



1913

## Letter to the Editor

John H. Wigmore

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### Recommended Citation

Wigmore, John H. (1913) "Letter to the Editor," *Kentucky Law Journal*: Vol. 2 : Iss. 2 , Article 3.  
Available at: <https://uknowledge.uky.edu/klj/vol2/iss2/3>

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## COMMUNICATIONS.

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Northwestern University, Chicago, Oct. 27, 1913.

To the Editor of The Journal:

I am flattered by the appreciative review, in the October number of the Kentucky Law Journal, of my book "The Principles of Judicial Proof," by my learned friend, Professor Chalkley. And I can do no less than respond, as best I am able, to the relevant question, with which his review closes, "But what is a Mental Probative Equation?"

Well, first let me plead that I expressly put my own query in an interrogative form. I said: "If we can sit down and work out a mathematical equation, why can we not sit down and work out a mental probative equation?" Professor Chalkley, after fully quoting this, proceeds, as he says, to "translate the interrogation in categorical form," thus: "Since we can sit down etc., therefore we shall be able to sit down, etc." Now it is obvious that in my statement the cautious form of a question is preserved. I did not and do not dare to assert that because we can do the one, therefore we can do the other. I expressly refrained from the categorical form. I wished, and still wish, merely to ask you if there is not a natural inclination to see an analogy. It looks as though we ought to be able to work out a mental probative equation; and so I want our profession to bend its energies to the problem and discover whether there is a solution. That is as far as I yet venture to go.

So much for clearing the ground.

What is, then, a Mental Probative Equation?

A mathematical equation is a symbolic representation of several quantitative conceptions, in such shape that one combined group, when subjected to mental operations, is shown to be equivalent to another quantitative conception. Thus:  $4 + 17 - 1 \div 5 \times 2 = 8$ . We here find that the thought of 4, when thought of as increased by the thought of 17, diminished by the thought of 1, etc., etc., produces the thought of 8. We could, of course, and do, go through those thought operations separately, and we then find the final thought of 8 to emerge. But in order to preserve the memory of

the successive operations, and thus to be able to perform each one carefully and to test its correctness and to discuss its correctness with others and thus to feel certain of its correctness, we record each item and each operation by symbols. So that if we were to think wrong at at point, we should have a means of discovering the error by deliberate reflection. (Of course, in the above example, simple arithmetic is used, but the principle is the same as in algebraic equations.)

None in proof the mental process is analagous. A mass of evidence is offered for our mental operations. Those operations are expected to result in a conviction, persuasion, or mental state (whatever we call it) that A did or did not sign the contract or steal the steer or shoot the deceased. Logically, and psychologically, all the bits of evidence will by successive operations of the mind result in a single belief. These operations will be successive, just as is mathematics; and each one will modify or otherwise affect the net result of the preceding one, just as in mathematics. And the final belief will be the net result on the mind of all those operations; it will include them all, and nothing more.

Hence, I maintain, the result can be properly called an Equation. Hence, also, it can be assisted by noting with symbols each mental step in the total operation, as in mathematics. And hence the process as a whole can properly be termed a Mental Probative Equation. Q. E. D.?

Not that I assert a perfect analogy. I assert merely that the use of symbols for the mental mathematical process is a valuable analogy which may be profitably used to assist the mental probative process. The difference is due to the features (1) that the probative items do not have the quantitative uniformity of mathematical elements, and (2) that the probatitve operations do not have the classified simplicity which addition, division, subtraction and multiplication have in mathematics. But this leaves untouched the great truth that the process is mentally of the same sort.

May some genius soon arrive who will discover the key to the use of that process

JOHN H. WIGMORE.