

the growth of trees, a concentric layer of wood under the bark is a regular and invariable annual formation or not? This is a question involving an inquiry into the physiology of forest trees, which merits a most careful consideration.

The law respects the regular course of nature in every way; and, consequently, in all cases, in so far as the course of nature is known, all such facts, as well in regard to the revolution of the seasons, as to animals and vegetables; as the mating of birds, and their co-operation in rearing their young, the blooming time of roses, and the like, are received as being in themselves, entirely trustworthy; or as facts from which inferences as to the truth of other facts may be safely drawn. *Co. Litt.* 40, 92, 197; 1 *Stark. Evid.* 472, note; 4 *Stark. Evid.* 1244; *The Case of Swans*, 7 *Co.* 89. In questions of bastardy, the time of access being proved, the known term of gestation, reckoning from the time of birth, is always received as a most satisfactory kind of presumptive evidence. *Co. Litt.* 123, *b*, note; *The King v. Luffe*, 8 *East*, 193. So too, in all the various questions in relation to the right of property, connected with a continuance of life, facts, so far as they are known, in regard to the *probability, the expectation, and the average duration of human life, have always been, in **72** like manner, admitted as evidence; or, as a ground from which presumptive evidence of the existence of other facts may be fairly deduced. *Doe v. Jesson*, 6 *East*, 84; *Doe v. Griffin*, 15 *East*, 293; *Doe v. Deakin*, 6 *Com. Law Rep.* 476. And there can be no doubt, that the regular and known course of nature in the formation of vegetables may be as safely relied on as direct, or as presumptive evidence, as in that of animals. The only point of difficulty, as to both, being the establishment of the truth of that which is alleged to be the uniform and regular course of nature.

Little seems to be known as to the duration of the lives of trees of any kind; and yet, as a man may have an inheritance in fee simple, in lands as long as such tree shall grow, *Richard Lifford's Case*, 11 *Co.* 49; *Ayres v. Falkland*, 1 *Ld. Raym.* 326; *Com. Dig. Tit. Estates by Grant*, A. 6; 2 *Blac. Com.* 109; it might become as important to ascertain the expectation of the life of such a tree, in order to set a present value upon such a base fee, as to ascertain the expectation of the life of a *cestui que vie*, for the purpose of putting a present value upon an estate for life. The olive tree, so highly valued for its fruit from the most remote ages to the present time, is said to be remarkable for its longevity. The ancients limited its existence to two hundred years, but modern authors assert, that in climates suited to its constitution, it survives its fifth century. 2 *Michaux Amer. Sylva.* 57. But it is believed, that few of the common fruit trees of our country, apple, pear or cherry, live to an hundred years of age.