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## Evidence Of Guilt. By John MacArthur Maguire.

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## BOOK REVIEWS

**EVIDENCE OF GUILT.** By John MacArthur Maguire. Little, Brown and Company, 1959.

Statistics are usually utilized to praise a baseball team or sell an insurance policy. Rarely are they used to recommend a book. Professor Maguire's book, **EVIDENCE OF GUILT**, is exceptional in that its 295 pages contain 680 footnotes; 1300 cases; 24 statutes; and utilizes 44 secondary authorities. With such an inventory of authorities, one can readily understand why Professor Maguire's book is one of today's most highly informative works in the field of evidence. **EVIDENCE OF GUILT** is devoted exclusively to the study of five vital rules of evidence which are designed to protect our citizenry in an age rampant with suspicion and accusation.

Professor Maguire incisively analyzes those rules which protect us against (1) self incrimination, (2) involuntary confessions, (3) unreasonable search or seizure, (4) wiretapping and other communications interception, and (5) the use of confessions obtained during illegal detention. Explanation and discussion of these rules is greatly facilitated by the use of highly appropriate hypothetical situations such as:

"G, a person widely reputed to operate gambling establishments in States S1 and S2, is called to testify before a legislative committee of S1, the committee having been duly authorized to investigate gambling and related activities, and to summon witnesses whose testimony may contribute to this investigation. S1 and S2 have substantially identical statutes respecting gambling. . . . The chairman of the investigating committee causes G to be sworn and to take the stand, and asks G to state the nature of his business. G declines to answer, claiming privilege against self-incrimination." (Page 10.)

The author then exhaustively examines the rule or rules of evidence applicable to the hypothetical, probing it to expose every conceivable legal issue. The use of the practical example, followed by a detailed exposition of the leading statutory and case law governing a particular situation, works to make what would ordinarily be a scholarly textbook, a practitioner's handbook as well. In this crucial area of evidentiary rules, nothing has escaped Professor Maguire's critical eye. The reader's attention is focused on such areas as the invocation of the Fifth Amendment in Congressional inquiries and judicial proceedings, the use of fraud, violence and psychological coercion in securing confessions, and the judiciary's most recent attitudes concerning such tactics; the very controversial matter of wire tapping and the Federal Communications Act of 1934; to name only a few of the very stimulating areas of inquiry.

This reviewer's attention was engaged primarily by Professor Maguire's exploration of recent ramifications in the area of the privilege against self-incrimination. He explores new problem areas of non-testimonial disclosure,

such as the inspection of wearing apparel, blood tests, corporate records, fluoroscopic examinations, truth serum, urinalysis and voice identification. Unquestionably Professor Maguire has assembled a nearly exhaustive body of authority to define, delineate and illuminate each of these areas.

The book is well rounded, for in scrutinizing these essential rules of evidence, Professor Maguire traces their history from their points of origin to the most recent decisions which take cognizance of special legal phenomena having contemporary relevance. He dramatically demonstrates how the means utilized by some law enforcement officials, anxious to apprehend those suspected of crimes, have come into collision with our state and federal constitutions. This conflict is epitomized by the McNabb-Mallory doctrine, which is meticulously and expertly examined.

Professor Maguire, in dealing with each of the five vital rules of evidence, critically evaluates them within our present day legal framework and then prognosticates as to their survival in the future.

In the reviewer's opinion, one of the book's greatest contributions is the manner in which it lends order and consistency to what otherwise appears to be a maze of conflicting rules and decisions. Through Professor Maguire's keen analysis and careful cataloging of the leading authorities, he is able to show some direction in the development of these less than precise rules.

For the New York practitioner there is an abundance of New York authorities cited in each of the problem areas. Every attorney facing these problems will surely welcome Professor Maguire's book as a much needed guide when charting a client's course through hazardous litigation.

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HUMAN RIGHTS AND WORLD ORDER. By Moses Moskowitz. New York: Oceana Publications, Inc., 1958. Pp. 239.

Suppose that Citizen is awakened one night by the heavy knock of the gloved hand on his door. A group of uniformed troopers force their way into the house, ignoring his request to see a warrant. The leader informs him that the government has information that he is an atheist, and that by a recent decree atheists were declared enemies of the People and subject to summary execution. He is imprisoned, locked alone in a cell, permitted to see no one, and awaits his execution without even the pretense of a trial.

Has Citizen any legal redress? Did he have any legal rights violated, and, if so, how may they be vindicated? Of course, this raises the question what are legal rights—but that I pass over for this review. We may view Citizen's position by scanning the hierarchy of laws. Moving from the lower to the higher rungs, one first looks to the local subdivision of government and its laws,