

tables, tending to show the probable duration of human life, though these are records which are not capable of mathematical demonstration, which cannot be tested by any certain law, and which may or may not omit the record of changes which have actually taken place. But an almanac forecasts with exact certainty planetary movements. We govern our daily life with reference to the computations which they contain. No oral evidence or proof which we could gather as to the hours of the rising or setting of the sun or moon could be as certain or accurate as that which we may gather from such a source." In *Sutton v. Darke*, 5 H. & W. 647, Pollock, C. B., said, *obiter*: "The almanac is part of the law of England. In *Regina v. Dyer*, 6 Mod. 41, it is stated that all the courts agreed it was: but it does not follow that all that is printed in every printed almanac is part of it, as for instance, the proper time of planting and sowing. Also in *Brough v. Perkins*, 6 id. 81, it is said that the almanac is part of the law of England; but the almanac is to go by that which is annexed to the common prayer book. Looking at that, I find it says nothing about the rising or setting of the sun, and I rather think that any information on that subject is quite recent." So Taylor (Ev., 1230) says: "The hour at which the moon rose is a fact, and it can fairly be argued upon the general principles of the law of evidence, that the best evidence of that fact is the testimony of some one who observed its occurrence. Books of science are generally not evidence of the facts stated in them, although an expert may refresh his memory by their use." In *Collier v. Nokes*, 2 C. & K. 1012, the court held that although they would take judicial notice of days, they would not of hours, as of the hour of sunrise or sunset. In *Allman v. Owen*, 31 Ala. 167, it was held that courts will judicially take cognizance of the coincidence of days of the month with days of the week, as disclosed by the almanac.

Wharton says (Ev., § 282) that a judge "may refer to almanacs." So says Best. Now if the judge may turn to an almanac to satisfy himself when the sun set on a particular day, why may not the almanac be put in evidence to satisfy the jury of the same fact?

In *Sisson v. Cleveland, etc., R. Co.*, 14 Mich. 497, it was held, Cooley, J., giving the opinion,

that newspaper reports of the state of the markets are receivable in evidence. The learned judge remarked: "Courts would justly be the subject of ridicule if they should deliberately shut their eyes to the sources of information which the rest of the world relies upon, and demand evidence of a less certain and satisfactory character." The reason in favor of the mathematical demonstrations recorded in the almanacs is much stronger than that in favor of the comparatively inexact and discordant reports of newspapers, dependent solely on hearsay.

In speaking of books of exact science, Wharton says (Ev., § 667): "The books containing such processes, if duly sworn to by the persons by whom they are made, are the best evidence that can be produced in that particular line. When the authors of such books cannot be reached, the next best authentication of the books is to show that they have been accepted as authoritative by those dealing in business with the particular subject."

In *Morris v. Hanner's Heirs*, 7 Pet. 559, it was held that although historical works are evidence of ancient occurrences, which do not presuppose the existence of better evidence, yet if the facts related by a historian are of recent date, and may fairly be presumed to be within the knowledge of many living persons, then the book is not the best evidence within the reach of the parties. But there is great difference between matters of historical difference and mathematical certainty; between the accounts of the late civil war by Jefferson Davis, or Mr. Pollard, on the one hand, and Gen. Badeau or Gen. Sherman on the other, and the tables of the tides, an almanac, or the multiplication tables. We agree with the annotator of the Maryland case in the *Criminal Law Magazine*, that "we govern our daily life by reference to the computations of the almanac, and these computations are more satisfactory to us than the computations of persons who have actually observed the events, predicted by such computations. The world at large regards the statement of an almanac in regard to the hour of sunrise as more certain and satisfactory than the recollection of individuals. A rule which would exclude the evidence of an almanac is too narrow and technical to find favor in modern jurisprudence." It would be almost impossible, in a great majority of cases, to prove, by human testimony, the precise hour