

## Simon Greenleaf (Part Two):

### Nineteenth Century Reception of his Apologetic

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**Abstract:** Folklore surrounding Simon Greenleaf's conversion from scepticism to Christianity at Harvard was evaluated in Part One. Greenleaf's juridical apologia, *The Testimony of the Evangelists*, is discussed against its intellectual background: cross-fertilising of interdisciplinary ideas, Deism, and Common Sense philosophy. The discussion proceeds to a representative survey of *Testimony's* critical reception in the theological academy and its rejection by Swedenborgian apologists. Toward the close of the discussion it is proposed that Greenleaf's work may also be appreciated in its own time through the prism of Wittgensteinian motifs of verification and language game.

The object of the present work is merely to compare, the testimony of the four evangelists, as witnesses to the life, doctrines and miracles of Our Savior, in order to determine the degree of credit to which, by the rules of evidence applied in human tribunals, they would be justly entitled.<sup>1</sup>

The above sentiments form the first sentence of an undated handwritten manuscript by Simon Greenleaf which was published in 1846 as *An Examination of the Testimony of the Four Evangelists, by the Rules of Evidence Administered in Courts of Justice*.<sup>2</sup> A year later it was revised for a British audience.<sup>3</sup> In 1874, it was reintroduced to North America as *The Testimony of the*

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<sup>1</sup> This manuscript is held in the Simon Greenleaf Papers, 1792-1853. Religious Matters, Miscellaneous Topics: Box 25, Folder 10, Manuscript of The Testimony of the Evangelists, (seq.9), available at <http://nrs.harvard.edu/urn-3:HLS.Lib:10773847?n=9> (accessed February 11, 2020). An earlier manuscript (possibly the original) "A Legal View of the Testimony of the Four Evangelists. With Notes & An Account of the Trial of Jesus" is held in the John J. Burns Library, Boston College.

<sup>2</sup> First edition was 543 pages of text in length, published in Boston by Charles C. Little and James Brown.

<sup>3</sup> Second edition (568 pages) was published by A. Maxwell (London), Hodges and Smith (Dublin), T and J. Clark (Edinburgh).

*Evangelists Examined by the Rules of Evidence Administered in Courts of Justice* (hereafter *Testimony*). Over the following thirty years it was reprinted three more times.<sup>4</sup>

The present discussion explores the reception of Greenleaf's apologia in the nineteenth century. It is not exhaustive but provides representative examples of positive and negative criticism. The theological academy warmly endorsed *Testimony*. Negative reception is noted from cynical reviews, as well as from Swedenborgian apologists. *Testimony* is set against the intellectual background of the Deist-Christian debates. Daniel Blinka's interpretation of *Testimony* as a work reflecting Common Sense Philosophy is affirmed but with a critical caveat noted below.<sup>5</sup>

## BACKGROUND

In Part One it was noted that Greenleaf had pre-conversion musings about the veracity of the gospels. After he converted he wrote his first draft of *Testimony* in 1817.<sup>6</sup> The manuscript presented a lawyer's understanding of the gospel writers' testimonial evidence, included a harmony of gospel narratives, as well as discussion about the trial of Jesus.<sup>7</sup> Elsewhere, Greenleaf remarked on legal principles being applied to an investigation of Christian faith such as in his inaugural lecture at Harvard in 1834. A passage about examining witnesses' motives was paraphrased in *Testimony's* prefatory address to lawyers.<sup>8</sup>

Interest in juridical apologetics had built up in the early 1840s. Two anonymous essays were published in the Boston-based Baptist periodical *The Christian Review*. One was a review

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<sup>4</sup> All quotes are from the 1874 edition which includes the appendix "The Various Versions of The Bible" by Constantine Tischendorf (613 pages), published in New York by James Cockcroft. Republished by Frederick D. Linn Company (1881), University of Michigan Library (1899), Soney and Sage (1903).

<sup>5</sup> See Daniel David Blinka, "Harvard's Evangelist of Evidence: Simon Greenleaf's Christian Common Sense," in *Great Christian Jurists in American History*, Daniel L. Driesbach and Mark David Hall eds., Cambridge: Cambridge University Press, 2019, 161-178. Idem, "The Roots of the Modern Trial: Greenleaf's *Testimony* to the Harmony of Christianity, Science, and Law in Antebellum America," *Journal of the Early Republic* 27 (2007), 293-334.

<sup>6</sup> Cf. Johnson, "Simon Greenleaf (Part One)." Theophilus Parsons "Miscellaneous Intelligence," *The Monthly Law Reporter*, 6 New Series, 5 no 20 (October 1853), 415-416. The manuscript at Boston College is inscribed "the property of Simon Greenleaf of Gray, Maine" which chronologically points to 1817. Cf. Karen S. Beck and Michael Morales, "A Law Student Collects: Simon Greenleaf and Michael Morales, Spring 2009," Rare Book Room Exhibition Programs. Paper 11, available at [http://lawdigitalcommons.bc.edu/rbr\\_exhibit\\_programs/11](http://lawdigitalcommons.bc.edu/rbr_exhibit_programs/11) (accessed March 17, 2017).

<sup>7</sup> Beck and Morales, "Law Student Collects."

<sup>8</sup> Cf. Simon Greenleaf, *A Discourse Pronounced at the Inauguration of the Author as Royall Professor of Law in Harvard University, August 26, 1834* (Cambridge: James Munroe, 1834), 23-24 and *Testimony*, vii.

essay of Andre Dupin's work on Jesus' trial.<sup>9</sup> A translation of Dupin's response to the Jewish writer Salvador formed an appendix in *Testimony*. The reviewer concluded:

We must express ourselves greatly obliged to the legal profession, for the service it has thus done the cause of religion, and would hope that it may be often repeated. When they appear in this character and acquit themselves after this manner, we must cordially extend to them the hand of fellowship, and bid them God speed.<sup>10</sup>

The other essay argued for the application of legal principles to the historical parts of the New Testament.<sup>11</sup> The essayist, known only as "T," applied Starkie's five character tests of witnesses. "T" concluded that "the credibility of the Gospel history is confirmed by all the evidence which the case admits."<sup>12</sup>

Joseph Story (1779-1845) was Greenleaf's colleague at Harvard Law School. He was a Unitarian who rejected the orthodox Christian doctrine of the Trinity. He died about nine months before *Testimony* was published. Despite their theological differences, Story and Greenleaf shared an over-lapping view of apostolic testimony. Greenleaf remarked in a eulogy:

He had studied the evidences of Christianity with professional closeness and care, and had given to them the testimony of his full assent; and he has often been heard to declare, that, in his judgment, the great facts of the gospel history were attested by a mass of evidence, which, in any court of law would be perfectly satisfactory and conclusive.<sup>13</sup>

A revised manuscript was prepared prior to 1846.<sup>14</sup> The preface was addressed to legal practitioners inviting them to apply jural science to assess the apostolic witness. The preliminary essay was a technical argument for trusting the testimonial evidence of the gospel authors. It supported the gospel harmony presented in the rest of the book.

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<sup>9</sup> "The Trial of Jesus," *The Christian Review* 5 no 17 (March 1840), 33-46. Greenleaf wrote "On the Legal Rights of Woman," *The Christian Review* 5 no 18 (June 1840), 269-289.

<sup>10</sup> "Trial of Jesus," 46.

<sup>11</sup> "The Credibility of The New Testament Writers. The Principles of Legal Evidence in Their Application to the Historical Parts of the New Testament," *The Christian Review*, 5 no. 20 (December 1840), 568-580.

<sup>12</sup> *Ibid*, 580.

<sup>13</sup> Simon Greenleaf, *A Discourse Commemorative of the Life and Character of the Hon. Joseph Story, LL.D.*, Boston: Charles Little and James Brown, 1845, 47.

<sup>14</sup> The manuscript held at Harvard has footnote reference to Greenleaf's *Treatise on the Law of Evidence* which was published in 1842. See Simon Greenleaf Papers, 1792-1853. Religious Matters, Miscellaneous Topics: Box 25, Folder 10, Manuscript of The Testimony of The Evangelists (seq.37), available at <http://nrs.harvard.edu/urn-3:HLS.Lib:10773847?n=37> (accessed February 22, 2020).

## Blinka's Evaluation

Greenleaf is regarded by legal historians like Blinka as an important figure in early US jurisprudence.<sup>15</sup> Blinka detects three united strands concerning proof: science, law and Christianity.<sup>16</sup> Like many evangelicals of that era, Greenleaf agreed with Thomas Reid's (1710-1796) Common Sense Philosophy which builds upon an implicit trust of our senses for accumulating knowledge.<sup>17</sup>

Blinka also interpreted *Testimony* in light of Episcopalian doctrinal conflicts in the 1840s:

The *Testimony's* immediate catalyst, it seems, was the looming schism within the Episcopal church but attacks by "infidels" against the Christian fortress's outer walls also motivated Greenleaf to defend his religion's most fundamental tenets.<sup>18</sup>

Greenleaf was concerned about Episcopal conflict, but the original manuscript predated those controversies. The initial catalyst for *Testimony* arises from his pre-conversion study of the gospels. Moreover, in *Testimony* as he neared the gospel harmony, he stated that he had "no concern" with "points of controversy among theologians."<sup>19</sup> He was directly concerned with "the veracity of the witnesses and the credibility of their narratives."<sup>20</sup> There was a two-pronged argument which prefaced the harmony of the gospels:

- a) The gospel narratives are contained in genuine documents and the ancient documents rule is invoked;<sup>21</sup>

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<sup>15</sup> The work of lawyer-apologist-cleric Francis Wharton (1820-1889) is discussed in Stephen A. Siegel, "Francis Wharton's Orthodoxy: God, Historical Jurisprudence, and Classical Legal Thought," *The American Journal of Legal History*, 46 (2004), 422-446.

<sup>16</sup> Blinka, "Roots of the Modern Trial," 297. Cf. Howard Schweber, "The 'Science' of Legal Science: The Model of the Natural Sciences in Nineteenth-Century Legal Education," *Law and History Review* 17 (1999), 421-466.

<sup>17</sup> Reid is cited in, "Of the Grounds of Belief," in *A Treatise on the Law of Evidence*, Vol 1, 2<sup>nd</sup> ed, Boston: Charles C. Little and James Brown; London: A. Maxwell, 1846 [1842], 11. On Reid's influence see Theodore Dwight Bozeman, *Protestants in an Age of Science: The Baconian Ideal and Antebellum American Religious Thought*, Chapel Hill: University of North Carolina Press, 1977. George M. Marsden, "Everyone One's Own Interpreter? The Bible, Science and Authority in Mid-Nineteenth Century America," in *The Bible in America: Essays in Cultural History*, Nathan O. Hatch and Mark A. Noll eds. New York: Oxford University Press, 1982, 79-100. Mark A. Noll, "Common Sense Traditions and American Evangelical Thought," *American Quarterly* 37 (1985), 216-238. The influence of Common Sense Philosophy on US juridical apologists was noted in Ross Clifford, *John Warwick Montgomery's Legal Apologetic: An Apologetic for all Seasons*, Bonn: Verlag für Kultur und Wissenschaft, 2004, 26-27.

<sup>18</sup> Blinka, "Roots of the Modern Trial," 306.

<sup>19</sup> *Testimony*, 54.

<sup>20</sup> *Ibid*, 54.

<sup>21</sup> On overstating the ancient documents rule see Clifford, *John Warwick Montgomery's Legal Apologetic*, 59-72.

- b) The character and credibility of the evangelists are submitted to five legal tests: honesty, ability, number and consistency, conformity of testimony to experience, and “coincidence of their testimony with collateral circumstances.”<sup>22</sup>

Doubts about the reliability of eyewitness testimony for miracles had formed an important part of David Hume’s (1711-1776) argument. The implications of Hume’s argument for legal proceedings prompted textbook discussions from Thomas Starkie and Greenleaf.<sup>23</sup>

## DEISM AND JURIDICAL APOLOGETICS

*Testimony* belongs to a genre dubbed as juridical, jural or legal apologetics.<sup>24</sup> It is characterised by juridical rhetoric and reasoning, jural analogies, similes and metaphors, both general and technical standards of proof, particularly with an emphasis on testimonial and documentary evidence.<sup>25</sup> Some contributors only use rhetorical skills.

Juridical rhetoric was used by Dutch lawyer Hugo Grotius (1582-1645).<sup>26</sup> Bernard Nieuwentijdt (1654-1718), a Dutch mathematician, philosopher and magistrate, rebutted Benedict Spinoza’s philosophy and presented analogies for the resurrection from botany and the life cycle of insects.<sup>27</sup> Nieuwentijdt’s resurrection analogies predate Bishop Butler’s *Analogy of Religion*.

Juridical apologetics emerged as ideas were cross-fertilised from various disciplines. John Locke (1632-1704) blended English jurisprudence and epistemology on theories of evidence, particularly in connection with testimony.<sup>28</sup> Gottfried Leibniz (1646-1716) tied together his

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<sup>22</sup> *Testimony*, 7 and 28.

<sup>23</sup> See *Testimony*, 36-40. Greenleaf rejected Hume’s maxim about “firm and unalterable experience” in *A Treatise on the Law of Evidence* Vol 1, chapter 3, 88, 11. Cf. Thomas Starkie, *Practical Treatise of the Law of Evidence*, Vol 1, 3<sup>rd</sup> ed, London: V & R Stevens and G. S. Norton, 1842, 555-557. Beyond Greenleaf and Starkie, see John Earman, *Hume’s Abject Failure*, Oxford: Oxford University Press, 2000.

<sup>24</sup> The term “jural” was employed by Francis Wharton, “Recent Changes in Jurisprudence and Apologetics,” *The Princeton Review* 54 (1878), 149-168. Cf. Francis J. Lamb (1825-1916), “The Theological Seminary and Jural Science,” *Bibliotheca Sacra* 72 (1915), 283-297.

<sup>25</sup> Philip Johnson, “Juridical Apologists 1600-2000AD: A Bio-Bibliographical Essay,” *Global Journal of Classical Theology* 3/1 (2002) available at <https://www.globaljournalct.com/508/>. William P. Broughton, *The Historical Development of Legal Apologetics with an emphasis on the Resurrection*, [Maitland, Florida]: Xulon Press, 2009, 39-41.

<sup>26</sup> Cf. J. P. Heering, *Hugo Grotius as Apologist for the Christian Religion: A Study of his work De veritate religionis christiana (1640)*, Leiden: E. J. Brill, 2004.

<sup>27</sup> Bernard Nieuwentijdt, *The Religious Philosopher: Or, The Right Use of Contemplating the Works of the Creator*, 3 Vols. Trans. John Chamberlayne. 2<sup>nd</sup> Ed. London: Senex and Taylor, 1721.

<sup>28</sup> David C. Hoffman, “Cross-Examining Scripture: Testimonial Strategies in Thomas Paine’s *The Age of Reason*,” *Rhetorica: A Journal of the History of Rhetoric* 31 (2013), 266-267.

understanding of deductive reasoning, geometry, and principles of jurisprudence.<sup>29</sup> Inductive reasoning assumed importance through England's Lord Chancellor Francis Bacon (1561-1626). Bacon's inductive method in experimental science enjoyed popular revival when English barrister and vegetarian co-founder of the RSPCA, Basil Montagu (1770-1851), championed the republication of his books.<sup>30</sup> Baconian inductive method had a major influence on American evangelical understandings of science, which included Greenleaf.<sup>31</sup>

Phrases such as the "credibility of the New Testament writers" or "testimony of the evangelists" had become vernacular expressions long before Greenleaf wrote.<sup>32</sup> The importance of testimonial evidence and a witness' character were brought to the foreground by George Campbell (1719-1796) in *A Dissertation on Miracles* (a rebuttal to Hume) and *The Philosophy of Rhetoric*.<sup>33</sup>

Juridical rhetoric characterised some debates between Christians and Deists.<sup>34</sup> Thomas Sherlock's (1678-1761) *The Trial of the Witnesses of the Resurrection of Jesus* was a legal moot replying to Thomas Woolston's allegorical interpretation of miracles.<sup>35</sup> Peter Annet was a Deist who responded to Sherlock by insisting that St. Paul's evidence was merely hearsay.<sup>36</sup> The mid-1820s saw fresh exchanges and rebuttals using the trial motif.<sup>37</sup> Thomas Paine (1737-1809) was

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<sup>29</sup> M. H. Hoeflich, "Law and Geometry: Legal Science from Leibniz to Langdell," *The American Journal of Legal History*, 30 (1986), 95-121.

<sup>30</sup> David Graham and John Paul Tribe, "Basil Montagu QC (1770-1851): A Portrait of an Early 19<sup>th</sup> Century Life in Literature and the Law," (January 15 2009) available at SSRN: <https://ssrn.com/abstract=1328460>. On Montagu and England's RSPCA see my "Reverend Arthur Broome and the RSPCA, 1822-1832," forthcoming in *CASE Quarterly* (<https://newcollege.unsw.edu.au/academic-program/case/case-quarterly>).

<sup>31</sup> *Testimony*, 1.

<sup>32</sup> Nathaniel Lardner, *The Credibility of the Gospel History*, 2<sup>nd</sup> ed, London, 1758. John Simpson, *Internal and Presumptive Evidences of Christianity*, London: T. Egerton, 1801, 103, 148 and 197. "Mr Nares on the Evangelists," *British Critic*, October 1, 1816, 62.

<sup>33</sup> George Campbell, *A Dissertation on Miracles*, Edinburgh: A. Kincaid and G. Bell, 1762. Idem, *The Philosophy of Rhetoric*, New York: Harper Brothers, 1849 [1776].

<sup>34</sup> Wayne Hudson, *Enlightenment and Modernity: The English Deists and Reform*, Abingdon: Routledge, 2016. James A. Herrick, *The Radical Rhetoric of the English Deists: The Discourse of Skepticism, 1680-1750*, Columbia: University of South Carolina Press, 1997.

<sup>35</sup> Edward Carpenter, *Thomas Sherlock 1678-1761*, London: SPCK, 1936.

<sup>36</sup> Hans J. Hillerbrand, "The Historicity of Miracles: The early eighteenth-century debate among Woolston, Annet, Sherlock and West," *Studies in Religion* 3 (1973), 132-151.

<sup>37</sup> [anon Deist], *The New Trial of the Witnesses, or the Resurrection of Jesus Considered*, London: John Hunt, 1823. [an Oxford layman], *Letters to the Editor of the New Trial of the Witnesses*, London: John Hunt, 1824. Also pertinent is the denial of Paul's apostolic testimony by Gamaliel Smith [pseudonym: Jeremy Bentham], *Not Paul, But Jesus*, London: John Hunt, 1823.

impressed by Spinoza's anti-biblical arguments but opted for Deism.<sup>38</sup> In *The Age of Reason* Paine used juridical rhetoric to allege there were discrepancies and errors in the Bible. He insisted that the gospel writers' testimonial evidence comprised both perjury and hearsay.<sup>39</sup>

*Testimony* is heir to that intellectual background. In some respects, Greenleaf's apologia was not original. Gospel harmonies were not new. He set aside God's existence, and relied on other apologists as reference points: Lord Brougham, George Campbell, Thomas Chalmers, Thomas Hartwell Horne, Mark Hopkins, William Paley, Bishop Daniel Wilson and Richard Whateley.<sup>40</sup> A distinguishing feature of *Testimony* is the citing of rules from legal authorities as well as case-law notes. It is this technical reliance on legal principles which differed from earlier apologists who used juridical rhetoric but lacked case-law citations.

Present-day apologists are impressed by the preliminary essay but seem to by-pass the gospel harmony. An early reviewer understood the book's structural relationship of preliminary essay and gospel harmony united "as the argument of an able lawyer before an enlightened jury, it is both original and important."<sup>41</sup>

## POSITIVE RECEPTION

During the nineteenth century, Baconian science and Common Sense Philosophy greatly appealed to many evangelicals. This cross-fertilised thought flourished in the conservative wing of the theological academy such as at Princeton Seminary. Princeton theologians welcomed juridical apologetics:

There is also a great advantage in having treatises on religion written and published by laymen, distinguished for their learning ... we cannot but esteem it a peculiarly valuable circumstance, when gentlemen of distinguished abilities in the legal profession undertake to discuss the evidences of Christianity; because from their constant experience in sifting

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<sup>38</sup> David C. Hoffman, "'The Creation We Behold': Thomas Paine's 'The Age of Reason' and the Tradition of Physico-Theology," *Proceedings of the American Philosophical Society* 157 (2013) 281-303.

<sup>39</sup> Thomas Paine, *The Age of Reason* (The Thinkers Library No. 69) London: Watts, 1945, 138. Cf. Jay E. Smith, "Thomas Paine and *The Age of Reason's* Attack on the Bible," *The Historian* 58 (1996), 745-761. Edward H. David and William J. Scheick, *Paine, Scripture and Authority: The Age of Reason as Religious and Political Ideal*, Bethlehem: Lehigh University Press, 1994.

<sup>40</sup> Greenleaf exchanged correspondence with Thomas Hartwell Horne, see a letter from Horne to Greenleaf dated October 7, 1848. Simon Greenleaf Papers, 1792-1853. Correspondence, Miscellaneous Correspondence, Box 3, Folder 8, H, 1830-1853, (seq. 80-82), available at <http://nrs.harvard.edu/urn-3:HLS.Lib:10369009?n=80> (accessed January 27, 2020). Horne was an Anglican cleric who prior to ordination worked as a clerk to a barrister see Johnson, "Juridical Apologists."

<sup>41</sup> *The Boston Post*, August 27, 1846, 1.

testimony and weighing evidence, they acquire a remarkable sagacity, in discriminating between the true and the false. We do, therefore, esteem it an occasion of gratitude, and exceedingly favourable to the cause of revelation, that such eminent jurists as Simon Greenleaf, Esq., and George Griffin, Esq., men highly distinguished in their own profession, and of unblemished character, have been induced carefully to examine the evidences of the Christian religion, and to give to the public the results of their investigation.<sup>42</sup>

The 1846 edition of *Testimony* was warmly received by *The Christian Review*:

The general force of the reasoning is such as must produce a strong impression on the mind of every well-informed person. We would recommend to every theological student in particular to examine attentively this introductory portion of this work. It will enable him to contemplate the study of the gospels from a somewhat different point of view from that ordinarily taken by the Biblical critic. He will find the mode of treating the objections which have been drawn from the alleged discrepancies of the evangelists, adopted in these Observations, highly useful as supplementary to the usual manner of viewing the subject ... We welcome the work most cordially as an important auxiliary to the defence of Christian truth, and rejoice that it comes forth to the public under the authority of so commanding a name as that of the author.<sup>43</sup>

James Madison Pendleton (1811-1891) was a Southern Baptist cleric and theologian who opposed slavery and secession from the Union.<sup>44</sup> He wrote a lengthy review essay of the 1846 edition.<sup>45</sup> Twelve years later, Pendleton revisited the topic of juridical apologetics:

It is our purpose to establish the position that Christianity is susceptible of legal proof. With a special view to the accomplishment of this object we have read two celebrated works on Evidence well known to the legal fraternity. We refer to Starkie and Greenleaf ... we proceed, in illustration of this proposition, to make an application of the rules of evidence recognized in the works which have been mentioned.<sup>46</sup>

A positive review appeared in the *Boston Post*:

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<sup>42</sup> "Short Notices. *The Gospel Its Own Advocate* by George Griffin." *The Princeton Review* no. 3 (July 1850), 484.

<sup>43</sup> *The Christian Review* 41 (May 1846), 472 & 473.

<sup>44</sup> See J. M. Pendleton, *Reminiscences of a Long Life*, Louisville: Press Baptist Book Concern, 1891.

<sup>45</sup> J. M. Pendleton, "The Truth of Christianity Susceptible of Legal Proof," *The Western Baptist Review* 2 (1846-1847), 262-276.

<sup>46</sup> J. M. Pendleton, "Christianity Susceptible of Legal Proof," *The Southern Baptist Review* 4 (1858), 15 [14-34].



Of the importance of the production to theologians and others interested in the critical study of the scriptures, there can be no dispute ... The preliminary observations are written with calmness and comprehensiveness, and are highly honorable to the institution from whose bosom they have emanated ... It is fully equal to any English book whatever of the same class.<sup>47</sup>

The British edition of *Testimony* (1847) was lauded in *The Biblical Review*:

The concise and striking form in which many of the points of argument are placed invests the subject with an air of novelty, and renders the treatise a most refreshing and comforting one ... It is entitled to a large circulation.<sup>48</sup>

American theologian Alvah Hovey (1820-1903) partly relied on Greenleaf in his apologetics for miracles.<sup>49</sup> The positive reception of Greenleaf and juridical apologetics is apparent in grassroots lectures and sermons on the topics “the resurrection from a lawyer’s standpoint” and “the trial of Jesus from a lawyer’s standpoint.” Elsewhere, I have tabulated more than a hundred apologists’ lectures across the second half of the nineteenth century and first half of the twentieth century, several of whom relied on Greenleaf.<sup>50</sup>

## Unitarians

It was noted above that Story agreed with Greenleaf on using legal principles in assessing apostolic witness. *Testimony* elicited different reactions from other Unitarians. The second edition was welcomed by a reviewer as a persuasive text.<sup>51</sup> Francis Bowen reviewed Greenleaf alongside of David Strauss’ *Life of Jesus*. Bowen accepted Greenleaf and rejected Strauss.<sup>52</sup> However, later Unitarians disagreed with Greenleaf.<sup>53</sup>

## Reservations

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<sup>47</sup> *Boston Post*, August 27, 1846, 1. Cf. book announcements in British newspapers: *Patriot*, May 10, 1847, 8; *Morning Chronicle*, May 10, 1847, 8.

<sup>48</sup> *The Biblical Review* 4 (July 1847), 140 & 141.

<sup>49</sup> Alvah Hovey, *The Miracles of Christ as Attested by the Evangelists*, Boston: Graves and Young, 1864, 306.

<sup>50</sup> For further discussion see my “American Christian Juridical Apologists 1850-1947” (forthcoming).

<sup>51</sup> “Veracity of the Evangelists—Rules of Judicial Evidence in their Application to the Gospels,” *The Christian Reformer or Unitarian Magazine* 4 no.44 (August 1848), 449-457.

<sup>52</sup> “Greenleaf and Strauss: The Truth of Christianity,” *North American Review* 63 no 133 (October 1846), 382-432.

<sup>53</sup> The genre of gospel harmonies, including *Testimony*, was rejected in “The Logical Order of the Gospel Narratives,” *The Christian Examiner or Unitarian Magazine*, 65 (1858), 205-229.

There was a mixed reaction from the *New Englander*.<sup>54</sup> Greenleaf was acknowledged as an important legal authority and welcomed as a defender of the faith. The discussion on Jesus' trial was appreciated. Nevertheless, the reviewer was "disappointed" by *Testimony*.<sup>55</sup> Greenleaf was criticised for being an unskilled "critic and commentator" who clearly argued like a lawyer but did not add anything new from what William Paley had written.<sup>56</sup>

Some passing comments were made about the novelty of Sherlock's legal moot, but the "principles of strict legal evidence" were considered "inapplicable" to an evaluation of the gospels as historical sources.<sup>57</sup> Instead, the historical canons of evidence rather than jurisprudence were germane. The reviewer may have been unaware of the debt owed by modern historiography to the contributions of jurists.<sup>58</sup> Likewise, the mood of the times witnessed among evangelicals the blending of Common Sense philosophy, Baconian induction and jural science. In Greenleaf's projects jural science worked beyond the courts and ran parallel to scientific proof.<sup>59</sup>

## NEGATIVE RECEPTION

A cranky cynical Methodist complained that *Testimony* was bulky and expensive. He stated that he knew an "intellectual infidel" who had read *Testimony* but was unimpressed. He cast aspersions by suggesting a profit-making motive:

Mr Simon Greenleaf ... once made a book for the benefit of — his pocket, and perpetrated it on the country ... it was purchased under the belief that it would apply the rules of evidence established by the experience and wisdom of ages, to an exhaustive and severe examination of the evidences of religion. But, to the disgust of the purchaser, it was found to contain a reprint of Newcome's *Harmony of the Four Gospels*; a work already well known to the literary public, and nothing like the evidences of Christianity ... The only thing in the book from the pen of Professor Greenleaf, was a very common-place reply to Hume *On Miracles*, and, perhaps, some other trifling matter; all of which might easily have been written by a clever man in less than twenty-four hours.<sup>60</sup>

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<sup>54</sup> "Christianity Examined in a Court of Law," *New Englander* 5 (July 1847), 459-466.

<sup>55</sup> *Ibid*, 460.

<sup>56</sup> *Ibid*, 461.

<sup>57</sup> *Ibid*, 465.

<sup>58</sup> Clifford, *John Warwick Montgomery's Legal Apologetic*, 24-26.

<sup>59</sup> Cf. Blinka, "Roots of the Modern Trial,"

<sup>60</sup> *The Southern Review*, 4 no. 8 (October 1868) 249 and 250. When Greenleaf died, he had amassed financial assets from the sale of realty, stock investments and savings from his salary. His Will dated January 3, 1853 provided a life-estate to his wife, with the remaindermen being his four children. He left legacies to six different charitable organisations with each receiving the sum of \$5,000.00. A copy of the will is available to subscribers via [www.ancestry.com](http://www.ancestry.com).

## Peleg Chandler's *Observations*

Peleg Whitman Chandler (1816-1889), and his son Horace Parker Chandler (1842-1919), were Swedenborgians. Peleg was born in New Gloucester, Maine, the same town that Moses Greenleaf Sr, the father of Simon, moved to in 1790. Chandler became a Boston lawyer and politician.<sup>61</sup> He studied law in his father's legal practice, as well as at Harvard during the early tenure of Greenleaf. He was also a relative of Theophilus Parsons Jr., worked in Parson's office, and shared his kinsman's Swedenborgian beliefs. In 1845 he served as vice-president of the Swedenborg Association at Bath, Maine.<sup>62</sup>

Chandler's first critical comments were published in 1866 in the Swedenborgian periodical *The New Jerusalem Magazine*.<sup>63</sup> It was followed by his book *Observations*.<sup>64</sup> Chandler publicly criticised *Testimony* twenty years after its release which may be a grass roots indicator of the book's influence. Chandler acknowledged Greenleaf's erudition, knowledge and skills of advocacy but rejected *Testimony*:

It is doubtful whether any legal writer could have illustrated his idea with greater ability than Mr Greenleaf. A lawyer of great eminence, successful alike in the advocacy of causes before juries and in the arguments of questions of law before the judges; possessed of great legal acumen; thoroughly read in his profession; having the rare faculty of expressing his ideas with remarkable clearness and force, and withal a man of deeply religious sensibilities, he applied himself to the task he had proposed as the crowning effort of his life, with the greatest interest and the most earnest zeal.

The work was a failure. Not in style or method, nor yet in argumentation; but essentially a failure in this, that it did not meet the issue; or rather, it was an attempt to reconcile irreconcilable things—to make use of certain principles in a class of subjects to which they have no sort of application.<sup>65</sup>

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<sup>61</sup> Edward Stanwood, "Memoir of Peleg Whitman Chandler," *Proceedings of the Massachusetts Historical Society*, Third Series 1 (December 1907) 280-290.

<sup>62</sup> See "Extract from the Records of the Swedenborg Association organized at Bath, Maine, United States, Sept 1<sup>st</sup> 1845," *The Intellectual Repository and New Jerusalem Magazine* 6 no. 71 (November 1845), 418.

<sup>63</sup> P. W. C., "The Authenticity of the Gospels," *The New Jerusalem Magazine*, 38 (June 1866), 679-694.

<sup>64</sup> By a Layman [Peleg W. Chandler], *Observations on the Authenticity of the Gospels*, Chicago: Horace P. Chandler, 1867. Chandler is identified as the author in James Kennedy, W. A. Smith and A. F. Johnson, *Dictionary of Anonymous and Pseudonymous English Literature (Samuel Halkett and John Laing)*, Vol. 4, New York: Haskell House, 1971, 218.

<sup>65</sup> *Observations*, 2-3.

Protestant Reformers had emphasised the *sensus literalis* or historical-grammatical method for interpreting the Bible. Swedenborg rejected Lutheran belief after reading Spinoza, but offered an alternative where revelation was insulated from empirical criticism via mystical enlightenment. He drew together science, theology and the Bible in an esoteric view. Swedenborg developed his principle of correspondences between the spiritual and natural realm. Correspondence became the hermeneutical key for understanding the inner meaning of biblical texts.<sup>66</sup>

Chandler stated that Swedenborgians accepted “the historical argument in favor of the genuineness of the gospels” which “they regard as sound and unanswerable.”<sup>67</sup> He agreed that the gospels were authentic sources, but rejected the sufficiency of the *sensus literalis*. Chandler insisted that the gospels “were written strictly according to the science of Correspondence” which in his view rendered the texts unsuitable for legal tests to testimonial evidence.<sup>68</sup> Chandler faulted Greenleaf, as well as David Strauss and Ernst Renan, for not embracing a Swedenborgian hermeneutic.<sup>69</sup>

According to Chandler, the Swedenborgian position was eminently scientific and spiritual.<sup>70</sup> Greenleaf and Chandler spoke different “dialects” about scientific epistemology. Blinka interprets Greenleaf’s projects where proof converges in law, science and Christian belief. Chandler’s Swedenborgian dialect blended science, the Bible and an esoteric mystical enlightenment. Greenleaf and Chandler were like ships navigating the same ocean but terminating at different ports.

Chandler begged the question. How do we know that the gospels were composed according to the principle of correspondences? If the apostles were not quasi-Swedenborgians, then Chandler’s case is specious. *Observations* was reviewed in *The North American Review*. The reviewer concurred with Chandler that Greenleaf’s *Testimony* was an “ill-judged” endeavour. Nevertheless, while expressing a desire for a clear elucidation of Swedenborg’s abstruse thoughts,

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<sup>66</sup> Cf. Marguerite Block, *The New Church in the New World*, New York: Octagon, 1968. Peter J. Lineham, “The Origins of the New Jerusalem Church in the 1780s,” *Bulletin of the John Rylands Library* 70 (1988), 109-122. A similar gambit of presenting spiritual gnosis couched in scientific jargon developed in Blavatsky’s Theosophical Society see Brendan French, “The Mercurian Master: Hermes’ Gift to the Theosophical Society,” *Aries* 1 (2001), 168-205.

<sup>67</sup> Chandler, *Observations*, 41.

<sup>68</sup> *Ibid*, 41.

<sup>69</sup> *Ibid*, 34-38.

<sup>70</sup> *Ibid*, 41-64.

the reviewer was not persuaded by Chandler's argument.<sup>71</sup> The reviewer had no evangelical sympathies but posed these critical questions:

How is it, we still have to ask, that persons of broad, good sense can thus seem to accept the arid statements of Swedenborg as being sufficient evidence in themselves of truth? How is it that his central doctrine of "Correspondence" can seem to them so wonderful a discovery, or indeed any "discovery" at all? ... And when it comes to be alleged that the Bible, or the Gospels, have *in every part of them* a spiritual sense parallel to the natural and obvious sense, how can this seem anything but a repetition of that cold, injurious Western error of hardening poetry and rhetoric into dogma. Surely, the meanings that one sometimes hears developed out of Scripture in the Swedenborgian pulpit are but husks and chaff.<sup>72</sup>

### Horace Chandler's Derision

Horace Chandler was a newspaper proprietor and book publisher, who published his father's book *Observations*.<sup>73</sup> In 1884 he began publishing a bi-weekly periodical *Every Other Saturday* which was meant to amuse readers with new and old items of interest.<sup>74</sup> The inaugural edition included in side-by-side columns two short articles. One was a humorous anecdote about two Scottish lawyers where a party's sanity was in doubt. It began with these remarks, "the real test of a successful advocate is the examination of witnesses." The second article profiled Greenleaf as a lawyer and author of a major textbook on evidence, but concluded in a condescending paragraph:

He also wrote a work in defense of the Gospels, which was a failure, inasmuch as the attempt was made to support the testimony of the evangelists by the rules of evidence administered in courts of justice. No genius or learning could make success of a work on this basis. The Gospels are true; but the evidence is of a far higher kind than that administered in courts of justice, although lawyers sometimes affect to be very wise, and talk in a watery way on this subject. Their efforts in this direction do not strengthen the evidences, and sometimes tend to throw a doubt over what is clear enough when seen from another and proper standpoint. Judge Metcalf, a sturdy believer of the old sort, was not

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<sup>71</sup> *The North American Review*, 104 (January 1867), 274-275.

<sup>72</sup> *Ibid*, 275. Italics in original.

<sup>73</sup> See his obituary, "Horace P. Chandler, Aged 77, Dies in Jamaica Plain," *Boston Sunday Globe*, June 8, 1919, 14. Peter O'Brien, "Horace Parker Chandler," Jamaica Plain Historical Society, <https://www.jphs.org/people/2005/4/14/horace-parker-chandler.html> (accessed January 25, 2020).

<sup>74</sup> See the announcement in *London American Register*, January 19, 1884, 5. The periodical was published for two years. It was also issued as a bound volume, *Every Other Saturday. A Journal of Select Reading, New and Old*, ed. Horace P. Chandler, Vol 1, Boston: Every Other Saturday Publishing Company, 1884.

deceived by this sort of thing, and pronounced the work of Mr. Greenleaf “the meanest book ever written by a white man.”<sup>75</sup>

When the two articles are read side-by-side, the concept of a “successful advocate” is juxtaposed with rhetorical condescension shown toward Greenleaf’s apparent “failure.” The republishing of *Testimony* in 1881 may have spurred Chandler to reassert his father’s apologia. It was later syndicated in more than twenty-five newspapers as “A Famous Lawyer,” and some added a subtitle, “Who Wrote a Very Great Book and a Very Contemptible One.”<sup>76</sup> The *ad hominem* rancour embedded in the sub-title and article was a rhetorical substitute for critical analysis.

### EXCURSUS: LEGAL LANGUAGE GAME

Blinka observed that Greenleaf did “not purport to stage a trial of the evangelists, but sought rather to display the rules of evidence as a science of proof that could be used wholly apart from courtroom proceedings.”<sup>77</sup> An imaginative way to extend this understanding is by blending two motifs—verification plus a language game which feature in the work of analytical philosopher Ludwig Wittgenstein.<sup>78</sup> Greenleaf predates Wittgenstein and their respective epistemologies and

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<sup>75</sup> *Every Other Saturday*, January 5, 1884, 9. The judge was most likely Jabez Henry Metcalf (1857-1908) who served as a county judge in Canandaigua, New York, but had ancestral roots in Massachusetts, see *The Bench and Bar: The Monthly Magazine for Lawyers*, 15 (1909), 125.

<sup>76</sup> *Alton Democrat*, (Alton, Iowa), October 26, 1889, 3; *Griggs Courier*, (Cooperstown, North Dakota), July 5, 1889, 6; *Idaho Semi-Weekly World* (Idaho City), August 6, 1889, 3; *Logansport Journal*, (Logansport, Indiana), July 28, 1889, 6; *Monongahela Valley Republican*, (Monongahela, Pennsylvania), June 27, 1889, 1; *Montreal River Miner and Iron County Republican*, (Hurley, Wisconsin), July 4, 1889, 3. *Springville Journal*, (Springville, New York), August 30, 1889, 4. *The Appleton Crescent*, (Appleton, Wisconsin), November 16, 1889, 6; *The Conneautville Courier*, (Conneautville, Pennsylvania), August 22, 1889, 3. *The Courier* (Waterloo, Iowa), July 3, 1889, 7; *The Daily Commercial Herald*, (Vicksburg, Mississippi), August 4, 1889, 7; *The Daily Courier*, (San Bernardino, California), July 30, 1889, 2. *The Daily Tribune*, (Winfield, Kansas), June 22, 1889, 2; *The Dayton Herald* (Dayton, Ohio), July 20, 1889, 7; *The Dunn County News*, (Menomonie, Wisconsin), July 5, 1889, 6; *The Evening Telegraph*, (Bucyrus, Ohio), June 22, 1889, 6; *The La Crosse Chieftain*, (La Crosse, Kansas), June 27, 1889, 3; *The Livingston Journal*, (Livingston, Alabama), June 28, 1889, 6. *The Ohio Democrat*, (Logan, Ohio), June 29, 1889, 3; *The Sunday Morning Truth*, (Buffalo, New York), September 8, 1889, 6; *The Tuskaloosa Gazette*, (Tuskaloosa, Alabama), December 26, 1889, 4; *The Winfield Tribune*, (Winfield, Kansas), June 21, 1889, 6; *Wheeling Sunday Register*, (Wheeling, West Virginia), July 28, 1889, 6; *Yorkville Enquirer*, (York, South Carolina), September 11, 1889, 1; *Akron Daily Beacon*, (Akron, Ohio), May 3, 1890, 8; *Terre Haute Daily News*, (Terre Haute, Indiana), August 11, 1890, 1; *The Champion* (Norton, Kansas), May 22, 1890, 2. *Big Timber Pioneer*, (Big Timber, Montana), October 5, 1893, 4.

<sup>77</sup> Blinka, “The Roots of the Modern Trial,” 294.

<sup>78</sup> Ludwig Wittgenstein had intended that the *Philosophical Investigations* be bound together with his *Tractatus Logico-Philosophicus*. Cf. John Warwick Montgomery, *Tractatus Logico-Theologicus*, 2<sup>nd</sup> rev ed, Bonn: Verlag für Kultur und Wissenschaft, 2003, 7-8.

philosophies are not being compared. All that is being imaginatively proposed is to characterise *Testimony* via two Wittgensteinian motifs.<sup>79</sup>

Greenleaf placed in a non-court arena some rules from legal textbooks and case-law concerning testimonial evidence. He was aware of a spirit of doubt about persuasion and belief which is apparent in the literary and intellectual currents of the nineteenth century.<sup>80</sup> His tests of the evangelists' character and credibility is a rhetorical exercise in persuasion. Verification is a motif for Greenleaf's testing testimonial evidence. He joins that motif to a legal language game: "let's suppose."

The language game may be discerned from §3, §11 and §48 in the preliminary essay. Greenleaf delimited his rhetorical task to an inquiry where "the testimony of the Four Evangelists" are put "to the tests to which other evidence is subjected in human tribunals" (§3).<sup>81</sup> He widened the point in §11, "supposing ... that it is not irrational ... to believe that God has made a special and express revelation" and that the "sacred books of our religion are genuine" then "we proceed to examine and compare the testimony of the Four Evangelists, as witnesses to the life and doctrine of Jesus Christ; in order to determine the degree of credit, to which, by the rules of evidence applied in human tribunals, they are justly entitled."<sup>82</sup>

In §48 Greenleaf prefaces the harmony of the gospels. In his business as a lawyer Greenleaf examines "the testimony of witnesses by the rules of his profession, in order to ascertain whether, if they had thus testified on oath, in a court of justice, they would be entitled to credit."<sup>83</sup> Unfortunately, some admirers misconstrue this language game and use exaggerated rhetoric:

I can prove the resurrection of Jesus Christ in any US court.<sup>84</sup>

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<sup>79</sup> Cf. John Warwick Montgomery, *Defending the Gospel in Legal Style*, Bonn: Verlag für Kultur und Wissenschaft, 2017.

<sup>80</sup> Cf. Greenleaf's *Testimony* is juxtaposed with Melville's short story *Bartleby* in Justin Saxby, "Toadstools, Bartleby and Badiou: Herman Melville's Response to the Quest for the Historical Jesus," *Religion and the Arts* 19 (2015), 51-73.

<sup>81</sup> *Testimony*, 2.

<sup>82</sup> *Ibid*, 11.

<sup>83</sup> *Ibid*, 54.

<sup>84</sup> Elephants Aplenty, "Harvard Law Founder Simon Greenleaf 'I Can Prove the Resurrection of Jesus Christ in Any US Court'," (dated March 24, 2019) available at <https://www.youtube.com/watch?v=ldJn9zUCVsQ>

This is one of the greatest, if not the greatest, work on Christian Apologetics ever written. It ends all discussion of the genuineness and authenticity of the Books of the Bible. It should be placed in the hands of every lawyer and minister in the land.<sup>85</sup>

## CONCLUSION

Greenleaf was well received in some quadrants of nineteenth century American society such as among conservative theologians, clergy and Christian legal practitioners. His influence on the genre of juridical apologetics persists to the present. Negative reception reminds us that not everyone was persuaded by Greenleaf's argument or method. Swedenborgian apologists faulted Greenleaf for not intuiting that the gospels were composed according to the principle of correspondence. It is an unverifiable conjecture, however, that the writers of the gospels were essentially Swedenborgians who both wrote and intended their narratives to be understood through the principle of correspondence. Greenleaf's epistemology was shaped by common law jurisprudence, as well as Baconian induction and Reid's Common Sense philosophy. Today's admirers of *Testimony* should ponder its mixed historical reception and refrain from exaggerating its rhetorical force as if "when Greenleaf speaks, no sceptic should bark."

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<sup>85</sup> "Our Herald Department," *The Bible Champion* 17 (February 1914), 50.