

Everdingen's sea pieces belongs to Mr Von Friesen at Dresden, and bears the date of 1640. After 1645 we meet with nothing but representations of inland scenery, and particularly of Norwegian valleys, remarkable alike for wildness and a decisive depth of tone. The master's favourite theme is a fall in a glen, with mournful fringes of pines interspersed with birch, and log huts at the base of rocks and craggy slopes. The water tumbles over the foreground, so as to entitle the painter to the name of "inventor of cascades." It gives Everdingen his character as a precursor of Jacob Ruysdael in a certain form of landscape composition; but though very skilful in arrangement, and clever in effects, Everdingen remains much more simple in execution; he is much less subtle in feeling or varied in touch than his great and incomparable countryman. Five of Everdingen's cascades are in the museum of Copenhagen alone: of these, one is dated 1647, another 1649. In the Hermitage at Petersburg is a fine example of 1647; another in the Pinakothek at Munich was finished in 1656. English public galleries ignore Everdingen; but one of his best-known masterpieces is the Norwegian glen belonging to Lord Listowel. Few Continental museums lack pictures by this master. Their value in the market is about a third to a half of those of Ruysdael; but excepting the later and more neglected pieces, they are all clever and generally attractive. At Amsterdam, we may think, Everdingen chiefly produced etchings and drawings, of which there are much larger and more numerous specimens in England than elsewhere. Being a collector as well as an engraver and painter, he brought together a large number of works of all kinds and masters; and the sale of these by his heirs at Amsterdam on the 11th of March 1676 gives an approximate clue to the date of the painter's death.

EVEREST, SIR GEORGE (1790-1866), C.B., a distinguished surveyor and geographer, was the son of Tristram Everest of Gwerndale, Brecknockshire, and was born there July 4, 1790. From school at Marlow he proceeded to the military academy at Woolwich, where he attracted the special notice of the mathematical master, Dr Hutton, and passed so well in his examinations that he was declared fit for a commission before attaining the necessary age. Having gone to India in 1806 as a cadet in the Bengal Artillery, he was selected by Sir Stamford Raffles to take part in the reconnaissance of Java (1814-1816); and after being employed in various engineering works throughout India, he was appointed in 1818 assistant to Colonel Lambton, the founder of the great trigonometrical survey of that country. In 1823, on Colonel Lambton's death, he succeeded to the post of superintendent of the survey; in 1830 he was appointed by the court of directors of the East India Company surveyor-general of India; and from that date till his retirement from the service in 1843 he continued to discharge the laborious duties of both offices. During the rest of his life he resided in England, where he became fellow of the Royal Society and an active member of several other scientific associations. In 1861 he received the honour of knighthood, and he was chosen vice-president of the Royal Geographical Society in 1862. He died at Greenwich, December 1, 1866. The geodetical labours of Sir George Everest rank among the finest achievements of their kind; and more especially his measurement of the meridional arc of India, $11\frac{1}{2}^{\circ}$ in length, is accounted as unrivalled in the annals of the science. In great part the Indian survey is what he made it. The name of Everest has been given in his honour to the highest ascertained peak of the Himalayas, and thus of the world.

His works are purely professional:—A paper in vol. i. of the *Memoirs of the Royal Astronomical Society*, pointing out a mistake in La Caille's measurement of an arc of the meridian which he had discovered during sick-leave at the Cape of Good Hope; An

account of the measurement of the arc of the meridian between the parallels of $18^{\circ} 3'$ and $24^{\circ} 7'$, being a continuation of the *Grand Meridional Arc of India*, as detailed by Lieut. Col. Lambton in the volumes of the *Asiatic Society of Calcutta*, London, 1830; An account of the measurement of two sections of the Meridional Arc of India bounded by the parallels of $18^{\circ} 3' 15''$, $24^{\circ} 7' 11''$, and $20^{\circ} 30' 48''$, London, 1847.

EVERETT, ALEXANDER HILL (1792-1847), an American author and diplomatist, born at Boston, March 19, 1792, was the son of Rev. Oliver Everett, for some time a Congregational minister in Boston, and afterwards judge of probate for Norfolk County. He graduated at Harvard College, Cambridge, in 1806, taking the highest honours of his year, though the youngest member of his class. He spent one year as a teacher in Philip's Academy, Exeter, and then began the study of law in the office of John Quincy Adams, afterwards president of the United States. In 1809 Adams was appointed minister to Russia, and Everett accompanied him as his private secretary, remaining attached to the American legation in Russia until 1811. His assiduity in the diplomatic career resulted in his promotion successively to the position of secretary of legation and afterwards of chargé d'affaires at the Hague. He was subsequently minister to Spain, under the presidency of John Quincy Adams. At that time Spain recognized none of the Governments established by her revolted colonies, and Everett became the medium of all communications between the Spanish Government and the several nations of Spanish origin which had been established, by successful revolutions, on the other side of the ocean. He died, May 29, 1847, at Hong Kong, whither he had been sent as commissioner of the United States, before the present system of diplomatic intercourse with China was inaugurated.

Everett was not, however, so distinctly a diplomat as a man of letters. His long residence in Europe, and his intimate acquaintance with the French, German, Italian, and Spanish languages, resulted in wide and accurate acquaintance with the literature of the Continental states. He studied their political system at the same time, and in industrious and constant authorship published the results of his observations on social systems and literature. His co-operation was relied upon by the founders of the *North American Review*, the earliest American quarterly, and he was editor of that journal from the year 1829 to October 1835. In 1822 he published in London and in Boston *A General Survey of Europe*, which discusses the Continental system and the balance of power as they were adjusted after the fall of Napoleon. It attracted general attention, and was translated into German, French, and Spanish. In 1825 he published in London and Boston *America*, a somewhat similar description of the nations of North and South America. This book also was translated into the principal European languages. In 1822 he published *New Ideas of Population*, suggested by Malthus's works, and replying to that author by a wider exposition than Malthus gave to the possibility of general and easy emigration. Some of his literary papers from the *North American Review* and the *Democratic Review*, and a volume of poems, have been published in Boston. No American writer of his time was better known on the continent of Europe.

EVERETT, EDWARD (1794-1865), brother of the preceding, was born in Dorchester, near Boston, on the 11th November 1794. His father died in his childhood, and his mother removed to Boston with her family after her husband's death. When he was little more than thirteen he entered Harvard College; and as the full undergraduate course is four years, he became "bachelor of arts" at seventeen. He then took the first college honours of his class. While at college he was the chief editor of *The*

Lyceum, the earliest in the series of college journals published at the American Cambridge. His verses and his prose essays then show some of the facility and grace which appear in his later writings, and much of the humour which in later times he was always trying to repress. His earlier predilections were for the study of law, but the advice of Joseph Stevens Buckminster, a distinguished preacher in Boston, led him to prepare for the pulpit, and in this calling he at once distinguished himself. He was called to the ministry of one of the largest Boston churches before he was twenty years old. His sermons and his theological writings attracted wide attention in that community. But his tastes were then, as always, those of a scholar; and in 1814, after a service of little more than a year in the pulpit, he resigned his charge to accept a professorship of Greek literature in Harvard College. After nearly five years spent in Europe in preparation, he entered with alacrity on his duties, and, for five years more, gave a vigorous impulse, not simply to the study of Greek, but to all the work of the college. About the same time he assumed the charge of the *North American Review*, which now became a quarterly; and he was indefatigable in contributing on a great variety of subjects, with a spirit like Sydney Smith's in the earlier days of the *Edinburgh Review*. He vigorously defended American institutions against the sneers of English travellers, and had reason to congratulate himself on the success of a series of articles written to bring about a better mutual understanding between Englishmen and Americans. The success of his lectures in Cambridge, and the enthusiasm aroused by the rebellion in Greece, led him to deliver a series of popular lectures on Greek antiquities in Boston. They were the first lectures on purely literary or historical subjects ever delivered in America, and were the first steps toward a system of popular entertainment and education which now has very wide sweep in the United States. He was eagerly engaged in the measures taken in the United States for the relief of Greece in her struggle.

In 1824 he was chosen a member of Congress, and held a seat for ten years, supporting generally the administration of Adams, and in opposition to that of Jackson, which succeeded it. As a member of the house of representatives he appears to have devoted himself mainly to the discharge of that part of the public business which devolved upon him. He took the floor less frequently than might perhaps have been expected from a person accustomed to public speaking, and able to command the ear of the house. It will be found, however, on looking back to the transactions of the ten years' sessions during which he was a member, that he bore a part in almost every important debate. He was on the committee of foreign affairs during the whole time of his service in Congress. Of all the most important select committees, such as those on the Indian relations of the State of Georgia, the Apportionment Bill, and the Bank of the United States, Everett was a member, and drew the report either of the majority or the minority. The report on the congress of Panama, the leading measure of the first session of the nineteenth Congress, was drawn by Everett, although the youngest member of the committee, and just entered Congress. He led the opposition to the Indian policy of General Jackson (the removal of the Indians, without their consent, from lands guaranteed to them by treaty). In the winter of 1835 he was nominated as governor of Massachusetts, and was chosen in the autumn of the same year. He brought to the duties of the office the untiring diligence which is the characteristic of his public life. We can only allude to a few of the measures which received his efficient support,—e.g., the establishment of the board of education, the first of such boards in the United States, the scientific surveys of the State,

the first of such public surveys, the criminal law commission, and the preservation of a sound currency under the panic of 1837.

Everett filled the office of governor for four years. The political parties in Massachusetts were at this time very nearly balanced, and divisions of opinion on local questions (the militia and temperance laws) caused his defeat at the election in November 1839. Judge Morton, the opposing candidate, succeeded by a single vote, out of more than a hundred thousand. Everett availed himself of this opportunity, the following spring, to make a visit with his family to Europe. In 1841, while residing in Florence, he was named United States minister to England, and arrived in London to enter upon the duties of his mission at the close of that year. Great questions were at that time open between the two countries,—the north-eastern boundary, the affair of M'Leod, the seizure of American vessels on the coast of Africa, in the course of a few months the affair of the "Creole," to which were soon added Oregon and Texas. His position was more difficult by the frequent changes that took place in the department at home, which, in the course of two years, was occupied successively by Messrs Webster, Legaré, Upshur, Calhoun, and Buchanan. From all these gentlemen Everett received marks of approbation and confidence.

By the institution of the special mission of Lord Ashburton, the direct negotiations between the two Governments were, about the time of Everett's arrival in London, transferred to Washington. It appears, however, from documents that have from time to time been communicated to Congress, that various topics connected with all the subjects in dispute were incidentally treated in the correspondence of the American minister at London both with his own and the British Government. Many elaborate notes to Lord Aberdeen and despatches to the American secretary of state have in this way come before the public, forming, however, it is believed, but a small part of the documents of both classes prepared by Everett during his mission. It appears, indeed, that, from the concurrence of a variety of causes, the amount of business transacted at the American legation from 1841 to 1845 was more than double that of any former period of equal duration.

Immediately after the accession of Polk to the presidency Everett was recalled. Shortly before his return the presidency of Harvard College was vacated by the resignation of Hon. Josiah Quincy, and Everett was strongly urged by the friends and governors of the institution to accept this office, which he did in the month of January 1846. He filled this place of equal distinction and usefulness for about three years. It was a position congenial with his tastes, in harmony with the early associations of his life, and one which seemed to promise large opportunity of applying for the benefit of the rising generation the fruit of his maturer studies and varied experience in life. His health unfortunately soon began to suffer, and before long became seriously impaired under the burdens and cares of the office, and he was compelled at the close of the year 1848 to tender his resignation. Relieved of this charge, he supposed that at last he was to enjoy literary or scholarly leisure, and was already preparing for a treatise on the law of nations. But, on the death of his friend Webster, to whom he had always been closely attached, and of whom he was always a confidential adviser, he was named by President Fillmore secretary of state, and he held that post for the remaining months of Fillmore's administration, leaving it to go into the senate as the representative of Massachusetts. Under the work of the long session of 1853-54, in which that "Kansas-Nebraska" question first appeared in form which ripened into the American civil war, his health gave way.

He resigned his seat, on the orders of his physician, and retired to what was called private life.

But, as it proved, the remaining ten years of his life most widely established his reputation and influence throughout America. As early as 1820 he had established a reputation, such as few men in later days have enjoyed, as an orator. He was frequently invited, as other public men are invited in America, to deliver an "oration" on one or another public topic of historical or other interest. With him these "orations," instead of being the ephemeral entertainments of an hour, became careful studies of some important theme, so that the collected edition of them is now one of the standard books of reference in an American's library. Eager to avert, if possible, the impending conflict of arms, Everett prepared an "oration" on Washington, which he delivered in every part of America. In a printed note accompanying the published edition of it, he names nearly one hundred and twenty-five occasions, in almost every State in the Union, in every section but the extreme south-west, where it was repeated. This exception was caused only by illness in his family, after he had received invitations to go to that quarter also. He travelled really as an ambassador of peace among irritated States. The eagerness to hear him was so great that, from the first, his hosts arranged, almost always, that tickets should be sold to all auditors; and as he travelled wholly at his own charges, the audiences thus contributed more than one hundred thousand dollars for the purchase of the old home of Washington at Mount Vernon, and the securing it as a shrine for American patriotism.

Everett's name, in direct violation to his wishes, was presented, with Mr Bell's, as a candidate of North and South jointly for vice-president in the election of 1860, when Abraham Lincoln was elected. The civil war followed. Reconciliation was impossible, and he gave all his learning, zeal, and eloquence, to the support of the national government. For four years he was the trusted adviser of every department; he was called upon in every quarter to speak at public meetings. He delivered the last of his great orations at Gettysburg, after the battle, on the consecration of the national cemetery there. In February of 1865 the success of the national arms was certain. He had the pleasure of speaking at a public meeting in Boston to raise funds for the Southern poor in Savannah, just taken by General Sherman. At that meeting he caught cold, which was followed by sudden illness, and by his death January 15, 1865.

In Everett's life and career was a combination of the results of diligent training, unflinching industry, delicate literary tastes, and unequalled acquaintance with modern politics. This combination made him in America an entirely exceptional person. He was never loved by the political managers; he was always enthusiastically received by assemblies of the people. He would have said himself that the most eager wish of his life had been for the higher education of his countrymen. His orations have been collected in four volumes. A work on public law, on which he was engaged at his death, was never finished. (E. E. H.)

EVESHAM, a municipal and parliamentary borough and market town of Worcestershire, England, is situated in the vale of Evesham, 15 miles S.E. of Worcester, on the Midland and Great Western Railways, and on the river Avon, over which there is an ancient stone bridge of eight arches, connecting it with Bengeworth parish, which forms part of the borough. It is a well-built town, and its two main streets are wide and clean. The surrounding land is of great fertility, and is occupied chiefly as market gardens. The inhabitants of the town are mostly employed in the rearing of garden produce, but there are also manufactories for agricultural implements, and for gloves and hosiery.

The principal buildings are the old town-hall, the churches of All-Saints, St Lawrence, and St Peter's, and the grammar school. Evesham is a place of considerable antiquity, a monastery having been founded there as early as the beginning of the 8th century. Of this building almost the only remnant is a magnificent tower, built not long before the Reformation. This tower, which is considered the best extant specimen in England of the Pointed ecclesiastical style of the 16th century, is 110 feet high and 28 feet square at the base. At Evesham was fought, on the 14th August 1265, the famous battle between Prince Edward, afterwards Edward I., and Simon de Montfort, earl of Leicester, in which the latter was totally defeated, and he and his son slain. Previous to 1867 Evesham returned two members to parliament, but it now returns only one. The population in 1871 was 4888.

EVIDENCE. It is necessary to distinguish two common meanings of the word evidence which are not unfrequently confused. Evidence sometimes means the ascertained facts from which we infer the existence of some other fact or principle. It also means the testimony of persons as to the existence of facts, from which testimony we infer that these or other facts do or do not exist. It is the latter sense alone which is appropriate in speaking of judicial evidence.¹ The rules of the law of evidence are based chiefly on considerations relating to human testimony. Their fundamental purpose is to guard and test the truthfulness of statements as to matters of fact made in a court of justice. The further question, what conclusion is to be drawn from the facts, supposing them to be true, is the subject of few if any specific rules. The general theory of relevancy excludes testimony relating to facts from which no conclusion whatever could be drawn with reference to the facts in issue. On the other hand, in the case of what is called "conclusive proof," the law directs that on certain evidence the judge must regard some fact as proved and reject any evidence offered against it. Between these two extremes the law leaves the relation between facts in evidence and facts in issue to the unaided logic or common sense of the tribunal.

The theory of relevancy above alluded to lies at the root of the law of evidence, and requires some preliminary explanation. The phrase is not one of common use in English text books, and nothing like a statement of the general principle is to be found in them. Roscoe, for instance (*Digest of the Law of Evidence at Nisi Prius*), simply states that, "as the object of pleading is to reduce the matters in difference between the parties to distinct and simple issues, so the rules of evidence require that no proof, oral or documentary, shall be received that is not referrible to those issues. All evidence of matters which the courts judicially notice, or of matters immaterial, superfluous, or irrelevant, is therefore excluded." And again, "In general, evidence of collateral facts, not pertinent to the issue, is not admissible." We are left to collect from the abundant wealth of decided cases what things are relevant and material, and what things are irrelevant and superfluous. A statement of the general result of the cases will be found in Sir James F. Stephen's recently published *Digest of the Law of Evidence*. In the introduction to an edition of the Indian Evidence Act, by the same author, the theory of relevancy thus deduced from the decided cases is fully explained, and its connexion with the general laws of experimental inquiry pointed out.

¹ Sir James Stephen's definition is—"Evidence means—(1) all statements which the judge permits or requires to be made by witnesses in court in relation to matters of fact under inquiry; such statements are called oral evidence; and (2) all documents produced for the inspection of the Court or judge; such documents are called documentary evidence."—*Digest of the Law of Evidence*.

The distinction sometimes drawn between direct and circumstantial evidence is of popular rather than legal interest. The fact in issue may be proved either by the testimony of persons who swear to it as a matter of personal knowledge, or by the testimony of persons who swear to other facts from which the existence of the fact in issue is inferred. In the former case the evidence is said to be direct, in the latter circumstantial. The probative force of these two sorts of evidence has been differently estimated. On the one hand, it has been said (and this we should think is the more popular view) that a conclusion arrived at merely from inference is not so trustworthy as the positive assertion of a sane and honest witness who testifies to what he has actually seen or heard. The explanation would seem to be that men have less confidence in their own powers of reasoning than in the assertions of others. It is hardly necessary to point out that in both cases a process of inference is necessary—that we infer the existence of the fact from the fact that the witness swears to it, and that this inference like others is exposed to the chances of error. On the other hand, the numberless instances on which positive direct testimony as to matters of fact has been subsequently shown to be entirely false or erroneous, has led to the opposite opinion that circumstantial is more trustworthy than direct evidence. Apart from the possibility of deliberate falsehood in the witness, there is the chance of his having been utterly and unaccountably mistaken. Everybody can recall striking instances of this—especially in cases of personal identity.¹ Accordingly, it has been said, in the phrase of Paley, that "circumstances cannot lie," or, as it was put by Mr Justice Buller in *Donnellan's case*, "a presumption which necessarily arises from circumstances is very often more convincing and more satisfactory than any other kind of evidence, because it is not within the reach and compass of human ability to invent a train of circumstances which shall be so connected together as to amount to a proof of guilt without affording opportunities for contradicting a great part, if not all those circumstances." The facts in circumstantial evidence are, however, like the facts in direct evidence, to be taken subject to the possibility of mistake or falsehood on the person narrating them, and the process of inference has its own peculiar dangers. The *anno domini* water-mark on writing paper has often been the instrument of convicting persons of forgery; but "it is beyond a doubt," says Mr Wills, "and instances of the kind have recently occurred, that issues of paper have taken place bearing the water-mark of the year succeeding their distribution." Circumstantial evidence corresponds to "facts relevant to the issue," as defined in this article.

The English law of evidence is perhaps the most perfect example we possess of what Bentham calls judge-made law. It is substantially the creation of successive generations of judges in the courts of common law. It grew up as a thing of custom and practice, and it is not so very long since different customs prevailed on different circuits. Thus, Lord Ellenborough, in one instance quoted by Sir J. Stephen, spoke of the practice of the Northern and Western Circuits as being different from that of the Oxford Circuit. It was made by judges for juries, and this fact no doubt serves to explain many of its peculiarities.

¹ A very remarkable example is given by Mr Wills in his essay on *The Rationale of Circumstantial Evidence*. Sir Thomas Davenant, an eminent barrister, a gentleman of acute mind and strong understanding, swore positively to the persons of two men whom he charged with robbing him in the open daylight. But it was proved, on the most conclusive evidence, that the men on trial were at the time of the robbery at so remote a distance from where Sir Thomas was robbed that the thing was impossible. The consequence was that the men were acquitted: and some time afterwards the robbers were taken, and the articles stolen from Sir Thomas and his lady found upon them.

Without adopting Bentham's opinion that these were deliberately intended to subserve the "sinister interests" of the lawyers, we may admit that they were founded largely on distrust of the capacity of the tribunal to which the issues of fact belong. Hence doubtless those numberless presumptions by which a conclusion is imposed on the jury until positive evidence is offered to set it aside. Hence also that monstrous system of exclusions by which any person whose position was such as to make it in the least degree likely or possible that he would tell a falsehood, was withdrawn from the hearing of the jury. Only the most contemptuous disbelief in the sagacity of jurymen can account for the exclusion of the only witness cognizant of the transaction in question, simply because he has a slight pecuniary interest in the result. It may be conjectured that if trial by jury had not been the practice of the common law—if the judges had acquired the power of deciding issues of fact as well of law—many of the most obnoxious rules of evidence would never have existed.

The legislature has interfered mainly for the purpose of putting an end to these exclusions. Certainly the most important of the statutes dealing with the law of evidence are those which make classes of persons, formerly excluded, competent to testify. The source of this continuous reform is to be found in the treatise of Bentham, which, for the first time, examined the traditional law by the light of practical utility. Starting with the fundamental principle that the great object in judicial evidence is the discovery of truth, he hunted down with merciless rigour the artificial rules which closed out the surest sources of evidence. The success of his attack has been complete. In 1843 the exclusion of persons by reason of interest or crime was abolished (6 and 7 Vict. c. 85), but the incapacity of the parties to an action was allowed to remain. This in turn was abolished with certain exceptions by the 14 and 15 Vict. c. 99. By 32 and 33 Vict. c. 68, parties were allowed to give evidence in actions for breach of promise (subject to the requirement of corroboration), and husbands and wives in proceedings for adultery. The last Act of this sort was passed in 1877, and is a curious instance of the guarded way in which the legislature has approached this subject. It simply provides that, on the trial of any indictment or other proceeding for the non-repair of any public highway, bridge, or for a nuisance, or of any other indictment or proceeding instituted for the purpose of trying or enforcing a civil right only, every defendant to such indictment or proceeding, and the wife or husband of any such defendant, shall be admissible witnesses, and compellable to give evidence. Husband and wife are now excluded only in purely criminal cases, and in course of time no doubt that exclusion also will be brought to an end. Religious disabilities (enforced by the necessity of an oath) have also been gradually got rid of by successive enactments, the most important being the 24 and 25 Vict. c. 66, and 32 and 33 Vict. c. 68. With these exceptions, the legislature has left the leading principles of the law untouched.

In attempting to give an outline of the law of evidence in this country we shall follow in the main the division adopted by Sir J. Stephen in his very useful *Digest*. English text books on the law of evidence owe their enormous bulk to the introduction of rules which properly belong to the substantive law, or to the rules of practice in the tribunals. Confining ourselves to the general principles of evidence, we shall notice shortly the following heads:—1st, What facts may be proved in a court of law; 2d, By what kind of evidence they must be proved; and, 3d, By whom, and in what manner, the evidence must be produced.