

THE LAW OF EVIDENCE AND THE SCIENTIFIC INVESTIGATION OF HANDWRITING.

of the document, that the anatomy of the handwriting of the signature was quite different from that of the alleged signer, while the signature itself and the writing in the body of the paper agreed in this respect, that is as to its principles of structure; one party writing in what I call the looped style, that is, making a looped letter whenever practicable, while the other, in every case where it was possible to do so, avoided any such form of letter.

In a case in a commercial house where an embezzlement to a considerable amount was discovered, the alterations which were made in order to conceal the fraud were seen to be *fac similes* of the handwriting of one of the two clerks who kept the books. These alterations, however, might have been made by the other clerk, he imitating the handwriting of the first, in order, in case the fact was discovered, to clear himself by casting suspicion upon his fellow clerk. The question thus submitted without other testimony would seem to rest for its decision upon a comparison of the handwriting alone. This, as I have already shown, might work the greatest injustice in a case like the present, confounding the innocent with the guilty. The altered words and figures were to all appearance, in every respect like the handwriting of one of the parties, as before stated. Upon examining the principles upon which they were formed, a perfect correspondence was seen to exist here also, while upon a similar examination of the writing of the other clerk a very marked difference was observable, and much of this difference could only be seen through the aid of the microscope; hence I felt warranted in coming to the conclusion that the alterations were the work of the clerk whose handwriting they so closely resembled. It is possible, perhaps, to imitate a handwriting by the very means and the very manner in which the original was executed. But this would, of course, necessitate the use of the microscope in the first place, and a good deal of after practice in order to its successful accomplishment. If it should occur in a given case and there should be no other means of detection, the expert would have no right to come to a conclusion, as it would in such a case be no

better than guessing. I use the word "conclusion" in this paper in the sense of a necessary consequence, that is, to the mind of the expert. And under these conditions he might perhaps be allowed to state his conclusions to the jury, but not in this case or any other, without at the same time being called upon to give the grounds of such conclusions.

Another case which took place in an adjoining state, still further illustrates the value of this method of examination, and also of that usually resorted to in such cases. This case involved the forgery of five separate notes, all purporting to be endorsed by one party, this endorsement alone giving them any value. This gentleman, the alleged endorser of the note, was quite aged, and wrote a very fine, tremulous hand; viewed by the unaided eye the imitation appeared almost perfect, and was sworn to by those persons whom the law recognises as competent witnesses in such cases. On making a magnified copy of this signature, I found that the tremulous appearance of the letters was due to the fact that they were made up of a series of dashes standing at varying angles to each other, and further, that these strokes thus enlarged, were precisely like those constituting the letters themselves in the body of the note which were acknowledged to have been written by the alleged forger of the signature. Upon the introduction of this testimony, the criminal withdrew the plea of not guilty and implored the mercy of the court.

In reviewing these cases it will be seen that any number of competent witnesses, and a majority of them I do not doubt, perfectly honest in their opinions or guesses, can be got to testify on either side of the question, well illustrating the value of this class of testimony.

"The teller in a bank is a competent witness when he has paid the checks of the party whose handwriting is involved in the question, provided he has not paid forged checks purporting to have been made by such party; this renders him incompetent." He would be competent, however, no matter how many such checks he may have paid, provided he has seen the party write once, and then only his name.