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## Cases and Materials on Evidence

Charles W. Joiner

*Dean Emeritus, Florida State University College of Law*

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## BOOK REVIEW

CASES AND MATERIALS ON EVIDENCE. By Mason Ladd<sup>1</sup> and Ronald L. Carlson.<sup>2</sup> Chicago, Ill.: Callaghan & Co. 1972. Pp. xii, 1375. \$18.50.

*Reviewed by Charles W. Joiner<sup>3</sup>*

Efforts have been made in recent years to simplify and codify the law of evidence. The American Law Institute's Model Code of Evidence was a forerunner of the Uniform Rules of Evidence. The most recent codification, of course, is the effort of the Advisory Committee on Federal Rules of Evidence, which culminated in the newly adopted Federal Rules.

Mason Ladd and Ronald Carlson have produced a magnificent volume of teaching and reference materials that touches base with the recent efforts to simplify and codify the law of evidence. Additionally, the text develops in depth many of the problems the Federal Rules of Evidence of necessity ignore, or for which the Rules offer only general guides.

The book is 1375 pages in length; it contains 1343 pages of study materials, a comprehensive and useful index and a cross reference to almost all of the Evidence Rules, as proposed by the Advisory Committee. Principal cases number just under 200. The book contains more pages of text material than pages of cases.

The materials are thoughtfully organized and contain an introductory text for each chapter and, in most instances, a pointed and critical commentary adequately supported by authority on the many issues covered. All in all, it provides the litigating lawyer and the judge a valuable research tool. It can also be effectively used as a teaching book in the field of evidence. The teacher, however, will have to make careful selection of material to avoid swamping the student with more than he can handle, or convince the curriculum committee that more than 45 classroom hours are needed to teach the subject.

The coverage of the book is more comprehensive than is commonly seen in an evidence course. It embraces what is sometimes taught in a criminal procedure course or a special constitutional evidence course. Almost 200 pages are devoted to constitutional principles of exclusion, certainly one of the most currently litigated areas of the law. The treatment is thorough and includes major excerpts from leading cases.

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1. Dean Emeritus, College of Law, University of Iowa and Florida State University.

2. Associate Dean and Professor, Washington University School of Law.

3. Judge, United States District Court for the Eastern District of Michigan; former Dean and Professor, Wayne State University Law School. The author was a member of the Advisory Committee on Rules of Evidence.

Almost every case is followed by an extensive note putting that case in context with subsequently developed law. A study of these pages alone would provide an insight into the ways the judicial process is used to protect the individual.

The rest of the book is organized in a traditional scheme. It includes judicial notice, examination of witnesses, competency of witnesses, privileges, relevancy, opinion and scientific evidence, the hearsay rule, authentication, identification and writings, responsibility for proof, and special proceedings. A lawyer or judge can quickly find help from this arrangement. A law teacher can select from any of the rich fare for his students.

In general the book is a law book. It utilizes statutes, rules, cases, and scholarly discussions of all three. It deals with legal problems of exclusion and admissibility of evidence. On occasion it also embraces other materials, such as the place of psychiatry in ascertaining truth in trials, aided by a discussion of the *Hiss* case.<sup>4</sup> The authors do not neglect history as a part of evidence. The introductory note to each of the chapters relates the problems embraced in that chapter to the panorama of evidence development. The notes are not superficial but provide in many instances insights into the subject not usually found in teaching books.

On the whole, however, Ladd and Carlson have kept their eye on the problems current scholars, lawyers, and judges believe to be important in evidence. With the exception of the extensive coverage of constitutional evidence, a subject not covered by the Federal Rules, the coverage is remarkably similar to that of those Rules. Although the book was written prior to the adoption of the new Federal Rules, it explicates the policies behind them. Students, lawyers, and judges will thus find almost the entire book of use to them in their practice. The fine hand and wealth of experience of Mason Ladd can be seen in the organization and scope of the book. His interest in developing the Evidence Rules is reflected in the text's scope of treatment as well as its attention to lawyer problems. His more than 40 years of teaching in the field can be seen from his efforts to develop the law in a way that will make it easy for students to learn.

As a judge I thank Dean Ladd and Professor Carlson for their useful compendium of well-organized authority and commentary. In this sense it compares favorably with the great Hart and Wechsler book, *The Federal Courts and the Federal System*. I am afraid I would have had difficulty in selecting materials from the Ladd-Carlson

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4. *United States v. Hiss*, 88 F. Supp. 559 (S.D.N.Y.), *aff'd*, 185 F.2d 822 (2d Cir. 1950), *cert. denied*, 340 U.S. 948 (1951).

book to teach, and I know from experience I would not have been able to get additional time from the curriculum committee to teach it all. However, I would strive mightily to obtain more time, for the law contained in the Ladd-Carlson book is the stuff of practice in the courts today.