

## SOMETHING OF FORGERY AND A BIZARRE CASE

*Paper read by James R. Barker before the Spikes Club.*

Forgery is an interesting study. There are so many facets to the subject prism that it would be impossible in a paper of reasonable length to treat the subject generally, nor is it my purpose to do so. I shall merely undertake to set out a brief preview of the subject and then limit my discussion to one phase of forgery, namely, traced forgeries, as this is the one most often found, and is the only one with which I have had any personal experience. In this paper I shall give some outlines and then illustrate by an individual case which first interested me in the subject, as attorney.

Man is prone to evil, and like most of our other derelictions forgeries have existed since the time when the mind of man runneth not to the contrary. Cupidity and greed are not merely modern characteristics.

It is only in modern times that the subject of forgery has been scientifically dealt with and the use of experts has largely come into vogue. Formerly, under the rules of law experts were frowned on, in fact not allowed to testify, and in all cases of forgery only ~~writings or works of the one whose product was alleged to be forged~~ *opinion evidence of those families with the handwriting of the one whose writing was alleged to be forged.* could be used before a court or jury, and a court or jury would reach their own conclusion from their own deductions and methods of reasoning. Inevitably the result was that the outcome of the trial of a case of forgery was largely guess work, and often the result was dependent upon the personal prejudice of the court or jury *or the vehemence of witnesses for one side or the other*. In 1854 England changed the old practice. Three of our States,

Massachusetts, Connecticut and Maine, had preceded England in permitting comparisons of handwritings with properly proved standard writing, but the courts of other states generally refused, for generations, to change the old practice. In fact, for years the courts would not even allow a comparison of the questioned document or signature with undoubtedly genuine writings. New York did not change the old practice until 1880, Pennsylvania not until 1895, and it was only in very recent years that the United States Federal Courts followed suit for criminal cases. Up to 1927 the State of Texas still refused to admit genuine writings as comparisons in civil cases, and such was the general situation until comparatively recent times.

In practically all jurisdictions now the old rule has been abrogated and the introduction of other writings for the purpose of comparison is allowed. Even under such rule abuses may creep in and justice may be defeated, but the possibility is greatly reduced as compared with the results under the old rule. Now in all jurisdictions expert evidence is allowed. Handwriting experts, as all other experts, have some ethical and dependable ones, and there are doubtless others who will testify either way if properly paid. In the case of ethical experts, they always prefer to make their examinations and give their opinions, if possible <sup>before they know</sup> ~~without knowing~~ by which side they <sup>are to be</sup> ~~have been~~ employed, and in most cases they do not merely express an opinion, but from careful preparation of exhibits they demonstrate their views in a manner which makes them clear, and ~~and~~ In modern times the courts now often refer to such testimony as the best and most satisfactory and conclusive testimony.

The leading authority on questioned documents or forgeries in

the United States, and possibly in the world, was Mr. Albert D. Osborne of New York, <sup>now a man of ripe old age,</sup> who made the subject his lifetime work, and has written a number of books on the subject. I have understood that it was Mr. Osborne, who, after being interested by the daughter of Dreyfus, the subject of the celebrated French case, and after Dreyfus had been convicted, went into that case very thoroughly, and through his knowledge of handwriting ~~both~~ demonstrated clearly that Dreyfus was innocent, and we all know he was later pardoned.

The number of forgery cases in court have been numerous. Some of them have been most interesting. However, despite the strong temptation to refer to numerous ones in this paper, to do so would extend it beyond reasonable lengths, and I shall have to withstand that temptation. I shall merely call attention to one which was quite celebrated, not so much for anything unusual in the subject of forgery, but for two circumstances. The case arose in <sup>New</sup> Bedford, Massachusetts, and involved ~~the question of the~~ signature <sup>of</sup> " Sylvia Ann Howland " to a codicil to her will. The two points which ~~have given~~ <sup>give</sup> us particular interest were that the plaintiff in the case was Hetty Robinson, who afterwards married a Mr. Green of New York, and was later known in the financial world as Hetty Green. The second point which gives especial interest to the case was the testimony of <sup>Dr.</sup> Professor Pierce, Professor of Mathematics at Harvard University.

In this case the signature to the original will and the signature to the codicil were practically identical in their lines, spacing, curves and angles. ~~Experts have testified that it is~~ <sup>Evidently the attorney for the</sup>

*contested and were stated by the similarity of the signatures*  
~~practically impossible for any one to write their signature,~~  
~~to the will and both coincident - *It was apparently written by the same*~~  
~~twice at two different times, or even at the same time, and have~~  
~~the same curve from the turn of handwriting effects.~~  
~~them correspond throughout in all the respects above mentioned.~~

*Dr*  
Professor Pierce was introduced as a witness and after his qualifications were proved he was asked if it were possible to calculate by mathematical formula the chances or probabilities of two signatures of a given individual corresponding throughout so that if one were put over the other they would fit in detail throughout the signature. He testified that there was such a formula and that the chances could be calculated. He was then asked what the formula was and he stated it. He was further asked if he had made a calculation in regard to the signature of Sylvia Ann Howland, as to what the chances or probabilities would be, and he stated that he had made such calculation. He was then asked what the chances would be and stated that according to the calculation it would happen once in every nine hundred thirty one quintillion times. In these days we have gotten accustomed, through Government financing, to the use of the term "billions", though none of us can conceive such figures. As Professor Pierce further states, the chances under his figures would "stagger the imagination," and *"Such evanescent shadows of probability cannot belong to actual life."* ~~and of course the result is that~~  
~~practically it would be impossible that the situation could occur.~~

*inform p 342 note*

When I had the forgery case with which I shall deal later, as a matter of interest I had numerous people make their signatures twice, one immediately following the other, on two pieces of thin paper, and then would hold these up to the light, and it was astonishing to find how many points of ~~differences~~ and ~~divergence~~ there were in the signatures. Any of you may try it

some time if you desire.

As stated above, my real subject is traced forgeries. In such cases the strange thing is that the <sup>more the point</sup> more similar and identical <sup>f</sup> the signature in question ~~is~~ to a definitely known signature of the writer, the greater is the indication that the signature in question is a traced forgery. In fact, that is one of the first indicia that a signature is a traced forgery. ~~The~~ second strong indication is the nature of the lines, particularly the longer lines and curves of the capital letters. Capital letters are generally made by rapid strokes and these have a firmness of quality which is unmistakable. One undertaking to trace a signature necessarily does it slowly and this causes a slight wavering in the lines which may be scarcely noticeable to the casual eye, and yet when magnified it appears more and more pronounced, while when the genuine signatures are magnified the steadiness of the lines is still shown. As expressed by experts, the reason is that a genuine signature is a written signature, while a tracing is a drawn signature. In short, the tracing will not have the freedom of movement which a genuine signature shows.

Generally speaking, a traced forgery will probably be defective in one or more of the following particulars:

1. Natural movement, freedom and speed of writing;
2. Quality of line or stroke;
3. Pen-lifts, retouching and shading;
4. Selection and date of model of writing;
5. Practical identity of the writing with a genuine model, or close, suspicious similarity of two or more disputed signatures, and in some cases in exactly the same position on a printed form.

Experts are agreed that a tracing process, unless done with instruments, cannot possibly produce a writing with a natural writing movement. Natural writing is a free and natural movement, while tracing will inevitably show the result of hesitation and a slowness of movement inconsistent with genuineness. Even in cases where a person by reason of infirmity or age has a feeble signature, there is a characteristic difference between the unevenness due to age or infirmity and the unevenness resulting from the slow drawing or tracing of the signature. It is almost impossible by the tracing method to imitate successfully a natural tremor. Likewise, in the matter of line quality a ~~tracer~~ tracing may conform with great accuracy to the particular model from, which it was made, <sup>in direction and length.</sup> but usually the indications of hesitation and unnatural line quality exists to such an extent as to demonstrate that it is not genuine.

Further, an ~~ordinary~~ <sup>an</sup> forger, unless he is an expert, and an expert never attempts a traced forgery, will attempt, <sup>after</sup> tracing a signature, to retouch and improve on the shading of the tracing in an effort to make it more similar to the original. These evidences of retouching or reshading are easily discovered by an expert and easily demonstrated by magnified photographs.

This is also illustrated in the attempt to correct the matter of pen-lifts in the signature. A natural signature is written rapidly and with very few lifts of the pen. A tracing is apt to have more pen-lifts and these are generally <sup>obvious</sup> readily demonstrated. <sup>to an expert and readily demonstrable to ordinary laymen. They make us see plainly what of our own initiative we would not have noticed</sup>

<sup>for above,</sup>  
These, together with the question of practical identity of the signature with a definitely established signature, are the points most often stressed and most readily available as proof that ~~a signature~~ <sup>writing</sup> is a traced forgery. As a general proposition experts are agreed that every time even one short name is written there is a possibility of slight divergence in every direction of every part of every stroke, in size, position, proportion and relation of all of the parts. A line is defined as the path of a moving point. Exact repetition of a <sup>even</sup> line would require that at the second writing the pen should exactly hit a thousand or more selected invisible points. Of course, the degree of general similarity in writing will necessarily depend upon the skill of the writer, the length of the signature, the number of detached parts it contains, the width of the stroke, and other possible conditions.

Experts, by comparing a great number of signatures of a free, skillful and rhythmic writer will probably find some signatures which closely resemble each other, but even with the most exceptional writer <sup>even approximately</sup> ~~exact~~ identity is impossible.

The clearest demonstration of a traced forgery is the fact that it conforms and is practically identical in all details to some recognized and acknowledged genuine signature. Thus the finding of the signature from which the tracing was made is most important.

In the Sylvia Ann Howland case the forger, unfortunately for him, traced the signature of the codicil from the admittedly genuine signature of the will itself. This was his own undoing, since the standard of comparison was so readily available.

In the case with which I shall deal, the original signature from which the alleged forgeries, two in number, were apparently traced, ~~was~~ not located, but fortunately for the Administrator of the estate the individual <sup>made that "step-up, for which detection search, in that she</sup> had apparently traced both of the forgeries, one to the note and one to the check, from the same signature. Both could not be genuine, because they were practically identical throughout, and that neither one was genuine, I think was clearly demonstrated by the other indications of traced forgeries. In this case the alleged forger committed the great mistake of using the same signature throughout to trace both of the signatures in question. Of course, even a traced forgery will not be mathematically exact in every detail with the signature from which it is traced. This would be impossible unless instruments were used. Expert forgers would never be guilty of tracing a signature.

It has been said that if one person undertakes to forge the signature of another by free handwriting, almost invariably the writer will allow certain characteristics of his own normal style to creep in, and these in numerous cases have enabled experts to trace and locate the forger. To avoid this natural tendency, I have heard that the expert forger would not undertake to make a free hand copy of a signature in the normal manner, but they start from the end of the signature and then write back, following in detail as far as possible the genuine signature, and thus avoid an introduction of any of the peculiar characteristics of the forger, and that the most expert and difficult forgeries are written in this way.

With these introductory remarks, I shall now proceed to the particular case, which I think will best illustrate the subject of

traced forgeries, the method of attacking same, and methods used by experts in demonstrating their conclusions. A brief background of the particular case would, I think, be of interest, particularly as many of you knew some of the parties involved and probably all of you have heard of the case.

Holland S. Reavis, a native of Missouri, originally started out as a newspaper reporter. In this capacity he went to Texas to write stories in connection with the oil boom and interests. While there he became inoculated with the prospects of large gains in oil speculation and entered into the "oil game", accumulated a fairly large estate, and finally decided to retire and give his time up to writing a book on the oil industry, taking up where Ida Tarbell had left off. He bought the Mt. San Angelo home and ~~farm~~<sup>farm</sup> near Sweet Briar in Amherst County, with the intention of living there and taking the rest of his days in ease, running the farm and writing his book. Mr. Reavis was a man of great nervous energy and after doing more or less writing on his book, he found that the life of inactivity did not suit him and so he went to Texas and opened an office there and again entered into the oil game. Meanwhile, he had built a large dairy barn at Mt. San Angelo farm and had acquired a herd of cattle and started a dairy.

Miss Lee Maher was assistant to the Treasurer of Sweet Briar College, a woman who apparently had the entire confidence of the authorities there, was considered an expert bookkeeper, and by her compatriots there somewhat of a financial wizard, due to the fact that after the depression when things came back she went into the stock market, starting in a small way, opened an ac-

and in connection with which she presented a note for \$20,500.00 and a ~~note~~ <sup>check</sup> for \$2000.00, which she claimed were given to her by Mr. Reavis a few days before his death, in payment of a part of what he owed her.

count with a broker, and had accumulated a fair amount of money herself. Other professors there got her to make investments for them.

Mr. Reavis had met Miss Maher and, knowing her reputation as an excellent bookkeeper, ~~and~~ when he determined to go back to Texas and into the oil business, arranged with her to generally oversee the running of the Mt. San Angelo farm and dairy and to keep the books. For this purpose he opened a farm account at the Amherst bank, which was handled entirely by Miss Maher. Mr. Reavis would make deposits into the account whenever Miss Maher called for them, and she drew the checks on that account.

After Mr. Reavis went back to Texas he bought certain oil stocks or oil interests for Miss Maher, putting her in on deals into which he was entered~~d~~ and made some profit for her, probably \$2500.00 or so. This was shown by unquestioned correspondence and letters of Mr. Reavis. <sup>Lulu's</sup> ~~He then was arranged~~ to form a syndicate for dealing in oil stocks and oil interests. Miss Maher stated that on one occasion he told her of this and she asked him to let her put some money into the syndicate, and he agreed, and that she agreed to put in \$15,000.00, <sup>and paid that sum to him</sup> She also stated that she had previously sent him \$2500.00, which he had used in making previous purchases. The records and bank accounts of Mr. Reavis showed no indication that he had ever received any money from Miss Maher. He died suddenly by suicide.

From this point on I think the matter can be better handled by merely verbal recital and by illustrations from the exhibits in the suit which subsequently developed in connection with the claim of Miss Maher that Mr. Reavis owed her upwards of \$22,500.00,