of law has been to enlarge and perpetuate, for each new generation of the profession, this familiarity with good models of judicial reasoning. For the law of Evidence, the oblivion of the originals would have the worst consequences. But with these gleanings of the best passages, collated and preserved in form for convenient access, it may be hoped that the reasons of the law will not be buried from daily understanding and that the life of the rules will not be lost.

The second aim of this Treatise — the alignment of the mass of precedents as a consistent product of these principles and rules — would by some be thought to need nothing short of the forcible methods of a Procrustes. The mere mass of these precedents is bewildering. The pronouncements of independent Courts are in constant contrast. The inherent working of the rules of Evidence is to admit or exclude a fact according to the nature of the particular objection brought against it, and thus the very same fact may be found excluded and admitted with seeming inconsistency. These influences have brought the professional use of precedents to a singular pass. A recent President of the American Bar Association has criticised the present conditions in radical language: "A judge may decide almost any question any way, and still be supported by an array of cases. Cases are our counters, and there are no coins. Our legal arguments are for the most part a mere casino-like matching and unmatching of cases, involving little or no intellectual effort. The law is ceasing to be a question of principles, and is becoming a mere question of patterns." What the remedy is, for the profession and for the law at large, is another matter. But for the expounder of the law it is certainly a knotty problem how to exhibit in a treatise such consistency as may be found to exist amidst the mass of precedents. In the following pages, the effort has been made in several ways to emphasize those features which reduce the apparent inconsistencies. For one thing, the independence of the different Courts has been recognized, by arranging the rulings in the alphabetical order of jurisdictions, in chronological sequence within each jurisdiction, and by separating each group (where numerous rulings occur on the same point) by the italicized title of the State or Territory. The fact that there are half a hundred practically independent jurisdictions must be conceded and faced. What is the law? is a question which cannot be answered except as with fifty tongues speaking at once. What the law is in Illinois may well be not the law in Massachusetts or in California. It is time for the profession to discard the amiable pretence that precedents can be cited interchangeably. The treatise, on the one hand, is not to represent that the rule is unsettled because there are inconsistent rulings; for opposition is not inconsistency, and independence of jurisdiction leads naturally to opposition of rules. The practitioner, on the other hand, can often expect not much more of the treatise than to furnish the materials for ascertaining what is the rule in a particular jurisdiction. If this independence of jurisdiction be steadily recollected, three-quarters of the reproach of uncertainty disappears. Still further, much can be done to remove the remaining