

## **A JURISPRUDENTIAL ANALYSIS OF HUME’S ‘IN PRINCIPAL’ ARGUMENT AGAINST MIRACLES**

**by Paul K. Hoffman**

### **INTRODUCTION**

The curious durability and effectiveness of Hume’s argument against miracles has spawned an impressive array of scholarly critiques by theists. Unfortunately these works have often fallen on deaf secular ears. Hume not only seized but somehow cemented the secular mind with his naturalistic skepticism. Contemporary Christian apologists seem to be preaching only to a supernaturalist choir.

Though there are few modern institutions more dominated or more cherished by secularists than our judicial system, it struck me that here the Christian apologist may have a ready forum. If they will not come to our church, perhaps we should go to theirs. And so I have brought the classic critiques of Hume into the modern temple of the courtroom. As a journeyman lawyer I was not surprised to discover the law of the land supports the apologists’ long stated contention that Hume’s argument from “uniform experience” is simply illogical and is therefore irrelevant--so say the Courts of America. It is my hope that the preaching of this truth may be heard by a heretofore disinterested congregation. He who has ears hear, let him hear what the Courts say about Hume.

### **HUME’S PHILOSOPHICAL ARGUMENT FAILS**

David Hume has contended that no reasonable man can or should believe in miracles; they are incredible by definition and simply not to be believed.<sup>1</sup> His formal argument against miracles is two pronged: miracles are (a) incredible *in principal* and (b) incredible *in fact*.<sup>2</sup> His ‘in principal’ argument is essentially a claim that the evidence against any given miracle will always outweigh the evidence in its favor. The argument may be summarized as follows:

- A. Knowledge and beliefs are founded upon experience. The more common or uniform our experience, the more certain our belief and knowledge.
- B. Natural laws are established by firm and unalterable uniform experience. Hence one can have no greater knowledge or belief than that which affirms a natural law; the “proof” we have for natural laws is the greatest possible of all possible proofs.
- C. A miracle is a violation of natural law.
- D. The evidence favoring the inviolate character of natural laws is always greater than the evidence of any particular miracle.

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<sup>1</sup> Hume, *Enquiry*, 149.

<sup>2</sup> William Lane Craig, *The Historical Argument for the Resurrection of Jesus During the Deist Controversy* (Lewiston, NY: Edwin Mellon Press, 1985), 502-518.

E. The wise man always proportions his belief relative to the evidence.

F. Therefore, a wise man can never believe in any miracle.

Many have suggested that Mr. Hume's 'in principal' argument begs the question by defining miracles out of existence.<sup>3</sup> If natural laws are inviolable then of course miracles (i.e. violations of natural law) cannot possibly happen.

This criticism mischaracterizes Hume's argument. Hume does not contend that nature is absolutely uniform. Indeed, his skeptical rejection of necessary connections of any kind, and his commitment to an empiricist epistemology argue against absolute predictability and uniformity in nature. According to Professor Francis Beckwith, Hume is simply stating that a *bona fide* miracle would require us to "disqualify" one or more natural laws, since our laws are defined by uniform experience.<sup>4</sup> The question then is whether we have enough evidence in favor of the miracle to revoke our belief in the natural law. Hume contends that the evidence for a miracle can never outweigh the evidence supporting a natural law. And the evidence he offers in support of the natural law (and against the miracle) is the same evidence relied upon to establish a natural law: uniform experience.

What Hume means by "greater evidence" is actually nothing more than a greater quantity of like events.<sup>5</sup> He is *counting* the number of times we have observed a natural law and comparing that massive number of observations to the number of times someone claims to have observed its violation. He is arguing nothing more than *probabilities*.<sup>6</sup> The probability of a natural law holding true astronomically outweighs the probability of its violation. As such, all wise men must, in his view, reject a belief in miracles. Statistics, in effect, prove miracles cannot be believed.

It is just such faulty reasoning which undoubtedly provoked Prime Minister Disreili's famous lament: "There are three kinds of lies: lies, damned lies, and statistics." It may be quite true that a wise man will rely upon statistical probabilities in his effort to predict the future, but it is simply false that he can rely upon statistics to determine whether a specific improbable event actually occurred in the past.<sup>7</sup> Probabilities alone do not constitute actual evidence that an event did not occur. The converse is also true. Simply because a purported event is statistically probable--for example, that 5 out of 10 babies born will be boys--one should not assume the statistically probable event has actually occurred. One should count the babies, or at least talk

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<sup>3</sup> For example, see C. S. Lewis, *Miracles* (New York: Simon & Schuster, 1996), 134-136.

<sup>4</sup> Francis J. Beckwith, "Hume's Evidential/Testimonial Epistemology, Probability, and Miracles" (unpublished paper, originally published in *Logos* 12, 1991), 5-8. See also Beckwith's contribution to the book edited by Douglas Geivett and Gary R. Habermas, *In Defense of Miracles* (Downers Grove, Illinois: InterVarsity Press, 1997), Ch. 5.

<sup>5</sup> Geisler, *Skeptics*, 79.

<sup>6</sup> This observation can be traced back at least to William Paley in his *Evidences of Christianity* (London: Society for Promoting Christian Knowledge, 1914), 7; see also Beckwith, *Probability*, 8.

<sup>7</sup> This is a central theme of Craig in his exhaustive work *The Historical Argument for the Resurrection of Jesus During the Deist Controversy*. Craig argues the case against probabilities playing a valid role in the task of the historian. Again, only a naturalist, such as Anthony Flew, will presuppose that reported miracles are so improbable as to require uniform rejection by historians. Craig, *The Historical Argument*, 502-525.

with the local obstetrician before knitting 5 blue blankets. It may be that only one or two are needed.

### **Probabilistic Evidence is Irrelevant and Inadmissible for the Purpose of Disproving the Historicity of an Alleged Historical Event.**

As with many philosophical disputes, the question of whether probabilities can be logically presented as proof has found its way into American courtrooms. A fluid and often acrimonious debate over what has come to be called “probabilistic evidence”<sup>8</sup> (PE) has been fueled in part by the failure of appellate courts and law professors to clearly identify and categorize the factual circumstances in which PE may or may not be logically relevant. The probative value of PE (and hence its admissibility as relevant evidence) can only be properly judged within the context and characterization of the particular fact to be proven. If the fact at issue may be categorized as a question of *identity* (e.g. Does the blood found at the scene belong to X ?), or *causation* (e.g. Did X cause the cancer?) statistically valid PE is logically relevant.<sup>9</sup> However, if the fact at issue may be categorized as a question of *history* (e.g. Was the package delivered?; Was the light red?) PE is logically irrelevant.<sup>10</sup>

A survey of appellate cases and law review articles addressing PE reveals that when the board question of the admissibility of PE is not stated with contextual precision (as is most often the case) the resulting opinions are understandably confused and seemingly inconsistent.<sup>11</sup> The answer here proposed for clearing up at least part of the confusion over PE is to consistently determine from the outset of any inquiry what category of fact is at issue. If it is a fact of *identity* or *causation* the question of admissibility turns not upon logical relevancy but upon statistical validity. If, however, the fact in question is of an *historical* nature, PE simply has no logical relevance and cannot be admissible under any circumstance.

The case that is often cited as the progenitor of the debate over PE is *Smith v. Rapid Transit, Inc.*,<sup>12</sup> decided by the Massachusetts Supreme Judicial Court in 1945. Mrs. Smith was injured

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<sup>8</sup> “As used in the current literature, the term *probabilistic evidence* refers to the application of mathematical theories . . . to help establish the likelihood that a certain event is a non-random occurrence.” Mark L. Huffman, “When the Blue Bus Crashes Into the Gate: The Problem with *People v. Collins* in the Probabilistic Evidence Debate,” 46 U. Miami L. Rev. 975 (1992), 1.

<sup>9</sup> A great many cases have so held, including *US v. Gwaltney*, 790 F2 1378 (1986); *State v. Garrison*, 585 P2 563 (1978); *State v. Johnson*, 922 P2 294 (1996); *State v. Washington*, 622 P2 986 (1981); *Commonwealth v. Hyatt*, 557 NE2 90 (1990); *Gonzales v. State*, 643 SW2 751 (1982); see D. H. Kaye, “Is Proof of Statistical Significance Relevant?,” 61 Wash. L. Rev. 1333 (1986).

<sup>10</sup> *Smith v. Rapid Transit, Inc.*, 58 NE2d 754 (1945); *State v. Dorsey*, 350 A2d 665 (1976).

<sup>11</sup> For examples of confusion arising from imprecision, see *Smith v. Rapid Transit, Inc.*, *supra*; *Dorsey v. State*, *supra*, 669; *People v. Collins*, 438 P2 33 (1968); and Jonathan J. Koehler, “The Probity/Policy Distinction in the Statistical Evidence Debate,” 66 Tulane L. Rev. 141 (1991).

<sup>12</sup> *Smith v. Rapid Transit, Inc.*, 58 NE2d 754 (1945). A much older case, supportive of the thesis of this paper, is the first known to use the term “probability” in assessing the probative value of proffered evidence. In *Day v. Boston & ME. R.R.*, 52 A. 771 (1902), the court rejected what has since come to be known as “probabilistic evidence”. Though the court did not categorize it as such, the factual question at issue was historical. They properly reasoned “Quantitative probability . . . is only the greater chance. It is not proof, nor even probative evidence, of the

when an unidentified bus struck her car while she was parked on Main Street in Winthrop, Massachusetts. Because there were no eye-witnesses other than Mrs. Smith--who could only recall that it was a “great big long” bus that hit her--her attorney attempted to prove that the bus in question *most likely* belonged to Rapid Transit, Inc. He offered evidence that though another bus line operated in Winthrop, the defendant’s bus line was the only one with an authorized route on Main Street and was scheduled to operate on Main Street at the time of the accident. Though the proffered evidence suggested (or even proved) a mathematical probability that the bus in question belonged to the defendant, the Court correctly ruled the evidence inadmissible and reasoned profunctorally:

The most that can be said of the evidence . . . is that perhaps the mathematical chances somewhat favor the proposition that a bus of the defendant caused the accident. This was not enough.<sup>13</sup>

Though the Court embraced the well established definition of relevant evidence as that which tends to make a proposition “more likely or probable,”<sup>14</sup> it did not explain why PE, in this particular case, did not make the disputed fact more or less probable. The Court further laid the groundwork for future confusion by couching the factual issue in terms of whether the defendant’s bus “*caused* the accident” (emphasis added). This was a mis-categorization. To be precise, the fact at issue addressed by the plaintiff’s proffered evidence was not whether defendant’s bus *caused* the accident, or whether the bus that caused the accident *belonged* to defendant, but *whether an accident in fact occurred between defendant’s bus and plaintiff’s car*. The question was one of history, not causation or identity.

The *Smith* Court intuitively reached the correct decision but left the cauldron of PE boiling over. Despite the apparently sweeping scope of the Court’s ruling, Lawyers, Judges, and juries have doggedly insisted that probabilities can at times be meaningful and relevant, and can truly help a trier of fact reach a correct decision. But under what circumstances? An illustration of the validity of the *Smith* court’s decision (though certainly not its conclusory reasoning) may be useful. In 1968, at Mexico City, U.S. Olympic long jumper Bob Beamon broke the world record by two feet.<sup>15</sup> For decades the record had increased by 1/2-inch increments. Typically a 0.2% improvement in the record was observed. 1% increases (3 inches) were unheard of. Yet Bob Beamon broke the existing record by a full 7%. This remarkable event was, arguably, a statistical impossibility, “humanly unattainable,”<sup>16</sup> and an event which appeared even to violate the laws of nature. If, on that day, the collective track experts in the world had been asked “what are the

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proposition to be proved . . . However confident one in his own affairs may base his judgment on mere *probability as to a past event*, as a basis for a judgment of a court he must adduce evidence other than a majority of chances.” *Ibid.*, 774. (Emphasis added).

<sup>13</sup> *Smith v. Rapid Transit, supra*, 755.

<sup>14</sup> *Ibid.*; see also Oregon Evidence Code, Rule 401.

<sup>15</sup> *A Century of Sports*, ed. Will Grimsley (The Associated Press, 1971), 180.

<sup>16</sup> *Ibid.*

chances that the world record will be broken by two feet?" they would have unanimously responded "zero," or "1 in a billion / trillion / (you name it)."

Yet it undeniably happened, and there are untold thousands of eye-witnesses still living who will testify to this fact. Suppose, however, that we have not thousands but only a handful of witnesses, and the gold medal is now at stake. To prove whether or not this event occurred, would PE be relevant? Clearly no. It matters not that it was an extremely improbable event. When determining whether an historical event in fact occurred, all that is logically relevant is the evidence (whether direct, indirect, or circumstantial) of its occurrence, not the probability of its non-occurrence. One million track coaches who swear that it was impossible mean nothing compared to one honest judge with a measuring tape who says "I saw him do it."

Let us now suppose that O. J. Simpson stepped forward and claimed, "It wasn't Beamon. I'm the one who jumped 29 feet 2-1/2 inches." Here we have a question not of history but identity. If the true jumper left his DNA at the jumping pit, and the DNA found has a 99.9% chance of belonging to Beamon, and a 0% chance of belonging to O. J., this is clearly relevant evidence. It helps us establish identity.

Now suppose that a disgruntled competitor alleges that Beamon somehow cheated. Yes, he jumped 29 feet 2-1/2 inches, but his shoes were made of flubber, or he took steroids--somehow or other he cheated. The question here is one of cause. What *caused* him to jump so far? If his shoes and blood are tested and found normal, would PE be relevant for the purpose of proving some cause other than pure athletic ability? The answer appears to be *yes*. So long as the event itself is admitted, an exploration into the cause may logically include PE. The fact that the chances were, let us say, one in a billion, does indeed tend to suggest that he cheated. The question then shifts to weighing the evidence for and against his cheating. The PE itself bears some weight, but just how much is a difficult question to answer (even when we set aside the sophisticated complexities of establishing a truly valid probabilistic analysis).<sup>17</sup>

Some may argue that a one in a billion chance is conclusive and irrefutable evidence of cheating. These objectors may be called *Athletic Skeptics*. Others will claim that this is nonsense. Just as people win the lottery, apparent miracles of athletic achievement do occur. Unless substantive evidence of cheating is presented, the statistical improbability cannot outweigh the very fact that it occurred. These individuals we may refer to as *Athletic Realists*. The dispute here

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<sup>17</sup> Much of the debate over probabilistic evidence has centered around the complex problem of establishing statistical validity. In *People v. Collins, supra*, (as in *State v. Rapid Transit, Inc., supra*), the court miscategorized the fact in question, and then mistakenly concluded that establishing *identity* by PE is so complex a task as to make it, for all practical purposes, inadmissible. The Court failed to see that it was actually addressing an *historical* question. In this interesting case a victim reported that her assailants, a black man with a beard and a white woman with a pony tail, escaped from the scene of the crime in a yellow car. The defendants fit these descriptions and on this basis were arrested. The prosecution offered shoddy PE (which was statistically invalid) to show how remote the possibility would be that an innocent mixed race couple with these peculiar characteristics would be driving a yellow car. The prosecutor was attempting to establish not *identity* but *guilt*; he was using PE to prove that the defendants were in fact the guilty couple. As a question of history the PE was not only invalid but irrelevant, yet the Court focused only on its invalidity. Advocates of PE have justifiably condemned the *Collins* court's decision as placing an unjust onus upon probabilistic evidence in general.

is philosophical. The Skeptic and Realist are each being logical; they simply differ as to their philosophical presuppositions regarding the limits of human potential.

Let us now turn to the central question before us, the question of the resurrection of Jesus Christ. Is PE relevant in determining whether Jesus really rose from the dead? Should we allow David Hume to admit into evidence the statistical improbabilities of Christ rising from the dead? Should he be allowed to present evidence of “uniform experience”? To answer this question we must first properly categorize the central issue. Is it one of identity, causation or history? It is clearly not a question of identity. No one has suggested that someone other than Jesus rose from the tomb. It is not a question of causation either. The parties have stipulated that He was dead;<sup>18</sup> only a genuine miracle could be the cause of his resurrection. We are left, then, with the fact that this is simply a question of history, and, as we have seen, PE is logically irrelevant in answering a question of history.

“But it’s impossible!” says Mr. Hume. “Don’t be ridiculous; it simply could not have happened.” This is a legitimate objection, but it is an objection of *cause* disguised as an *historical* objection. What Mr. Hume is really saying is, “If you will not allow me to rely on PE to disprove the historicity of the event, surely you must agree that the cause is incredible. Miracles are simply not to be believed.” As with the Athletic Skeptic who insisted that Bob Beamon must have cheated, the objection here stated is rational, but it must be understood for what it is; it is a *metaphysical* objection. Mr. Hume holds different presuppositions regarding the nature of the universe. As a naturalist he presupposes that miracles simply can not and do not happen.

Other presuppositions are also rational. Theists presuppose that miracles can and do happen. The Theist and Naturalist may bring to the courtroom their debate over the validity of their respective world views, which may then indirectly relate to the *cause* of Christ’s resurrection. But justice and logic will not allow the naturalist to smuggle in his metaphysics as we are weighing the evidence for and against the occurrence of a claimed historical event. The naturalist’s anti-supernatural bias, if advanced in terms of probabilities, cannot be allowed to play any role in challenging the historicity of the resurrection of Christ.<sup>19</sup>

And so it is that the historicity of the empty tomb and post-crucifixion appearances of Jesus have now been conceded by most skeptics and Bible critics.<sup>20</sup> Their focus has shifted instead to the *cause* of the empty tomb and the *cause* of his appearances. “What are the chances” they ask, “of the tomb being empty without this being caused by some sort of conspiracy? Slim indeed. There must therefore have been a conspiracy.”<sup>21</sup> “And what are the chances,” they add, “that a

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<sup>18</sup> See defendant’s “Answer and Affirmative Defenses,” pages 6 & 7 above.

<sup>19</sup> Craig, *The Historical Argument*, 502-518.

<sup>20</sup> Craig, *Knowing*, Ch. 2.

<sup>21</sup> One of the most infamous conspiracy theories is that of Hugh J. Schonfield, *The Passover Plot* (Bernard Geis Associates, 1965).

dead man might appear to people? Excellent. It happens all the time, as long as we agree that *appear* means something other than being really physical in their presence.”<sup>22</sup>

Very well then. Let the theistic realist and the naturalistic skeptic do battle as to the evidence of *cause* and include PE in their weaponry. The theist may now retort: What are the chances that a poor, itinerant preacher in ancient Palestine, who never raised an army, never ruled a Kingdom, never wrote a book, and never traveled more than 100 miles from his home, would be the most influential person in human history and found the largest religion in the world? What are the chances that his own brother and closest followers would give up their lives to advance a fraudulent conspiracy that offered them no particular incentive or reward? What would *cause* such a thing?<sup>23</sup>

These are the questions which are properly before the court and are subject to probabilistic scrutiny. Skeptics have, for centuries, tried to explain away the historical narratives of the gospels by ascribing naturalistic causes to the events. And Christian apologists from William Paley to William Craig have countered with evidence supporting a supernatural explanation. On the question of cause we may bring our world views into the courtroom and let the probabilistic chips fall where they may. But on the matter of the historicity of the resurrection, world views must be set aside, along with probabilistic evidence, and the facts--just the facts--be given their due weight.

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<sup>22</sup> Craig, *Knowing*, Ch. 2.

<sup>23</sup> A good example of a probabilistic argument is found in the book by Josh McDowell, *The Resurrection Factor* (San Bernardino, California: Here's Life Publishers, Inc., 1981), 108-112.