



Commentaries on the law of evidence in civil cases

Burr W Jones

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Purchase of this book includes free trial access to www.million-books.com where you can read more than a million books for free. This is an OCR edition with typos. Excerpt from book: them is well-nigh inevitable in the treatment of the main subject. The evidence under particular issues is, as Stephen properly puts it, more matter for a treatise on pleading, but, so far as it is possible, wherever the subject comes within the jurisdiction of the commentator, it will be found to have been dealt with. Â§ 2 (1). Evidenceâ€”Effect of jury system on rules of.â€” All reliable historical data in any way connected with the subject of evidence, or rather the evolution of legal evidence, of necessity are valuable to the student, and "it is here that Mr. Justice Stephen's treatment of the law of evidence is perplexing, and has the aspect of a textit{tour de force}. Helpful as his writings on this subject have been, they are injured by the small consideration that he shows for the historical aspect of the matter, and by the over-ingenuous attempt to put the rules of evidence wholly into terms of relevancy. It is to be observed that by relevancy he always moans logical relevancy; the common but uninstructive distinction between legal and logical relevancy is not made by him."8 Professor Thayer lucidly points out that our law of evidence bears strongly the family features of the jury system. He directs attention to the two fundamental conceptions (a) that, without any exception, nothing which is not, or is not supposed to be, logically relevant, is admissible, and (b) that, subject to many exceptions and qualifications, whatever is logically relevant is admissible; and that it is obvious that logical relevancy cannot be the sole test of admissibility. "Some things are rejected as being of too slight a significance, as having too conjectural and remote a connection; others, as being dangerous, in their effect on the jury, and likely to be misused or overestimated by that body...



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