and above others, have come to bear, even within the profession itself, the stigma of technical arbitrariness and obstructive unreason. "My Evidence Bill," said a gentleman of legal attainments to Sir James Stephen, "would be a very short one; it would consist of one rule, to this effect: 'All rules of evidence are hereby abolished.'"

Nevertheless, when all is known and examined, the reproach is not merited. That distinguished legislator, Sir James Stephen himself (and the domination of his thought in our law of Evidence during the past generation has been rivalled only by that of Professor Thayer), was able, after a practical judicial experience second to no man's, to devote his greatest work "to prove the proposition that the English rules of Evidence are *not* a mere collection of arbitrary subtleties which shackle, instead of guiding, natural sagacity." Nor can it be charged to the judges, or to their declared judgments, that they have failed to supply the materials for a right apprehension of the law's reasoning. "Let all people," said Lord Chancellor Parker, two centuries ago, "be at liberty to know what I found my judgment upon; that so, when I have given it in any cause, others may be at liberty to judge of me"; and it is in this spirit that they have acted throughout the modern development of the law of Evidence. Their reasonings are scattered copiously through the pages of the Reports. It is not that the judges have failed to supply them; it is we who have failed to consider them. When Hobbes' Philosopher reproaches the Lawyer, in their Dialogue on the Common Laws, that "the great masters of the mathematics do not so often err as the great professors of the law," the Lawyer's retort is a just and appropriate one: "If you had applied your reason to the law, perhaps you would have been of another mind." The rules of Evidence, as recorded in our law, may be said to be essentially rational. The reason may not always be a good one, in point of policy. But there is always a reason.

If we are to save the law for a living future, if it is to remain manageable amidst the spawning mass of rulings and statutes which tend increasingly to clog its simplicity, we must rescue these reasonings from forgetfulness. A main attempt, therefore, in the following pages and in the preparation for them, has been to search out and to emphasize the accepted reasons for each rule. As an important aid to their exposition, the method has been employed of setting forth, by excerpts, the most influential, the most lucid, and the most carefully reasoned passages anywhere recorded in judicial annals, — the best things that have been said upon the rules of Evidence. *Multa ignoramus*, Coke warns us, *quæ non lateren*t, *si veterum lectio nobis esset familiaris*. The encyclopedic method, compiling in concise form the barren summaries of voluminous originals, may become an inevitable one in our law. But (as a great historian once lamented, in describing the downfall of classical learning in the Middle Ages) such a method is "a usual concomitant of declining literature; for it supersedes the use of the great writers, and effects the oblivion of good models." One of the greatest services (but little mentioned) of Professor Langdell's modern system of case-study in schools