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A
Preliminary Treatise
on Evidence
at the
Common Law

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A Preliminary Treatise On Evidence At The Common Law

Michael R. T. Macnair



A Preliminary Treatise On Evidence At The Common Law:

A Preliminary Treatise on Evidence at the Common Law James Bradley Thayer, 1898 *A Preliminary Treatise on Evidence at the Common Law* James Bradley Thayer, 1898 **A Preliminary Treatise on Evidence at the Common Law** James Bradley Thayer, 1896 **Preliminary Treatise on Evidence** James Bradley Thayer, 2015-07-03 Excerpt from Preliminary Treatise on Evidence At the Common Law The title page and Introduction indicate the general character of this volume It seeks by means of some preliminary investigations to help students of the law of evidence whether young or old towards a clear understanding of that subject By tracing the development of trial by jury the author has endeavored to throw light on the beginnings and true character of our rules of evidence by a more accurate analysis and a fuller illustration than is common of the distinction between law and fact to make plainer the respective functions of the jury and the court and by an investigation of certain important topics ordinarily but as it is believed improperly treated as belonging to the law of evidence to discriminate them from that part of the law and set them in their proper place In dealing with these matters the author has not spared time or labor and he trusts that his work may help to make clear the most difficult parts of what is ordinarily discussed in books on evidence About the Publisher Forgotten Books publishes hundreds of thousands of rare and classic books Find more at www.forgottenbooks.com This book is a reproduction of an important historical work Forgotten Books uses state of the art technology to digitally reconstruct the work preserving the original format whilst repairing imperfections present in the aged copy In rare cases an imperfection in the original such as a blemish or missing page may be replicated in our edition We do however repair the vast majority of imperfections successfully any imperfections that remain are intentionally left to preserve the state of such historical works [A preliminary treatise on evidence at the common law](#) James Bradley Thayer, 1896 **Preliminary Treatise on Evidence at the Common Law** James Bradley Thayer, 1896 **PRELIMINARY TREATISE ON EVIDENCE** JAMES BRADLEY. THAYER, 2018 **A Preliminary Treatise on Evidence at the Common Law** James Bradley Thayer, 2013-09 This historic book may have numerous typos and missing text Purchasers can usually download a free scanned copy of the original book without typos from the publisher Not indexed Not illustrated 1898 edition Excerpt CHAPTER X THE PAROL EVIDENCE RULE 1 Few things are darker than this or fuller of subtle difficulties The admissibility says a well known writer of extrinsic parol testimony to affect written instruments is perhaps the most difficult branch of the law of evidence 2 The chief reason is that most of the questions brought under this head are out of place there is a grouping together of a mass of incongruous matter and then it is looked at in a wrong focus Because the rules intimated by this title deal with writings i e with things which in their nature are evidence of what they record it is assumed that they belong to the law of evidence But in truth most of the matters with which they are concerned have no special place in the law of evidence and the way out of these perplexities will be found in clearly recognizing what the law of evidence is and in eliminating the various parts of the present title which do not belong under that head and

allotting them to their proper place I It is necessary to keep in mind a few discriminations some of which have been repeatedly emphasized already Let us remind ourselves of them again 1 Between rules of substantive law and rules of evidence When the law requires a thing to be recorded or in writing or under seal or attested these often are not requirements of the law of evidence They are 1 For common ways of stating what this phrase is thought to cover see *infra* 396 397 S Taylor Ev 9th ed s 1128 matters of form required in some cases as necessary to the constitution of a thing as in the case of wills and deeds in some that the matter may be available as the ground of an action as in the case of things included in ss 4 and 17 of the Statute of

The Law of Proof in Early Modern Equity Michael R. T. Macnair, 2013-06-21 This volume is a systematic study of the rules of proof in English Courts of Equity between the later sixteenth and the early eighteenth century In this period the proof practices of the Courts of Equity were controversial as contemporary lawyers saw them as linked to the Civil Law and some perceived a threat to the Common Law tradition The reality of this linkage and threat has continued to be controversial among historians In addition this period saw the early stages of the development of the Common Law of Evidence which in modern law is a striking divergence from Civil Law systems The origins of the law of evidence have traditionally been linked to the need for judges to control the jury but this view has been subject to several recent critiques The Courts of Equity did not generally use jury trial This study considers Equity proof rules in their relationships to contemporary Civil and Canon Law proof conceptions medieval Common Law rules governing proof of facts and early Common Law evidence rules It concludes that Equity courts operated a variant of civilian proof concepts and mediated an influence of these concepts on the origins of the Common Law of Evidence These findings cast a new light on the debates on these origins and on the relationship between the Common Law and Civil Law traditions in early modern England

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