

course of business or in reply to letters written by the witness, provided such communications have been acted upon as genuine by the parties, or adopted as such in the regular course of business. (3) Another method is by means of the comparison of the specimen in question with fairly selected, undisputed specimens of the alleged handwriting. With respect to this third method, there is considerable conflict of authority. By the English common law such comparison was permitted in two cases—(a) where the writings in question are of such antiquity that living witnesses can not be had, and yet are not so old as to prove themselves. Here the course is to produce other documents, either admitted to be genuine or proved to have been respected, treated and acted upon as such by the parties, and to call experts to compare them and to testify their opinion concerning the genuineness of the instrument in question. (b) Where other writings admitted to be genuine are already in the case.

Considerable diversity of practice at present prevails in England and in the various States of the Union; this diversity has been brought about partly by statutory enactment, and partly by decisions of the courts. Without undertaking to go into the details of the subject, we may state that in the State of Illinois the English rule is applied with some strictness, and excluding the case of ancient documents, the only case, as we understand it, in which a comparison of hands by experts is permitted, is where other writings admitted or proved to be genuine are properly in evidence and pertinent to the case: *Brobston v. Cahill* (1872), 64 Ills. 356, in which the rule laid down in *Jumpertz v. The People* (1859), 21 Id. 408, is explained and qualified. See also in general, 1 Greenleaf on Evidence, Sec. 577 *et seq.*; Chamberlayne's Best on Evidence, Sec. 232 and Note; Rogers on Expert Testimony, Sec. 139, 140 *et seq.*

With reference to this third method, by comparison of hands, two cases arise—First, where the material upon which the judgment is based consists of the disputed and genuine signatures; and, second, where the material at hand consists of a letter or letters, or other documents more voluminous. In the former case, the judgment arrived at does not, of course, possess the same weight as where more material is at hand upon which to form a judgment; nevertheless, cases do arise in which the expert is warranted, upon a comparison of the signatures, in expressing a very clear opinion that the signatures were or were not made by the same person.

As to the method of arriving at an opinion upon the comparison of one or more other signatures, the cases are so diverse that no general rules can be laid down. Each case must be decided upon its own particular facts.

In the second case, not unfrequently a conclusion can be arrived at having a high degree of probability amounting almost to a moral certainty. In arriving at a conclusion, many things are to be considered—not only is the form of the letters important, but their manner of combination to form words is even more important. The use of capitals, punctuation, mode of dividing into paragraphs, of making erasures and interlineations, idiomatic expressions, orthography, mechanical construction, style of combination, and other evidences of habit, are important elements upon which to form a judgment. An interesting case of this