

AN INTRODUCTION TO THE LAW OF EVIDENCE

Second Edition

By

Graham C. Lilly

Henry and Grace Doherty

Professor of Law

University of Virginia



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To Margaret Kemper Lilly

*

Preface and Acknowledgements

Second Edition

It has now been nearly a decade since the "little green book," as my students call it, was published in its first edition. In this second edition, the little book approaches adolescence and, characteristic of that age, has grown noticeably in size and, I venture the hope, even in maturity. Despite its greater length, necessitated by recent developments and the increased adoption of evidence codes modeled after the Federal Rules, I have tried to keep the book within the bounds defined in the first preface: "a comparably concise treatment" of the law of evidence.

The reasons for an introductory text, set out in the preface to the first edition, seem to me as plausible in 1987 as they were in 1978. Much of the original volume remains intact, but the reader will notice a decided shift in emphasis toward the Federal Rules of Evidence. These Rules, now adopted wholly or substantially by more than thirty states,* have become the dominant influence in evidence law. But the common law, from which the Rules drew their essential character, is still given considerable attention. In some states, of course, appellate decisions continue to be the principal source of evidentiary rules. Furthermore, it is difficult to understand the Federal Rules without at least some appreciation of their common-law heritage. Of necessity, the Rules speak with a statutory terseness that cannot capture the richness of the judicial opinions that informed their content and, even today, enlighten their construction.

It is customary, at the beginning of a comparatively short work, to intone solemnly the usual cautions about the hazards of brevity and generalization. I shall simply trust that my readers will appreciate the limitations of treating the complex subject of evidence in fewer than 550 pages. Fortunately, it is not necessary to resolve the tension between the educational extremes of teaching "more and more about less and less" and "less and less about

* A list of states that have adopted the Federal Rules appears at page xiii.