

THE  
**LAW OF EVIDENCE**  
IN CIVIL CASES

by  
Burr W. Jones

IN THREE VOLUMES  
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THE  
LAW OF EVIDENCE  
IN CIVIL CASES

BY  
BURR W. JONES

OF THE WISCONSIN BAR

LECTURER ON THE LAW OF EVIDENCE AND OTHER SUBJECTS  
IN THE LAW SCHOOL OF THE UNIVERSITY OF WISCONSIN

IN THREE VOLUMES

VOL. I.

SAN FRANCISCO  
BANCROFT—WHITNEY CO.

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1896

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TO MY MOTHER

I DEDICATE THIS  
WORK

IN LOVE AND GRATITUDE.

## PREFACE.

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IN the preparation of this work my primary object has been to furnish a convenient text-book for trial lawyers, stating tersely the rules of law which govern in the trial of civil cases.

Since the rules of evidence are for the most part the outgrowth of judicial decisions, and belong to the domain of judge-made law, and not to that of codes and statutes, it is not remarkable that, in a country having many independent jurisdictions, there should have arisen in the course of more than a century innumerable conflicting decisions on the law of evidence.

It would be a vain attempt in any treatise, however extended, to reconcile these controversies, and, within the limits of such a work as this, it would even be impossible to discuss at length the conflicting views. In dealing

## PREFACE.

with these questions I have sought to state the respective claims, indicating the rules supported by the weight of authority, and have cited the leading authorities supporting each view.

From the earliest English reports to the present time quite a large proportion of the reported decisions in England and in America have contained, in connection with discussions of other subjects, rulings upon questions of evidence. It would not be practicable in a work of this character to cite exhaustively from this multitude of cases. It is in view of this fact that I have referred the practitioner and student to other sources where a fuller presentation of controverted questions may be found. The elementary works are of course well known to the profession, and it has not been deemed necessary to constantly refer to those treatises.

It is well known that some of the ablest discussions of mooted questions of law are to be found in the law reviews and journals and in the various series of annotated cases which have lately come into extensive use. In this

## PREFACE.

part of the literature of the law there will often be found a more elaborate review of particular subjects in the law of evidence and a more extended collection of the authorities than in the elementary works or judicial decisions. I have therefore taken pains to cite quite fully these articles and discussions, and, although they have not the authority of judicial decisions, they are often invaluable in the investigation of legal questions.

In treating the various subjects I have not only stated the rules of evidence which govern, but have often given many illustrations from the reported cases. If it may seem that more of these examples are given than are necessary to illustrate the principles involved, the explanation is, that the work has been prepared as an aid to the busy lawyer who is always glad to rest his case upon sound principles of the law and at the same time to fortify it by precedent.

BURR W. JONES.

MADISON, WIS., AUGUST, 1896.





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