

THE LAW OF EVIDENCE AND THE SCIENTIFIC INVESTIGATION OF HANDWRITING.

"The testimony of experts is receivable in corroboration of positive evidence, to prove that in their opinion the whole of an instrument was written by the same hand, with the same ink, at the same time." *Fulton v. Hood*, 34 Penn. St. 365.

"All evidence of handwriting, except where the witness saw the document written, is in the nature of a comparison. It is the belief which a witness entertains upon comparing the writing in question, with its exemplar in his mind derived from some previous knowledge.

... It is agreed that if the witness has the proper knowledge of the party's handwriting he may declare his belief in regard to the genuineness of the writing in question. He may also be interrogated upon the circumstances upon which he founds his belief. The point upon which learned judges have differed in opinion is upon the source from which this knowledge is derived rather than as to the degree and extent of it." 1 Greenl. on Evid., § 576.

"There are two methods of acquiring this knowledge. The first is from having seen him write. It is held sufficient for this purpose that the witness has seen him write but once, and that only his name * * The second mode is from having seen letters, bills or other documents purporting to be the handwriting of the party, and having afterwards personally communicated with him respecting them, or acted upon them as his, the party having known and acquiesced in such acts, founded upon their supposed genuineness, or by such adoption of them in the ordinary business transactions of life as induces a reasonable presumption of their being his own writings." 1 Greenl. on Evid., § 577.

"This rule requiring personal knowledge on the part of the witness has been relaxed in two cases. First, where the writings are of such antiquity that living witnesses cannot be had, and yet are not so old as to prove themselves. There the course is to produce other documents either admitted to be genuine or proved to have been respected and treated and acted upon as such by all parties, and to call experts to compare them, and to testify their opinion concerning the genuineness of the instrument in question.

Second, where other writings admitted to be genuine are already in the case. Here the comparison may be made by the jury with or without the aid of experts." 1 Greenl. on Evid., § 578.

Before being admitted to testify as to the genuineness of a controverted signature, from his knowledge of the handwriting of the party, a witness ought be- yond all question to have seen the party write or be conversant with his acknowledged signature. The teller of a bank, who as such has paid many cheques pur- porting to be drawn by a person who has a deposit account with the bank, but has not seen him write, if the testimony shows nothing further, is a competent witness to testify to the handwriting of such a person; but he is not a competent witness to testify to the handwriting of such a person if it appears that some of of the cheques so paid were forged, and that the witness paid alike the forged and the genuine ones." *Brigham v. Peters*, 1 Grey, 139, 145, 146.

A witness who has done business with the maker of the note, and seen him write, but only once since the date of the disputed note, may nevertheless give his opinion in regard to the genuineness of the note, the objection going to the weight and not to the competency of the evi- dence: *Keith v. Lathrop*, 10 Cush. 453.

A third mode of acquiring a know- ledge of a person's handwriting is by put- ting writings acknowledged to be his in the hands of the witness and allowing him to study them and thus become ac- quainted with the handwriting; and as the result of such study he is in some states, though upon this point there is a conflict, admitted to be competent to tes- tify as to the case in question; that is to examine the document in the case and to give his opinion as to its genuineness. See the authorities, collected in 1 Greenl. Evid., § 579, 581, and notes.

The reasons for refusing to allow such comparisons of handwritings are: 1st. The danger of fraud in the selection of writings offered as specimens for the oc- casion, or if admitted, their genuineness may be contested and others successively introduced, to the infinite multiplication of collateral issues and the subversion of justice: 1 Greenl. on Evid., § 580.