

The antiquity of the american concept of evidence

Law



The Antiquity of the American Concept of Evidence

Court cases are wrestled with facts provided by witnesses and with deductions based in such facts. The 'rules of evidence' regulate the types of information witnesses could disclose to the court. Even though the rules of evidence is deeply rooted in English ancient common law, current historical scholars have discovered that the growth of the firmly exclusionary attributes that distinguish contemporary evidence principle occurred alongside the development in the 18th century of the 'adversary mode of trial' (Hall & Clark, 2002, 280), instead of the development of the jury hundreds of years prior.

Even though evidence principle is mostly the conception of common law juries, the United States organized these in 1975 and named them the Federal Rules of Evidence. Even though the federal law is valid merely to federal court cases, almost all states have used them, at times with differences, like their evidence doctrine (Hall & Clark, 2002, 281). Several current elements of American concept of evidence developed from antiquity, such as (1) original writing, (2) privileges, (3) policy-based exclusions, (4) rule 403, and (5) relevance. Due to the fact that written documents can be quite important to the result of court trials, and still can quickly be fabricated, the codes show a firm partiality for original documents. The law is disposed to give up evidence that it hopes to safeguard from admission in order to protect particular relationships (Hall & Clark, 2002). Some of the most common of such 'privilege' are discussions with one's spouse, attorney, etc. (p. 281).

Policy-based exclusions state that specific laws express social policy partialities to keep out evidence in particular circumstances despite of its

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relevance. Rule 403 implies that the most vital principle of exclusion of pertinent evidence grants wide judgment to judges to rule out evidence which, even though pertinent, does more to hamper than to promote logical judgment (Hall, 1989). And lastly, according to Hall & Clark (1989), relevance means that merely relevant evidence is acceptable, and relevant evidence is acceptable except if ruled out by a particular law.

References

Hall, K. (1989). *The Magic Mirror: Law in American History*. New York: Oxford University Press.

Hall, K. & Clark, D. (2002). *The Oxford Companion to American Law*. New York: Oxford University Press.