Levy cites one of his major accomplishments through an example of a fraud trial that occurred in Ontario: “...the trial judge, after acquitting the unrepresented accused complimented him on his questioning skills and asked him how that came about. The accused responded that his ability to defend himself was a result of reading this book” (p cxxvi). Evidently, this text is not just for those who are or aspire

to be a legal professional, but for those with a general (or significant) interest in the subject.

Overall, *Examination of Witnesses in Criminal Cases* has established itself as a key text in the areas of criminal law, criminal procedure, and evidence. This text is valuable to a wide-ranging audience and will, no doubt, remain a key work on law library shelves across Canada.

REVIEWED BY
HANNAH STEEVES

Reference & Instruction Librarian
Sir James Dunn Law Library
Schulich School of Law

***The Fall of the Priests and the Rise of the Lawyers.* By Philip Wood. Oxford: Hart Publishing, 2016. xi, 272 p. Includes maps and photographs. ISBN 978-1509905546 (hardcover) \$31.25.**

The Fall of the Priests and the Rise of the Lawyers is the latest book by Philip R Wood. Unlike many of his other 18 works that focus on international and comparative financial law, this volume is more difficult to categorize. It is at once a work of history, philosophy, religion, and law. As the title suggests, Wood chronicles what he sees as the decline of religious institutions as societal leaders in moral and legal spheres and their replacement by legal codes and experts.

Wood has had a distinguished career. He is a renowned expert in international and comparative financial law. He is special global counsel at Allen & Overy in London, a visiting professor in international financial law at the University of Oxford, the Yorke distinguished visiting fellow at the University of Cambridge, and a visiting professor at Queen Mary College, University of London. While *The Fall of the Priests and the Rise of the Lawyers* is a departure from Wood's subject expertise, he confesses in the preface that the idea for this book had been percolating in his mind for over a decade.

The book unfolds over the course of 19 well-organized chapters. Wood uses his first chapter, "The Questions," to reveal his thesis: "The law is the one universal secular religion which practically everybody believes in. The question is whether the law can step into the gap left by fading religions and whether the law can carry forward the flame" (p 3). Wood continues his introduction in chapter 2, "Purpose of Morality and Law," and chapter 3, "Past and Future." In these introductory chapters, the structure of the book is laid out in detail.

After introducing his thesis, Wood moves on to provide an historical overview of both religion and law. In chapters 4 through 10, Wood moves from a general historical overview to specific subsets of religion and law. These middle chapters act as a second introduction, necessary for the following section of the work, which focusses on Wood's arguments and proving his thesis.

Chapters 10 to 14 concentrate on Wood's analysis and touch on topics such as secularization, the decline of religions, and the rise of law. In the next three chapters, Wood analyzes

other possibilities, such as the possible rule of economists rather than lawyers (chapter 15), problems with the law (chapter 16), and scientific progress (chapter 17). The book concludes with chapter 18, where the author sets out a seven-point proposal for the future survival and happiness of the human race. Finally, the closing chapter, "A Billion Years from Now," acts as a short epilogue, wherein Wood asks what is in store for the human race.

The Fall of the Priests and the Rise of the Lawyers is well structured. The chapters flow nicely throughout the work. Wood describes both of his subjects thoroughly in the first half of the book, in order to have readers understand the analysis set forth in the second half. He also segues deftly between chapters and subjects. For example, in chapter 11 Wood refers to ideas presented in both chapters 4 and 8 in order to provide further analysis. These types of references are prevalent throughout the book.

The book also includes many full-colour visual aids to help illustrate Wood's ideas. For example, in chapter 4, "What is Religion?", Wood includes a map of the world with colour-coding to indicate the predominant religious affiliation of each country (p 32). The map is used to illustrate the international nature of the world's most dominant religions. Another highlight is the many references to historic and contemporary philosophers, religious leaders, scientists, and legal experts, including Newton, Plato, John Locke, Tom Bingham, and Martin Luther.

Wood peppers his narrative with morsels from legal experts and renowned philosophers, and he includes illuminating tables and beautiful reproductions of artwork. However, two elements that he neglects to include are an index and bibliography. Without these tools, it is very difficult to rediscover points of interest after reading. Furthermore, many of Wood's citations are incomplete, making it difficult for the reader to find the cited resources. For example, on page 181, Wood refers to statistics in *The Statesman's Yearbook* from 2015 and *The Economist* from 16 January 2003 to prove low religious observance, but neglects to give full citations. Overall, these negative points do not take away from the content or enjoyment of the book, but they do deter readers from using it as a research tool or for further study.

The book is well organized and clearly written. Wood is thorough in describing each of his topics, yet also succinct. At 272 pages, the work manages to provide an overview for the development, rise, and fall of the major world religions, as well as the development and rise of law and its many areas. *The Fall of the Priests and the Rise of the Lawyers* would be of interest to anyone with a curiosity for knowledge of the history of either law or religion; a lack of legal or religious expertise is not a barrier to enjoyment.

REVIEWED BY
ALLISON HARRISON

Reference Librarian
Library, Supreme Court of Canada

The Law of the Written Word: A Legal Guide for Writers in