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A Selection of Cases on Evidence at the Common Law, by James Bradley

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A Selection of Cases on Evidence at the Common Law. By James Bradley Thayer. Revised edition by John MacArthur Maguire. Cambridge, Harvard University Press. 1925. Pp. xv, 1033.

The first edition of Professor Thayer's *Cases on Evidence* was published in 1892, and was welcomed by law teachers and law students, as is shown by the review of the book in 6 *Harvard Law Review* 159. When Professor Thayer published the second edition in 1900, the reviewer in 14 *Harvard Law Review* 236 said, "Perhaps the only material criticism to the first edition of the 'Cases' is that not enough space was given to the intricate topic of Witnesses, which formed the last chapter," and approves the enlargement of that chapter. In the same manner, now that after twenty-five years a revised edition has been published, we may approve the new arrangement, which brings that same intricate and important topic from the final pages of the second edition and places it next to the first or preliminary topics. Here it does not readily appear, however, why the topic of the Examination of Witnesses precedes the topic of their Competency and Privilege. But reason for such arrangement appears when we consider that the Examination of Witnesses at the trial leads into questions of Competency and Privilege.

Of the 325 cases in the new volume, 117 are carried over from the second edition. The 208 new cases, as well as the problem cases, cases cited in notes, and citations to law review articles are for the most part very recent. Questions of considerable current interest and importance, such as the exclusion of Illegally Obtained Evidence and the proper extent of the Privilege against Self-Incrimination, receive due consideration. A striking feature of the new work is the introduction of 400 briefly stated problem cases, stated in a manner suggesting both actual court room problems and final examination questions. These promise to arouse the students' curiosity and to stimulate discussion and investigation by the students, as each statement omits the court's conclusions and merely cites as a clue the reported decision which has suggested the problem.

Just as Professor Thayer, in his prefatory note to the second edition, speaks of his "test" of "eight years with my classes" to which the first edition had been subjected, so the classroom test will be required as an authoritative test of the new edition, except as to those familiar cases which have been carried over from the work of Thayer. The editor acknowledges indebtedness to Professors Gray, E. R. Thayer, and Chafee. Dean Wigmore's great work in the law of evidence is also given due credit by the editor, who has had the benefit of Wigmore's recent second edition.

There is a useful prefatory list of books on evidence, with citations to reviews of the respective works, and a helpful index. The mechanical execution of the work is commendable, and it is believed that the line-numbering "trick," as the editor names it, is useful to student and instructor alike.

As a contribution to the continuing development of evidence as a system of reasoned principles and rules, and as an aid to the teacher and student in the modern application of these principles and rules, this new edition of Thayer has a place and deserves a welcome. For the teacher, it supplies another tool for the clarifying and expansion of these principles. For the student it offers another collection and organization of cases and rules. Its material, supplemented with local jurisdictional application or contrast, contributes to the court room effectiveness of the lawyer.

JAMES J. ROBINSON.