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THE

BIBLIOTHECA SACRA.

ARTICLE I.

CERTAIN LEGAL ANALOGIES.

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I. PROOF STRENGTHENED BY TIME.

THE tests applied to disputed writings are not irrelevant when we consider the proof of miracles, which are the alleged autographs of God. When a writing is disputed, we inquire, first, from what depository it comes; secondly, whether it is similar to other writings of the alleged author; thirdly, whether it stands the scrutiny of time. The last inquiry is of peculiar importance. It is alleged that all who are not eye-witnesses of a miracle take it on hearsay, just as all who are not subscribing witnesses to a will testify at second-hand. But this is not so. In the first place there are many cases in which proving the hand-writing of a deceased subscribing witness supplies stronger proof than would be supplied by producing, within a short time after the death of the testator, the subscribing witness himself. If the opposing interests had prompt notice of the signature of the witness — if they omitted to contest it, they having the opportunity to do so, at a time when the evidence on both sides was fresh — then, in addition to the inference that a man who signs his name as subscribing witness does so intelligently and honestly, we have the inference of genuineness drawn from the non-production of impeaching tes-

timony by those interested in producing it if it existed. "Time," said Lord Plunkett, in a metaphor spoken of by Lord Brougham as not only singularly fine, but singularly true, "carries in one hand a scythe with which he cuts down vouchers and proofs, and in the other an hour-glass which tells us when such proofs shall be no longer required." But Time goes further than this. He does not merely say, "after a certain period your vouchers and proofs will not be required." This might give a technical rather than a moral victory to a party whose claim is thus aided. He says, in addition, "you who do not bring forward, in due time, proofs impeaching facts prejudicial to your interest are witnesses that no impeaching proof exists." And this is matter of substance.

But there are other ways in which the lapse of time strengthens proof of ancient disputed writings. First it may happen that the hand-writing may exhibit the marks of a specific era. Experts, for instance, may be able to assign particular writings to particular countries and particular centuries; and though there may be some hesitation in this respect when two centuries form so continuous a current as do the eighteenth and the nineteenth, there is little room for doubt when the question is between the first century and the third, or the second century and the fourth. Then, in the next place, we have new tests of great power which were not known in old times, and which even in our own times few forgers are adroit enough to guard against. The sensitive plate of the camera, for instance, not only exhibits erasures which are invisible to the naked eye, but in cases of alteration brings out the original and apparently obliterated text. By photography, also, the comparison of hands has been greatly facilitated; and chemical solvents have been recently discovered by which the period of production of a contested paper may be proximately settled. The probability of genuineness increases in proportion to the withstanding of such tests. Thus the fact that an ancient manuscript displays no erasure or tracing when brought under the test of

magnifying photography, gives a stronger presumption of its genuineness than would be afforded in case of a modern document which might have been prepared with this test in view.

We may argue somewhat in this way as to miracles. If the alleged miraculous facts fit into a particular age, and bear the impress of that age, their connection with it cannot be plausibly disputed. And if these alleged miracles withstand new tests — tests that could not have been anticipated by the narrators — then time, instead of weakening their proof, greatly strengthens it. The Gospels were written in a day when much that is now known to be an ordinary operation of nature was looked upon as supernatural. Had the narrator, for instance, simply said : “Lazarus was raised from the dead,” then it could now be replied that Lazarus was only in a swoon, since in that day swooning might readily be mistaken for death, and an awakening from a swoon might be looked upon as a supernatural rising from death. But the narrative goes beyond this, and though written at a time when modern tests were not anticipated, is couched in such a way as to withstand them. The sepulchre, it incidentally appears, is not one to which there was free access, since it was sealed by a stone. The grief of the sisters is differentiated in a way bearing realism on its face. The napkin bound about the brow, the grave-clothes wrapped round the limbs, the conviction bursting convulsively from the lips of the mourners that after three days corruption must have set in ; specifications such as these, in connection with the general statement of dying and death, exhibit a condition of things of which actual death is now the most probable solution. A fabricator of history in those times would have been no more likely to have put in details to ward off critical objections than not anticipated than would a forger of hand-writing in those days have used a magnifying photographic lens so as to baffle subsequent photographic scrutiny.

Similar effectiveness of detail may be noticed in the narrative of the conversions on the day of Pentecost. In those

times supernatural possession was the theory by which most wild deeds and words were explained ; and when the pretension of supernatural possession was set up, the more extravagant the contortions and the more mystic the vaporings, the more imposing were the credentials. Now, that in a great spiritual crisis, like that of the day of Pentecost, there should have been sympathetic physical phenomena is natural ; but it is to be observed that these phenomena take only a subordinate part in the group of circumstances detailed by the annalist in the Acts of the Apostles, and afterwards by Paul, when referring to the pentecostal miracle. There are no rhapsodies, no enigmatical sibylline utterances, such as those which were usually set up in those days as proof of supernatural possession, but which in our days would be explained on the hypothesis of fraud or of epidemic hysteria. On the contrary, we find detailed, with an artlessness instinct with reality, many circumstances which it is difficult now to explain except on the supposition of a supernatural moral change. When one man from being timid becomes brave, from being mean becomes heroic, from being selfish becomes generous, from being false becomes true, from being sordid becomes spiritual, we may be able to speak of the change as something exceptional, based on the idiosyncrasies of the individual. But it is otherwise when a large body of men are thus converted, basing their conversion on facts they attest as within their own knowledge. We must ascribe this to a superior general moral force ; we cannot explain it on the ground of some special personal condition. Nor can we, resorting to the hypothesis of a superior general moral force, regard this force as an epidemic excitement. There was nothing hysterical, nothing sensational, nothing scenic in the conduct of the disciples. Undoubtedly there were physical manifestations such as would naturally accompany so great a crisis. If these could be explained as the products of artifice or epidemic, neither artifice nor epidemic can account for the sobriety, the honesty, the heroism, the plain sense, the unintermitting dutiful energy, the courageous perseverance in

confessorship during long years of suffering and persecution, which marked the conduct of the converts. Whatever the psychology of those times may have said, the psychology of our times does not permit us to regard these phenomena as the products either of fraud or of insanity ; and taking them in connection with the physical manifestations of the day of Pentecost, they give a voucher to those manifestations which prevents us from solving them on purely natural grounds. This distinctive proof was not called for in those days to give to those manifestations the stamp of supernaturalism ; since the more extravagant the utterances, the stronger the claim of supernaturalism would then have been supposed to be. The proof of supernaturalism which is so strong to us would not have been then thought strong ; nor could it then have been produced. Such proof needs for its full force not merely the lives of the men by whom this long confessorship is exhibited, but the lives of subsequent generations to show that no similar phenomena have been subsequently engendered. The pentecostal miracle, therefore, is more strongly proved to us than it was to those by whom it was witnessed. The details given in the narrative, however effective they are in dispelling adverse criticism in our own day, would not have been thought of, even could they have been produced, as antidotes to the adverse criticism of those days. The full and artless accumulation of these details, not merely in the history of the Acts of the Apostles, but in the letters of St. Paul, St. James, and St. John, shows, (1) that the writings exhibit these details in a network of consistent but undesigned circumstantiality which could not be forged, and (2) that they record a moral revolution which, however explicable in the psychology of those days is best explicable in our days by the hypothesis of divine interposition. It is like handwriting verified by tests which could not have been anticipated at the time when the writing was put forth.

Similar remarks may be made as to the view given us in the New Testament of the character of the Divine Being. A fabricator, in imagining the characteristics of another, has to

be governed by his own light. Had the New Testament documents been fabricated by the only parties by whom such fabrication could have been practicable, they would have exhibited God not as a maturer philosophy now reveals him, but as he appeared in the conception of their own day and place. He would have been the God of a sect, of a particular country, of a particular era. If in the school from which such a fabrication sprung erroneous views of Deity were prevalent, the God whom such fabricators would have exhibited would have displayed the erroneous characteristics thus ascribed to the Deity, not the truer characteristics assigned to him in subsequent eras. The message ascribed to him would have been saturated with the atmosphere of the time and place from which it emanated ; it would have been without those features of equal application to all times and places which we now consider to be an essential incident of a message from an omnipotent and eternal God. Now, how is it with the New Testament message ? The answer is, that from sectarian ecclesiasticism, from provincialism, from individualism, it is absolutely free. There is a great deal in it that puts in a secondary position those by whom it was issued. Deliberate emphasis is laid on their false conceptions of the Messiah, on the apostasy of one of them at their Master's trial, on the desertion of him by the rest. So far from any personal claims being advanced in this revelation, there is a setting aside of such claims. On the other hand, it assigns to the Supreme Being the very traits which, strange as they were to the popular conception of those days, are by the most enlightened philosophy of our days assigned to such a being.

In several cases of contested ancient deeds, the result has depended upon whether the titles of the alleged grantor were rightly specified, and whether what the document makes him say is what we now know he would have been likely to have said. It tends much to establish the genuineness of such a deed, that it recites titles which we now know to have been assumed by its alleged author, and takes positions likely to have been taken by him ; and these presumptions become

peculiarly strong when it appears that at the time when the writing was originally produced these titles were not known to have been assumed by him, and these positions were not known to have been in harmony with his character. Now, it so happens that the distinctive ethical system of the New Testament, while it comes up to the ideal of our days, was very far from corresponding to the ideal prevalent among those from whom the New Testament documents emanated. Although it is what we should now expect from God, it is not what they would have been likely to have expected from God. It is the case, already put, of a will whose signature is disputed being shown to square with characteristics of the alleged testator which were not known at the time the will was produced, but which were subsequently brought to light. Such subsequent discovery goes a great way to dispel the suspicion of forgery; and this suspicion becomes the more unreasonable when the terms in which the will is couched, as well as the provisions it makes, are such as forgers neither could nor would have hit upon. There is nothing strange in the position that lapse of time should in this way strengthen the proof of the attestation of the New Testament, when, under similar circumstances, it is of controlling weight in determining the attestation of ancient documents when offered in evidence in courts of law.

II. VERBAL INSPIRATION.

The doctrine of verbal inspiration rests on the assumption that it is possible to assign to words an arbitrary and precise meaning with which they are to be forever associated. That this cannot be is illustrated by the fact that while statutes have been frequently passed defining terms, those very definitions have called for new definitions. In the Justinian system, for instance, we have elaborate chapters defining terms, but there are no portions of this system which have been more open to debate than these very chapters. It has been recently the practice in England to attach to statutes a final clause defining the leading words employed. A statute,

for instance, prescribing the limitations under which a master shall be bound by his servant's negligence, defines negligence to be "a want of such care as a person charged with the particular kind of duties is accustomed to exhibit." Here is a definition every word of which is open to new questions, which multiply in proportion to the subtilty of the differentiation. What, for instance, is the meaning of "care," or, if we turn to the Roman rule of which this definition is a translation, of *diligentia*? What is the range of "similarity" which is taken as the standard? And what is the meaning of the word "accustomed," or *solet*, which is the Latin original? What more delicate question can there be, what question more open to innumerable distinctions than that which involves the extent of the "custom" which may be taken as a rule? And what must be the qualifications of the person whose diligence is to be appealed to as an example? Is he to be a specialist, and if a specialist, of what degree? We must conclude, in fact, that there is no definition that is exhaustive, and that the meaning of no term can be finally and absolutely fixed.

And this is further illustrated by the difficulty which some of the greatest masters of law have had in finding terms to convey their meaning finally and unequivocally. The wills of Chief Justice Holt, of Lord Chancellor Westbury, of Sir Samuel Romilly, of Chief Justice Saunders, of Mr. Preston one of the most distinguished of English conveyancers, of Baron Cleasby, of Chancellor Kent, of some of the most eminent of our American lawyers, have been contested before the courts on the ground of ambiguity. And even were we to concede that a document could be so framed as to be unambiguous in all its terms, there is no document as to which it is affirmed that there can be no contingency in doubt. If the terms to which it applies may not be open to ambiguity, we know, in other words, are not on their face prove that there is no case in which it would not be open to some of the terms or more conflicting objects to which they may not be argued to apply.

Doubt, therefore, extrinsic or intrinsic, either apparent on its face or latent from a conflict as to the objects to which it applies, hangs over every word we can use. But are we to infer from this that words can convey no title? So far from this being the case, there is no title that is not conveyed by words. The houses we live in, the clothes we wear, the food we eat — these are obtained for us by words. By words are the great institutions of mercy and education about us created and shaped. Here is a deed, for instance, endowing a hospital on certain trusts, and through the words of these trusts the donor transmits curative and soothing power to multitudes of sick and wounded brought within those beneficent gates. And here is a will giving an educational fund to a college, and through the words of this will stream encouragement and instruction to multitudes of poor scholars. Nor is this all. By words our great political safeguards are constructed. The words of the *habeas corpus* statute operate, wherever it is in force, to check arbitrary arrests. The words of the Bill of Rights attached to the Constitution of the United States, and of its several amendments, secure to each citizen of the United States protection in his civil relations; and through these words flow what we may venture to call grace from the people collectively as the source of power to the people individually as the enjoyers of rights. It is irrational, therefore to denounce the Protestant view of the Bible as unduly assigning grace to words, when it is through the grace of words that we hold whatever rights we enjoy. Yet, on the other hand, it is equally irrational to talk of the words in the sacred text as though they transcended criticism, were insoluble by time, and operated mechanically and not dynamically. The divine revelation is just what we should suppose it would be, judging from the analogies of human law. Its words may sometimes be ambiguous. They are open to the modifications of time. There may be always a question as to what objects they apply. Yet through these words grace flows.

III. AUTHORITY PRIMA FACIE, NOT ABSOLUTE.

It is urged with much subtilty by Cardinal Newman, and with much brilliancy by Mr. Mallock, that without a supreme and final authority to determine doubt there can be no mental repose. Undoubtedly, so far as concerns a particular litigation, the decision of the highest tribunal of the land is final. Title vests under that decision, and cannot be divested. But the innumerable reports with which our libraries are crowded instruct us that no adjudication, no legislation, no matter how precise, can so absolutely cover future cases as to leave in them nothing open to question. We may turn, in illustration, to the legislation by which in most of our states it is prescribed that to murder in the first degree it is essential that there should be a premeditated design to take life. So far from this legislation closing all avenues to doubt, it has been productive, wise and humane as it is, of many new and intricate questions, the adjudication of each of which involves new terms requiring future adjudication. What does "deliberate" mean? Does it involve any specific duration of time? Does it require any particular *minimum* of intelligence? And what does "intent" mean? Must the intent be single, to come up to the statute? Is killing A by a glance shot really meant for B an intended killing of A? Each of these questions may be decided, yet no decision will exactly rule any new case, since there is no new case that exactly squares with a case already adjudicated. Or, to take another illustration, we may turn to that judicious and beneficent statute, the Statute of Frauds, which, in order to prevent frauds and perjuries, provides that to pass certain kinds of property written forms shall be necessary. There is not a word of this famous statute that has not been the subject of constant litigation, and each new decision as to its meaning presents a series of fresh questions each of which may be the starting-point for new disputes. It is so from the necessity of things. Were the statute purely speculative, it might stand before us as final as a proposition in Euclid.

But touching as it does business in every fibre, there is scarcely a business transaction in which the question does not arise, "Does this transaction fall within the statute as the statute has been defined?"

We may apply the same remarks to the recent legislation in the United States to the effect that no person shall sustain an abridgment of his civil rights by reason of race or color or previous servitude. There is no question that this provision is part of the supreme law of the land. Equality of civil rights, then, is the rule. But what are "civil rights?" Is a right to enter a particular school-house or a particular hotel a "civil right"? Or, supposing it to be decided that a right to enter into a hotel is a civil right, how is it with boarding-houses? Or, if we hold boarding-houses are within the provision, what are boarding-houses? Does the receiving one or two boarders constitute a boarding-house? If not, what is the limit? Similar questions arise as to schools; as to public conveyances; as to social assemblies; as to every point at which persons of the protected class meet persons of other classes. The provision before us, therefore, while settling a principle, opens a myriad of questions as to the applications of this principle. And so it is with all other legal limitations.

Milton tells us of an

"Anarch old

Who by decision more embroiled the affray."

What the "anarch old" did, must be done by every judge, no matter how supreme. He may lay down with all authoritativeness a new and final rule, but in the very next case that comes up it must be decided whether the facts are controlled by the rule thus imposed. Even the Roman Catholic church, in the teeth of her claims to infallibility, has been obliged to succumb to the universal logical principle. The bull *Unigenitus*, for instance, was issued to put a final stop to the Jansenist controversy; but so far from this result taking place, new controversies arose as to the meaning of each of the limitations in the bull *Unigenitus*; and in ad-

dition came up the fundamental question, as to which even ultra-montanists differ, whether papal infallibility extends to matter of fact. The syllabus issued by Pius IX. was meant to decide the various controversies between what the pope called "science" and the church; but there is not a sentence in the syllabus as to which there may not be new contentions. The present pope has sought to settle at least some of these contentions by a letter in which he appeals to St. Thomas Aquinas as the final authority. We are turned back by this to a subtile and copious commentator, each one of whose conclusions may be the basis of commentaries as subtile and copious as his own.

Now it is not strange that the decrees of the Roman Catholic church, claiming though she does infallible judicial power, should thus, even when settling old questions, open new points of controversy. This is in obedience to the logical rule just stated, that every definition introduces new terms which need themselves to be defined. The strange thing is, that in view, not only of this rule, but of her own history, judicial infallibility should be claimed by that church.

Yet, because no judicial judgment can absolutely bind new issues, we are not to say that every man is to be a law unto himself. If we are to follow the analogies of jurisprudence we must conclude that there is no action in which men in society can engage which is not under the purview of a law whose applicability is to be determined by the proper court. Applying this analogy there is nothing strange in the position assumed by national and particular churches that they will determine the soundness and lawfulness of the doctrines and ceremonies held by those subject to their jurisdiction. But the decision even of the highest church court, like the decision of the highest secular court, is only *prima facie* authoritative. It may always be impeached for want of jurisdiction, or for mistake; and in any contingency, its applicability may always be contested. Analogy, therefore, leads us to seek an authoritative church, guided by reason in imposing its doctrines and ceremonies, but not a church

possessing infallibility. As against the individualist, therefore, we hold to church authority; as against the Roman Catholic we hold that such authority may be open to dispute on the grounds (1) of want of jurisdiction; (2) of mistake; and (3) of non-applicability to the particular case.

IV. PRAYER.

The limits of prayer may be illustrated by the procedure in courts of equity. A complainant seeks redress or the establishment of a right. He appears, however, from the necessity of the case, under certain restrictions. It would not be considered a petition cognizable by such a court for a petitioner to say, "I want an equal division of all the real estate in my neighborhood," or "I want to have another man's patent right transferred to me simply because he is rich and I am poor." A petition, to be received as such, must assume certain fundamental rules of justice, and must submit to these rules. So is it with prayer. Prayer, in the right sense of the term, is a submission to certain general laws, and an entreaty that the petitioner may be brought within their operation. It is not prayer to ask that a risky investment may be made good, or that a house which negligence or parsimony leaves uninsured should not be burned down, or that a constitution damaged by indulgence should be repaired. It is an insult, not a submission, to God to offer a prayer which assumes that his laws are absurd. But that we should become acquainted with God's laws — that we should become their administrators — for these things it is meet for us to pray. And being concerned in the administration of law is a far higher and happier office than is being concerned in the subversion of law, just as it is a far higher and happier office to work out the application of steam in running a railroad than it would be to attempt the extinction of steam. For our own sakes, therefore, as well as for the sake of the equilibrium of the universe, prayer presupposes the constancy of a system of general laws in submission to which it must move. "To pray for the alteration of laws which we

assume to be perfect is to pray for *evil*; whereas to pray for power and will to conform to such laws is to pray for that which alone is wanting to our good; and the act of offering such a prayer is, in itself, no unimportant step towards its fulfilment. To pray that sin, whether past or present, may be no longer sin, and that we may be pardoned in that sense, is to throw breath away; but that we may be pardoned in the sense of ceasing to be sinners is already to be sinless so far; and the frequent repetition of such prayer may end in the formation of habits of comparative sinlessness, or, in other words, of voluntary conformity to God's laws."¹ In other words, to seek to upset the general system of law governing the universe in order to procure exceptional benefits to ourselves is not prayer, but revolt. It is a petition without a judge, a litigation without a law, and a prayer without a God. Prayer, in its true sense, involves a submission of the heart to the divine law, and a supplication that of this law we may become ministers. This is not mystic quietism. So far from this, it involves far greater activity and practical effectiveness than does the idea of revolt from law and seeking special privileges above law. The patience and sagacity that not only collected Lord Mansfield's library, but wove in part within its alcoves the system of commercial jurisprudence that emanated from that great jurist, were at least not more open to the charge of dreamy mysticism than was the wild fanaticism which led Lord George Gordon to stir up the ultra-Protestant frenzy, which was not satisfied till Lord Mansfield's library, with some of the most noble London edifices, was destroyed. True prayer is, "not *my* will," but "*thy* will be done."

It may, however, be said, that for me to ask that I should be a minister of the divine law involves as much disturbance of that law as does the prayer that there should be no law at all. If all is fixed, so it is argued, nothing can be unfixed to suit a particular person, and therefore there is no use for prayer. Now if there is nothing strange in the union of law

¹ Lorimer's Institutes of Law (2d ed. 1881), p. 452.

and prayer in jurisprudence, so that a petition that a party should be clothed with particular functions should be granted by a court of equity, as is frequently the case in management of trusts, there is nothing strange in the union of law and prayer in theology. And if it be insisted that by this the equilibrium of the universe will be upset, then in reply another analogy may be invoked. The compensations established by legislation for the purpose of balancing inequalities caused by the independent action of individuals, may enable us to conceive of compensations in the divine system by which what might be otherwise considered disturbances of law may be met and equalized. Steam-power, for instance, comes in to disturb what we call natural laws, and statutes are passed to make this disturbance work benefit instead of devastation. The coal-dust precipitated by the miners into the streams of a mining settlement choke and pollute those streams; and in order to supply the population with water a mountain rivulet, from springs apparently inexhaustible, is turned into an aqueduct. Improvident fishing has reduced the yield of fish so much as to impoverish certain portions of our coast, and to counterbalance this, government puts on the waters vessels so constructed that they can scatter the roe of millions of fish in the neighborhood where the dearth is most felt. Certain districts are without trees, owing to the reckless consumption of timber by early settlers. It has been said that it would convulse the universe to make a single leaf grow where it is not the product of natural law. But a bureau of agriculture is formed, and from seeds and shoots it supplies nurseries are planted, and from these nurseries forests are gradually created. Now in these cases disturbance of voluntary action is corrected by drawing on an almost infinite reserve fund under the control of government, — the reserve fund of countless springs, of roe, and of seed equally countless. But the reserve fund of even the most powerful human government is small compared with the reserve fund of the divine government; and if it is not considered strange for us to petition human government to

take action which involves drawing on its limited reserve fund, it should not be considered strange for us to petition the divine government to take action which involves drawing on its infinite reserve fund. In this way, also, we can understand how the human will may be free and yet subordinate to the divine law. And the divine law to which we thus assign supremacy is law in a far higher and more perfect sense than the law which does not provide for individual freedom, just as a complex constitutional system, providing for local self-government, but attaching to such government commensurate checks and compensations, exhibits law in a far higher and more perfect sense than does naked absolutism.

Such are some of the analogies between jurisprudence and theology. I do not maintain that a proposition is to be accepted in theology because it is accepted in jurisprudence. All that I urge is, that the fact that it is accepted in jurisprudence shows that it is not to be regarded as against reason.