

MIRACLE AND SCIENCE

BIBLE MIRACLES EXAMINED BY THE
METHODS, RULES AND
TESTS OF THE
SCIENCE OF JURISPRUDENCE
AS ADMINISTERED TO-
DAY IN COURTS
OF JUSTICE

BY

FRANCIS J. LAMB
ATTORNEY AND COUNSELLOR AT LAW

OBERLIN, OHIO, U. S. A.
BIBLIOTHECA SACRA COMPANY
1909

OPPONENTS' OBJECTIONS EXAMINED

We here recognize the fact that all opponents in the contention here at issue have jural right to object to the proposed evidence, on the ground that it is unsworn or uncertified or is incompetent or immaterial—in short, on any and every rational ground. We will assume such objections are now here interposed. We recognize that the proposed evidence is to be held admissible only if, after full and due consideration of the rules and principles of jural science as administered in courts of justice, the evidence is found competent and proper, all objections of opponents to the contrary notwithstanding. If those objections are not valid, the evidence must be received and given its due weight.

SECTION II

ANCIENT DOCUMENT EVIDENCE

The Gospel of John is more than thirty years old. This brings it at once into a class of evidence expressly recognized and provided for by jural science, viz. the class of Ancient Documents. The experience and sagacity of ages have established a body of principles and law in regard to that class of evidence, particulars of which, including reasons

and grounds of the rule, we now adduce to meet any objections by negators against admitting the Gospel of John, or any part of it, as evidence on the issue on trial.

TESTS OF THE VALIDITY OF EVIDENCE

We recognize the rule, that ordinarily, when a document is offered in evidence, it must first be proved to have been executed. This proof of its genuineness is properly made by calling living witnesses, who were present and knew the execution of the document, to testify to the fact. This process of proving the genuineness of a document is what is known as confirmation or sanction by the ordinary tests of truth.¹ But jural science long ago established also other tests of the validity of documents as evidence. After a document has been executed, time passes, witnesses die, or are removed beyond the reach of subpoena, or process of courts. Hundreds of years ago, early in the establishment of the science of jurisprudence, it was found wise and just in experience, as well as indispensable for securing justice in its administration, to provide for saving the evidence of documents when death or effectual absence of witnesses prevents sanctioning

¹ Wharton on Ev. sec. 689, and cases cited.

such documents, by the testimony of living persons — the ordinary test of truth.

That great jurist, Lord Mansfield, in a brief but pregnant decision, describes this feature of the law of evidence.

A claimant of land, under an ancient will of one Ludlam, offered an alleged copy of the will in evidence, not being able to produce the original. His opponent strenuously objected to the alleged copy. In deciding the document was admissible as evidence, Lord Mansfield said:

“The rule is clear, a man by losing evidence of his title does not lose his estate. If you cannot prove a deed by producing it, you may produce the counterpart; if you cannot produce the counterpart you may produce a copy, even if you cannot *prove* it as a true copy. If a copy cannot be produced, you may go into parol evidence.”¹

In this decision Lord Mansfield enforced a primary rule of competency of evidence — the rule that requires that the best evidence be produced.

“As long ago as the fourteenth century the courts of England laid down the rule that a party must bring the best evidence he can and that if he did this, no more was required.”²

¹Ludlam's Will, Lofft. Rep. 362.

²2 Encyc. of Ev. 278.

“The effect of the rule is, that when, from the nature of the transaction, superior evidence may be presumed to be within the power of the party, that which is inferior will be excluded. But when it is manifest that evidence of a higher degree is not within the power of the party, that of a lower degree will be received; and the general rule never excludes the best evidence that can be produced.”¹

The rule requiring the best evidence of which the nature of the case is susceptible is only another form of expression for the idea that when the higher proof is lost or is unattainable the best attainable may be given.

“The law of evidence would have a poor claim to the praise justly bestowed upon it, if it did not foresee and provide for such a case as this. That rule which is the most universal, namely, that the best evidence the nature of the case will admit shall be produced, decides this objection; for it is only another form of expression for the idea, that when you have not the higher proof you may offer the next best in your power. *The case admits of no better evidence than that which you possess, if the superior proof has been lost without your fault* [italics by the Court]. The rule does not mean that men's rights are to be sacrificed and their property lost because they cannot guard against events

¹Jackson v. Cullum, 2 Blackf. (Ind.) 228.

beyond their control. It only means that so long as the higher or superior evidence is within your possession, or may be reached by you, you shall give no inferior proof in relation to it." ¹

The Supreme Court of the United States, in a late case, stated the rule in reviewing the action of a lower court:

"The rule on the subject does not exact that the loss or destruction of the document [the original] should be proved beyond all possibility of mistake. It only demands that a moral certainty should exist that the Court had every opportunity for examining and deciding upon the best evidence within the power of the litigant to produce." ²

EVIDENCE — ANCIENT DOCUMENT RULE

On the ground that the age of a generation was generally thirty years, and witnesses after maturity usually did not survive beyond such a generation of thirty years, it was ordained in judicial science that the lapse of a period of thirty years after a document existed should be sufficient to justify the legal presumption that witnesses to a document of such age were dead or beyond the reach of the court; and it was ordained further

¹Thomas v. Thomas, 2 La. O. S. 166.

²United States v. Sutter, 21 How. (U. S.) 170, 175.

that after a document had (1) existed thirty years, (2) been kept in proper custody, it should be an Ancient Document, be dealt with as such when offered in evidence; and that such age and custody should sanction and authenticate the document without calling witnesses to prove it. Greenleaf states the law as follows:

"Where these instruments are more than thirty years old and are unblemished by any alterations, they are said to prove themselves; the bare production thereof is sufficient; the subscribing witnesses being presumed to be dead." ¹

Later, in stating an additional rule, that required generally the production of the identical subscribing witnesses to a deed to prove it, Greenleaf says that there are exceptions to these rules:

"The first is, where the instrument is thirty years old, as we have heretofore seen [*ante, sec. 21*], the subscribing witnesses being presumed to be dead and other proof being presumed to be beyond the reach of the party. But such document must be free from just grounds of suspicion, and must come from the proper custody . . . and in this case it is not necessary to call the subscribing witnesses, though they may be living. . . .

"This exception is co-extensive with the rule

¹Greenleaf on Ev. sec. 21, and cases cited. →

applying to ancient writings of every description, providing they have been brought from the proper custody and place; for the finding them in such custody and place is a presumption that they were honestly and fairly obtained and preserved for use, and are free from suspicion of dishonesty.”¹

“Documents found in a place and under care of persons with whom such papers might naturally and reasonably be expected to be found, or in the possession of persons having an interest in them, are in precisely the custody which gives authenticity to documents found within it. . . .

“So far then as concerns the admission of Ancient Documents without direct proof of their execution, the above rule makes four requirements: (a) the document must have been in existence for thirty years; (b) it must have been found in the proper custody; (c) it must not have a suspicious appearance; and (d) there must be (if it purports to convey title to land) some attendant circumstance corroborating its genuineness — either possession of the land or some item of corroboration. The rule may be applied to any kind of document.² And if the proper showing as above can be

¹ Greenleaf on Ev. sec. 570 and 575b; 12 Viners Abr. 84 tit. Evidence A.B. 5. pl. 7. cited by Ld. Ellenborough, C.J., in *Roe v. Rawlings*, 7 East 291.

² *Doe v. Turnbull*, 5 U. C. Q. B. 129: “Any written document whatever”; *Enfield v. Ellington*, 67 Conn. 459; *Smucker v. Penn. R. Co., Pa.*, 41 Atl. 457; *Almy v.*

made, a copy may be used where the original is lost.¹ The circumstances above operate as sufficient evidence, not merely of the genuineness of signature, but also of other facts, going to constitute due execution, such as the existence of a power of attorney to make a deed.”²

WRITINGS UNACKNOWLEDGED AND UNRECORDED

As further illustrating the reason of the rule, we quote from the judgment of the Supreme Court of Equity of New Jersey. An ancient writing purporting to be a deed but unacknowledged and unrecorded was offered in evidence and objected to. The court held it admissible under the Ancient Document rule of evidence, saying:

“Such account must be given of the deed as may reasonably be expected under all the circumstances of the case and as will afford a presumption that it is genuine. This definition has been approved. ‘See 2 Phil. Ev. (4th Am. Ed.) 475, note 430 by C. & H.’ . . . Neither party has shown possession;

Church, 18 R.I. 182; *Aldrich v. Griffith*, 66 Vt. 390: “*Though the last requirement is not essential except for documents dealing with land.*”

¹ *Greene v. Proude*, 1 Mod. 117; *N. Y. & N. H. Ry. Co. v. Benedict*, 169 Mass. 262; *Briggs v. Henderson*, 49 Mo. 531; *Townsend v. Downer*, 32 Vt. 183, 211.

² *Greenleaf on Ev. sec. 575c*, 16th Ed.; *Robinson v. Craig*, 1 Hill, S. C. 389; *King v. Little*, 1 Cush. 436.

on the contrary both admit that the land has been vacant for a century so that possession speaks neither for nor against the deed. But *the proofs show that just such use has been made of it* [the document] and that *just such claims have been made under it as would in the usual course of such transactions among men of a very early day have been made, had the persons dealing with it known it to be an honest paper.* It has been dealt with, treated and preserved as an honest valid paper. . . . It should *be admitted in evidence and full effect given to it.*¹

This has been the law of evidence in administering judicial science for centuries. We find it expressly adjudged in 44 Elizabeth, A.D. 1602, in a case cited, approved, and followed, viz. Wright *v.* Sherrard, 1 Keb. 877. The court says: "An ancient deed is good evidence without proving or seal on it as [a case] 44 Eliz."

Many pages might be filled with citations of cases in which this law of evidence has been expressly enforced. We will cite a sufficient number of decisions to show that jurists and courts of first rank in the world, with united voice, sanction and enforce the doctrine; to show the nature of the documents held to be embraced in the rule; the

¹Havens *v.* Sea Shore Land Co. 47 N. J. Eq. 365.

kind of custody; that the rule embraces copies; and the cogency and value as evidence of such Ancient Documents, found in such custody.

The Bishop of Meath *v.* Marquis of Winchester was a leading case in England, decided by Chief-Justice Tindall, and his associates on the bench.

A simple, unsworn statement, over thirty years old, alleged to have been used by one Dopping, formerly Bishop, for the purpose of procuring an opinion of counsel, was offered in evidence but objected to. It was found in a house Dopping had occupied when Bishop, and which his descendants occupied after his death when the document was found. It was a mere statement of matters affecting the diocese and bishopric, but material on the contest between the new Bishop of Meath and the Marquis. Had it been less than thirty years old, it would not be admissible in evidence without being confirmed by the ordinary tests of truth, the sworn testimony of witnesses who knew it was so used by Dopping. But its antiquity, its preservation, and the custody in which it was found, sanctioned and confirmed it, and dispensed with calling witnesses who knew its having been used by Dopping, and, under the Ancient Document rule of evidence, sufficed, instead of the sworn testimony of wit-

nesses, otherwise requisite to make it competent and admissible evidence.

As to the objection to the custody, and the sanction and authority claimed for the document by its preservation, its custody, and its age, the court said:

“The document was found in a place in which and in the care of persons with whom papers of Bishop Dopping might naturally and reasonably be expected to be found, and it is precisely the custody which gives authenticity to documents found within it, for it is not necessary that they should be found in the best and most proper place of deposit. If documents continue in such custody, there never would be any question as to their authenticity; but it is when the documents are found in other than the proper place of deposit that the investigation commences, whether it was reasonable and natural under the circumstances in the particular case to expect that they should have been in the place where they are actually found; for it is obvious that while there can be only one place of deposit strictly and absolutely proper, there may be various and many that are reasonable and probable, though differing in degree; some being more, some less; and in those cases the proposition to be determined is whether the actual custody is so reasonably and properly accounted

for that it impresses the mind with the conviction that the instrument found in such custody must be genuine; that such is the character and description of the custody which is held sufficiently genuine to render a document admissible appears from all the cases.”¹

It is this defect, namely, that they do not come from the proper or natural depository, which shows the fabulous character of many pretended revelations, from the “Gospel of the Infancy” to the “Book of Mormon.”

Chief-Justice Holt says: “An old deed is good evidence without any witness to swear it was executed.”²

“It is an established rule which holds in the case of every deed that if it is above thirty years old it proves itself.”³

Lord Chief-Justice Kenyon says: “All deeds above thirty years old prove themselves.”⁴

The Supreme Court of the United States approves and enforces this doctrine, and has done so again and again. In a comparatively late case (1885) it enforced the doctrine as to persons not

¹ Bishop of Meath *v.* Marquis of Winchester, 3 Bing. N. S. 183.

² Lynch *v.* Clarke, 3 Salk. 154.

³ R. *v.* Farrington, 2 T.R. 466, Buller, Judge.

⁴ Chelsea Water Works Co. *v.* Cowper, 1 Esp. 275.

parties or privies to the document. Two deeds, each over thirty years old, had been found shortly before the case was tried in the lower court — found among the files of another suit of July, 1816. These deeds were offered in evidence and strenuously objected to, but the court held them admissible under the Ancient Document rule of evidence, without proving their execution. The court held that “the record of the case [including the deeds found in the files] was admissible against persons not parties or privies to prove the collateral fact of the antiquity of the original deeds offered in evidence and ‘to account for the custody,’” citing *Barr v. Gratz*, 4 Wheat. U. S. Rep. 213–220.¹

ANCIENT DOCUMENT RULE APPLIES TO ALL KINDS
OF WRITINGS

“The probative value of the circumstances of age, custody and the like as evidence of genuineness exist equally for all sorts of documents.² The rule is not confined to deeds or wills, but extends to letters and other Ancient Documents coming from proper custody.³ Any instrument of that age,

¹ *Apple Gate v. Lexington Mining Co.*, 117 U. S. Rep. 255, 261.

² 3 Wigmore on Ev. sec. 2145.

³ *Wyman v. Tyrwhitt*, 4 B. & Ald. 376; see *Doe v. Turnbull*, 5 U. C. Q. B. 129.

whether deed or will or other instrument, proves itself.”¹

All kinds of documents of the prescribed age and custody have been expressly adjudged competent evidence in unnumbered instances.

We note a few as samples of what writings are within the rule: Parish Terrier, i.e. list of temporal property of a church,² lease,³ marriage settlement,⁴ old plan found in hands of man who had been town clerk,⁵ a sequestrator’s account,⁶ entries in a Bible,⁷ letters,⁸ surveyor’s memorandum indorsed on a land-warrant.⁹

A late and exhaustive work on Evidence devotes a section to showing the kinds of documents that are under the rule, and the persons in whose favor the rule is enforced.¹⁰

¹ *Doe v. Budett*, 4 A. & E. 1, 19.

² *Atkins v. Hatton*, 2 Anstr. 386.

³ *Rees v. Walters*, 3 M. & W. 527.

⁴ *Adams v. Dickerson*, 23 Ga. 406.

⁵ *Gibson v. Poor*, 21 N. H. 440.

⁶ *Pulley v. Hilton*, 12 Price 625.

⁷ *Hubbard v. Lees*, L. R., 1 Exch. 255.

⁸ *Bell v. Brewster*, 44 O. St. 690; *Doe v. Benyon*, L. R. 4, P. & Dav. 193; *Bear v. Ward*, cited in *Starkie on Ev.* p. 522; *Rex v. Inhabitants of Bathwick*, 2 B. & Ad. 639; *Roe d. Brune v. Rawlings*, 7 East 279.

⁹ *Holt v. Maverick*, 5 Tex. Civ. App. 650.

¹⁰ *Elliott on Ev.* sec. 428.

"Although the most common use of such documents in evidence is as the basis of some claim of right asserted under such documents, nevertheless they are admissible for any other purpose; and parties not privy to them may bring them into court as any other instruments duly authenticated."¹

COPIES EQUALLY WITH ORIGINALS EMBRACED IN
THE RULE

As already noted, when original documents have been lost, worn out, or injured, or cannot be produced, a copy is competent and admissible in evidence under the Ancient Document rule of evidence.

Baron Gilbert in his work on Evidence, after stating that generally an unauthorized enrolment, or an inspeximus (an exemplification), is not receivable in evidence, says:

"But the inspeximus of an Ancient Deed may be given in evidence, though the deeds needed no enrollment; for an Ancient Deed may be easily sup-

¹ *Morris v. Callahan*, 105 Mass. 129; *Adams v. Stanyon*, 24 N. H. 405; *Dobson v. Finley*, 8 Jones N. C. 495; *King v. Sears*, 91 Ga. 577; *Deary v. Gray*, 5 Wall. (U. S.) 795; *Doe v. Campbell*, 10 John (N. Y.) 475; *Johnson v. Shaw*, 6 Tex. Civ. App. 493; *Fulkerson v. Holmes*, 117 U. S. 298; *McClusky v. Barr*, 47 Fed. 154; *Rex v. Long Buckey*, 7 East 45.

posed to be worn out or lost, and offering the inspeximus in evidence, induces no suspicion that the deed is doubtful, for it hath a sanction from antiquity, and if it had been ill executed, it must be supposed to be detected when newly made."¹

"When the alleged Ancient Document is lost and an Ancient Purporting Copy is offered, made by a private hand and the purporting maker being unknown or deceased, it seems to have been accepted, that this suffices and that the copy may be received under the Ancient Document Rule."²

The decisions sustain the doctrine.³

ACCOUNTING FOR LOSS OF ORIGINALS, DISPENSED
WITH IN CASES OF VERY ANCIENT
DOCUMENTS

We note here some instances, to illustrate what copies of instruments have been adjudged admissible under the rule when the original is lost, destroyed, worn out, or mutilated; namely, copy of Ancient Power of Attorney to convey land;⁴ copy

¹ Gilbert on Ev. p. 99, citing decisions *Goodson v. Jones*, Styles Rep. 445 (A.D. 1655) and 5 Co. 54 and *Salk*. 280.

² 3 Wigmore on Ev. sec. 2143.

³ *Green v. Proude*, 1 Mod. 117; *Almy v. Church*, 18 R. I. 182; *Ludlam's Will*, Lofft. Rep. 362; *Aldrich v. Griffith*, 66 Vt. 390; *Bradley v. Lightcap*, 201 Ill. 511; *Gibbons v. Poor*, 21 N. H. 440.

⁴ *Win v. Patterson*, 9 Pet. U. S. 663.

of Ancient Indenture of Apprenticeship, even though the proper office does not show the original had been stamped or recorded as required by law;¹ Ancient Copy of lost Vicars endowment.²

Accounting for loss of an original is done, as the New York Supreme Court says, "by the best evidence the case admits of."³

In fact, circumstances and conditions, including efflux of time, without direct proof of loss, justify the legal presumption and justify acting on that presumption, that an original Ancient Document once existed but has been worn out or lost, or has perished, and copies in such case are admissible in evidence under the Ancient Document rule, as Lord Mansfield expressly held in Ludlam's Will Case (*ante*, p. 28), even if you cannot bring witnesses to prove that the copy has been compared with the original.

This doctrine was decreed by the Supreme Court of Ohio (A.D. 1847) in a case in which an alleged copy of power of attorney to convey land had been acted on for a long time, forty years or more, but no account could be given of loss or absence of the

¹ *Rex v. Long Buckey*, 7 East 45.

² *Tucker v. Wilkins*, 4 Sim. 241.

³ *Fetherly v. Waggner*, 11 Wend. 599; *Havens v. Sea Shore Land Co.* 47 N. J. Eq. 365.

original, or that the alleged copy had been compared with the original. In deciding the document was admissible as evidence, the court said:

"Those living at its date and who could have testified concerning the original, have departed from the scene of action. It was acted on more than forty years ago, and for many years after its date, and treated as a genuine instrument by those who were interested in knowing it was a valid power. . . . Under this state of facts it may be presumed, and we are satisfied that the presumption is the truth, that there was an original of which this is an exact copy."¹

ANCIENT COPY LIKE BIBLE COPIES

On this doctrine, the case of Attorney-General *v. Boulton*, decided in the High Court of Chancery of England, A.D. 1794, reported in 2 Vesey, Jr., 380, and on appeal in 3 Vesey, Jr., 220, is highly important and instructive because of the marked identity of character in the conditions (affecting its competency as evidence) of the alleged copy of document in that case with the Bible copies of documents as we have them to-day. The case involved

¹ *Webster v. Harris*, 16 O. 490. See, too, to same doctrine, *Beard v. Byan*, 78 Ala. 37; *Allison v. Little*, 85 Ala. 512; also *Havens v. Sea Shore Land Co.* 47 N. J. Eq. 365.

an alleged trust. It was of such importance as to require as plaintiff the highest law officer of Great Britain, the Attorney-General. The alleged date of the trust was A.D. 1653, one hundred and forty-one years before the trial. Those interested in the trust offered in evidence a paper as a copy of an alleged original writing creating the trust, which opponents resisted.

We note the identity of conditions of that alleged copy and that of the Bible documents. In that case, as in the case of the Bible documents, only an alleged copy could be produced. Likewise no witness could be produced to prove the execution or existence of the original, or to account for loss or destruction of the original, or any evidence to account for the absence of the original save the very long lapse of time. The alleged copy in that case, like the Bible documents, as expressly stated in the report, had "neither date nor signature." Furthermore, like the Bible documents, no proof could be given that the alleged copy had ever been compared with the original, but, as in the case of the Bible documents, the paper was more than thirty years old, and those living at the time of the transactions described in the copy, and who could have testified concerning the original, had long before

departed from the scene of action — the paper had been kept in proper custody and from the first when contents of the paper came to be acted on it had been dealt with and acted upon as a valid copy of a valid original. In short, the conditions and circumstances of the paper affecting its competency and admissibility as evidence were identical in all material respects with the conditions and circumstances of the Bible documents as they now exist. After argument by eminent counsel and thorough consideration, the court held the alleged copy competent and admissible, and that it should be received and given effect as evidence according to its full extent and import. On appeal to the Lord High Chancellor of England, that eminent jurist called in the chief-justices of the other National courts of England, the Lord Chief-Justice Eyre and the Lord Chief Baron McDonald, to act in the case. Their decision was unanimous, affirming the judgment of the lower court in all respects.

BIBLE DOCUMENTS WITHIN THE RULE — GREENLEAF

That great jurist, Simon Greenleaf, eminent authority on the law of evidence on both sides of the Atlantic, some years ago carefully examined the identical question we are here considering; viz.

Are the books of the Bible, including the Gospel of John, when tested by the principles and rules of the science of jurisprudence and evidence as administered in courts of justice, admissible in evidence to prove the facts recorded therein? An extended extract from his decision follows. The ample review we have just made of decisions and announcements of the law on the subject by courts and jurists foremost in standing and authority in the judicial world, extending back for more than three hundred years, will enable the reader to see that the judgment of Professor Greenleaf is not only fully sustained, but might have been, if possible, more emphatic in affirming the competency and admissibility in evidence of the Gospel of John, as well as other books of the Bible, under the Ancient Document rule of evidence.

Professor Greenleaf says:¹

“That the Books of the Old Testament as we now have them are genuine; that they existed in the time of our Savior and were commonly received and referred to among the Jews as the sacred books of their religion; and that the text of the Four Evangelists has been handed down to us in the state in which it was originally written, that

¹ Test. of the Evang. pp. 7-11.

is, without having been materially corrupted or falsified, either by heretics or Christians; are facts which we are entitled to assume as true until the contrary is shown.

“The genuineness of these writings really admits of as little doubt and is as susceptible of as ready proof as that of any ancient writings whatever. The rule of municipal law on this subject is familiar, and applies with equal force to all ancient writings, whether documentary or otherwise; and as it comes first in order in the prosecution of these inquiries, it may for the sake of convenience be designated as our first rule.

“Every document apparently ancient coming from the proper custody and bearing on its face no evident marks of forgery, the law presumes to be genuine and devolves on the opposite party the burden of proving it to be otherwise.

“An Ancient Document offered in evidence in our courts is said to come from the proper repository when it is found in the place where and under the care of persons with whom such writings might naturally and reasonably be expected to be found; for it is this custody which gives authenticity to documents found within it. If they come from such a place, and bear no evident marks of forgery, the law presumes that they are genuine, and they are permitted to be read in evidence, unless the opposite party is able to successfully impeach them. The burden of showing them false and unworthy

of credit is devolved upon the party who makes that objection. The presumption of the law is the judgment of charity. It presumes that every man is innocent until he is proved guilty; that everything has been done fairly and legally until it is proved to have been otherwise; and that every document found in the proper repository, and not having marks of forgery, is genuine. Now this is precisely the case with the Sacred Writings. They have been used in the Church from time immemorial, and thus are found in the place where alone they ought to be looked for. They come to us and challenge our reception of them as genuine writings precisely as Domesday Book, the Ancient Statutes of Wales, or any other of the ancient documents, which have recently been published under the British Record Commission are received. They are found in familiar use in all the churches of Christendom, as the sacred books to which all denominations of Christians refer as the standard of their faith. There is no pretence that they were engraved on plates of gold and discovered in a cave, nor that they were brought from heaven by angels; but they are received as the plain narratives and writings of the men whose names they respectively bear, made public at the time they were written; and though there are some slight discrepancies among the copies subsequently made, there is no pretence that the originals were anywhere corrupted. If it be objected that the originals are

lost and that copies alone are now produced, the principles of the municipal law here also afford a satisfactory answer. For the multiplication of copies was a public fact in the faithfulness of which all the Christian communities had been interested and it is a rule of law that —

“In matters of public and general interest, all persons must be presumed to be conversant on the principle that ‘individuals are presumed to be conversant with their own affairs.’

“Therefore it is that in such matters the prevailing current of assertion is resorted to as evidence, for it is to this that every member of the community is supposed to be privy.¹ The persons, moreover, who multiplied these copies may be regarded in some manner as the agents of the Christian public for whose use and benefit the copies were made; and on the ground of the credit due to such agents and of the public nature of the facts themselves, the copies thus made are entitled to an extraordinary degree of confidence, and as in the case of official registers and other public books, it is not necessary that they should be confirmed or sanctioned by the ordinary tests of truth.² If any ancient document concerning our public rights

¹ *Morewood v. Wood*, 14 East 329, n. per Ld. Kenyon; *Weeks v. Sparks*, 1 M. & S. 686; *Berkley Peerage Case*, 4 Camp. 416, per Mansfield, Ch. J.; see 1 Greenleaf on Ev. sec. 128.

² *Starkie on Ev.* 95, 320; 1 Greenleaf on Ev. sec. 483.

were lost, copies of which had been as universally received and acted on as the Four Gospels have been, would have been received in evidence in any of our Courts of Justice without the slightest hesitation. The entire text of the *Corpus Juris Civilis* is received as authority in all the courts of Continental Europe, upon much weaker evidence of its genuineness; for the integrity of the Sacred Text has been preserved by the jealousy of opposing sects beyond any moral possibility of corruption; while that of the Roman Civil Law has been preserved by tacit consent without the interest of any opposing school to watch over and preserve it from alteration.

“These copies of the Holy Scriptures, having thus been in familiar use in the churches from the time when the text was committed to writing; having been watched with vigilance by so many sects opposed to each other in doctrine, yet all appealing to these Scriptures for the correctness of their faith; and having in all ages down to this day been respected as the authoritative source of all ecclesiastical power and government and submitted to and acted under in regard to so many claims of right on the one hand and so many obligations of duty on the other; it is quite erroneous to suppose that the Christian is bound to offer any further proof of their genuineness or authenticity. It is for the objector to show them spurious; for on him by the plainest rules of law lies the burden of proof. *If it were the case of a claim to a fran-*

chise and a copy of an ancient deed or charter were produced under parallel circumstances on which to presume its genuineness, no lawyer it is believed would venture to deny either its admissibility in evidence or the satisfactory character of the proof. In a recent case in the House of Lords, precisely such a document being an old manuscript copy purporting to have been extracted from ancient Journals of the House which were lost and to have been made by an officer whose duty it was to prepare lists of the peers, was held admissible on the claim of peerage.”¹

SECTION III

EVIDENCE COMPETENT

The specific question before us is that of the competency and admissibility of the Gospel of John as evidence on the “issue” on the verity of the miracle of raising Lazarus from death to life, which is here on trial, assuming objections have been made to receiving it. The test and standard of competency and admissibility as evidence of the Bible Documents of Professor Greenleaf affirmed by us has been examined. As specifically applied to the present “issue” and the Gospel of John, that standard and test is: “If the Gospel of John as

¹ Slane Peerage, 5 Clark & F. 23; Fitzwalter Peerage, 10 Id. 946.

an Ancient Document, or copy thereof, supposing it to be relevant and material to the issue in a question of property or personal rights, between man and man, in a court of justice, ought to be admitted as evidence and have weight, then upon like principles it ought to receive our entire credit here."

We have examined the actual decisions of the highest courts of jurisprudence for more than three hundred years last past, decisions rendered by those courts in deciding most momentous questions of property and personal rights between man and man. We have found a consensus of unnumbered decisions by those courts and by judges and jurists of the highest authority and standing in the civilized world, and they show that the Gospel of John, like the other books of the Scriptures, is clearly within the Ancient Document rule and law of evidence, and clearly satisfies the test and standard proposed, and show that that Gospel, tested by the principles and rules of the science of jurisprudence as administered in courts of justice in controversies between man and man, is competent and admissible as evidence. On like principles (as in any *forum conscientiae*) it is competent and admissible evidence on the "issue" here on trial and should receive credence accordingly.

We therefore now introduce in evidence the Gospel of John as an Ancient Document, especially parts thereof relevant to the "issue," viz. as particular, subsidiary, evidentiary *facts*, and cite the verse or verses in which the *fact* is recorded.

FACTS

Lazarus was a man residing at Bethany, a village situated about fifteen furlongs from Jerusalem (John 11:18).

Mary and Martha were sisters of Lazarus, and the three were beloved by Jesus (John 11:5, 21, 32).

Lazarus was sick, and his malady became so serious that his sisters became alarmed. Evidently hoping that Jesus would cure Lazarus, the sisters sent a message to Jesus, who was absent (John 11:3, 21, 23).

Jesus received the message, and, after receiving it, stayed two days in the place where he received it; during which time Lazarus died (John 11:6).

Jesus then informed the disciples that accompanied him that Lazarus was dead (John 11:14).

Jesus announced to his disciples his determination to return again to Judæa, where the home of Lazarus had been (John 11:7, 15).

Jesus and his disciples returned to Bethany, and

found that the dead body of Lazarus had been buried and lain in the tomb four days (John 11:17).

When Jesus arrived at Bethany he found many of the Jews attendant at the home of Mary and Martha, met to mourn with the sisters over the death of Lazarus (John 11:19, 31).

The sisters, Mary and Martha, each met Jesus on his arrival at Bethany, and each said to Jesus, "Lord, if thou hadst been here, my brother had not died" (John 11:21, 32).

Jesus told Martha that Lazarus should rise again from death, which Martha said she believed would occur "in the resurrection at the last day" (John 11:23, 24).

The grief of Mary over the death of Lazarus, and that of the Jews also weeping with her, was manifested with such intensity that Jesus, sympathizing, wept also (John 11:35).

At Jesus' request, Mary and Martha and the friends in their company conducted Jesus and his disciples to the tomb, in which lay the dead body of Lazarus. "It was a cave, and a stone lay against it" (John 11:38, Am. Rev.).

The document shows that, besides Jesus and his disciples and Mary and Martha, there was a con-

siderable concourse of Jews met to sympathize with Mary and Martha over the death of Lazarus (John 11).

In the presence of this considerable assembly, immediately at the door of the tomb in which the dead body of Lazarus lay enshrouded in grave-clothes, Jesus ordered the stone to be taken away. "Martha, the sister of him that was dead," protested against opening the tomb, because Lazarus' body had been dead for four days, decay had commenced and the body stank (John 11:39).

In obedience, however, to Jesus' command, those present removed the stone from the door of the tomb (John 11:41).

Then, after brief prayer, Jesus at the door of the tomb spoke with a loud voice, "Lazarus, come forth." Immediately "he that was dead came forth, bound hand and foot with grave-clothes; and his face was bound about with a napkin," and Jesus said, "Loose him, and let him go" (John 11:43, 44).

Between one and two months later Jesus came again to Bethany, "where Lazarus was whom Jesus raised from the dead," and a feast was spread for Jesus, and "Lazarus was one of them that sat at meat" (John 12:1, 2).

At that time "the common people therefore of the Jews learned that he was there; and they came, not for Jesus' sake only, but that they might see Lazarus also, whom he had raised from the dead" (John 12:9, Am. Rev.).

The chief priests, hostile to Jesus, when informed of the raising of Lazarus from death, took counsel to put Lazarus to death, because many Jews were led to believe on Jesus by reason of his raising Lazarus from death (John 12:10, 11).

A few days later, when the Lord made triumphant entry into Jerusalem and the attention of the vast assembly of people at the great feast had been called to the fact of raising Lazarus from death, "the multitude that was with him [Jesus] when he called Lazarus out of the tomb, and raised him from the dead, bare witness"; that is, that multitude that was present when Lazarus was raised from death, testified to the verity of the miracle to the people gathered at Jerusalem (John 12:17).

"For this cause also the multitude went and met him, for that they heard that he had done this sign" (John 12:18).

All these separate items, evidentiary facts, are ordinary testimony. Mary and Martha were perfectly competent witnesses to know and testify to

the sickness, death, and burial of Lazarus, and that he had been dead and buried four days before Jesus had the tomb opened. The neighbors of Mary and Martha were also competent witnesses to know and testify to the death and sepulture of Lazarus. All of them, and John who wrote the document, were competent to observe and testify to the transactions detailed that took place at the tomb when Lazarus came forth from it alive, and that he continued alive.

* Each and all the items of evidence are of matters plain and simple in their nature, easily seen, and capable of being readily and accurately observed, scrutinized, comprehended, and detailed in testimony by witnesses who are of ordinary capacity and observation. The amount of competent evidence is abundant, unimpeached, and uncontradicted.

RESULT OF TRIAL

The evidence would require, at the hands of a jury, a verdict embodying these facts: (1) that Lazarus was dead; (2) that Jesus spoke over the dead body of Lazarus the words "Lazarus, come forth," and immediately Lazarus' dead body was alive; and (3) that Lazarus came forth from the tomb alive, and continued alive.

A juror would violate his oath if he refused to find such verdict on that evidence. A contrary verdict would be set aside by a court as not only contrary to the evidence, but perverse. In short the miracle is proved by competent evidence.

The fact that Lazarus was dead and at the fiat words of Jesus he was immediately alive and continued alive, establishes the transaction a miracle as tested by any standard definition; and the proof is by human testimony.

Nay, the facts proved constitute the transaction a miracle, tested even by Mr. Hume's own definition embraced in his proposition here in issue, i.e. "A miracle is a violation of the laws of nature." The word "violation" so used seems plainly polemic, but cannot rationally mean other than that a miracle thwarts or frustrates the operation of the laws of nature.

It is undoubtedly a law of nature that the dead body of a man remains dead. It at once commences to decompose, continues to decompose, and returns to dust. But Lazarus' dead body did not remain dead, did not return to dust, but became alive and continued alive. These facts, thwarting, frustrating, the operation of the laws of nature, were clearly and abundantly proved by a multitude

of competent witnesses — by human testimony. Tested even by Mr. Hume's own definition, the transaction was proved a miracle, and is proved a verity, and the proof is by human testimony.

This review of the law and evidence on the "issue" tried justifies the conclusion that the miracles of the Bible are capable of being proved, and are proved, by existing available evidence — evidence competent, proper, and admissible under the rules and standards of the science of jurisprudence as administered in courts of justice of enlightened nations of the earth; also the miracles of the Bible are verities tested by the same standards by which fact and truth are established on all questions between man and man in which fact and truth depend on and are ascertained and are established through evidence.