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**PHIPSON
ON
EVIDENCE**

TWELFTH EDITION

BY

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Publishers' Note

In order to keep the twelfth edition of this work up to date and thus make it of greater value to readers, we will issue cumulative supplements at approximately twelve-monthly intervals from the date of publication at prices to be fixed.

PREFACE

IN this edition we have gone rather further than merely updating the text. Perennially, editors of Phipson announce the advent of a new broom, but the book appears at some period to have assumed the character of the Augean Stables, and we cannot claim to have done more than begin a process which we hope will gradually revitalise the book over successive editions. We have had in mind throughout three major objectives: first, to bring the book up to date, secondly to extirpate errors and omissions, some of which have been present so long as almost to have attained the status of authorities, and finally to begin to change the general character of the book. Inevitably, the first two have sometimes had to take up more of our valuable time than the last.

The updating of a practitioners' work such as Phipson requires a very comprehensive survey of the new case and statute law. Happily for the law of evidence, perhaps, since the last edition, the former has had a much greater share of developing the law than in the period which preceded the last edition. Of the new statutes referred to, only the Civil Evidence Act 1972 (expert and opinion evidence) deserves singling out for special mention. Of the many new cases referred to or cited in this work of special interest are the decisions in *R. v. Edwards* (burden of proof), *Ratten v. R.* (*res gestae* and hearsay), *D.P.P. v. Boardman* (similar facts), *Lowery v. R.* (similar facts and opinion evidence), *Rogers v. Secretary of State* (public policy), *Crompton (Alfred) Amusement Machines Ltd. v. Commissioner of Customs and Excise* (public policy; private privilege), *D.P.P. v. Ping Lin* (confessions), *R. v. Turner* (opinion evidence), *Stapple v. Royal Insurance Co. Ltd.* (judgment), *D.P.P. v. Kilbourne* (similar facts, corroboration), *D.P.P. v. Hester* (corroboration). Unfortunately, the important decisions in *D.P.P. v. Humphrys* [1975] 2 All E.R. 497 (H.L.) (issue estoppel in criminal cases) and *R. v. Turnbull* [1976] Crim.L.R. 565 (C.A.) were reported too recently to receive more than a brief mention at the appropriate point, added at the proof stage.

In addition there are several areas where there has been very extensive rewriting. Those parts of the book dealing with *res gestae* (Chap. 6), similar facts (Chap. 11), character (Chap. 12), privilege (Chaps. 13 and 14), opinion evidence (Chap. 24), *res judicata* (Chap. 25), and the very important chapter on rules of evidence relating to the course of a trial (Chap. 29) have all been substantially rewritten, reorganised or both. In addition the opportunity has been taken, now that the relevant Rules of Court have been in existence for a sufficient time, to offer an exposition of the Civil Evidence Act 1968, both in so far as it deals with hearsay (Chap. 15) and with effects of criminal convictions in subsequent civil proceedings (Chap. 25).

The Act, which proved rather inarticulate when left to speak for

itself in the text has been relegated to the Appendix, when it has been joined by the relevant parts of the R.S.C.

With this in mind, a great deal of purely historical matter has been removed. That part remains largely the work of Phipson and may be found by the curious in the first 11 editions. Much law which was purely substantive but had sought to masquerade as part of the law of evidence has been taken away, but a great deal remains to be done in this area. So too, matters which are not technically history, but are now of only historical significance have begun to disappear.

In addition the Chapters on the common law exceptions to the hearsay rule have been reorganised, it is hoped more rationally.

We would be grateful for the reactions of readers—practitioners, academics and students, to this approach. Their assistance in tracking down the errors we have missed and those we have doubtless perpetrated would also be most welcome, as would suggestions of ways to improve the book in any direction.

In this connexion, we should say that we reconsidered the value of the Examples. Somewhat to our surprise the general opinion from all levels of the profession from the judiciary downwards was that the illustrations were very useful and should be retained. We have nonetheless removed some of the more obviously obsolete ones, but in response to this attitude have in a few places added modern examples, almost the first to be added for about 50 years.

We are grateful to Caroline Willbourne, Barrister, who gave up a good deal of time to assist in the repulsive task of proof-reading and made a number of helpful suggestions, and, especially, to Radmila May who undertook the vital and in this instance particularly onerous task of preparing the index. Our publishers helped by preparing the tables of cases and statutes and have also met a number of difficulties and delays with heroic cheerfulness. It need scarcely be said, however, that the responsibility for any errors, inaccuracies and omissions lies with us.

JOHN H. BUZZARD
RICHARD MAY
M. N. HOWARD

September 1976

The law is stated as at March 1, 1976

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