



The Use Of Examination Of Questioned Documents

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Abstract:

This is an age of documents. We depend on them in many of our encounters with the complexities of modern life. They feature in our financial, legal, business, social, and personal affairs. Hardly a day goes by without some document playing a part in the life of every one of us. With their widespread use it is almost axiomatic that analytical methods should be developed to establish facts concerning documents-their source, authenticity, age, or original state.-These are, the techniques that are to be described in the ensuing paper. In the light of above an attempt will be taken to analyse the problem of questioned documents and tries to suggest reducing such problems.

Key words:*Questioned documents, collection, Handwriting documents, typewritten documents, Examination, comparison, conclusion.*

1.Introduction

It is well known that documents are not always what they are represented to be. The crime of forgery is probably quite as ancient as writing and on a number of occasion's history has been changed by documents subsequently proved to be forgeries. When one considers the importance of the issues which often hang on the authenticity of a document-the disposal of vast estates or of large sums of money where the signature on a will or agreement is questioned; the good name of anyone accused of forgery, blackmail or libel'; the liberty and possibly the life of a man accused of murder and implicated by forged documents-one would think that today, after so many centuries of reliance upon documents, there would have been established reliable methods for testing the authenticity of any suspect document. It might well be thought that trustworthy experts, skilled in such arts, would be easily available: experts regarded as competent to assist those members of the legal profession whose task it is to advise clients and argue cases when documents are in dispute. One would have considered it as taken for granted that recognised experts in the by no means modern art of examining suspect documents would be so experienced and reliable that their conclusions would be accepted in the courts with the same confidence as those of experts in the other fields of physical science, such as chemistry, physics and geology.

No one who has had any practical experience in legal matters is under any such misapprehension. In spite of the thousands of important documents which must pass through his hands, the average lawyer, confronted with a case whose outcome may hang upon the authenticity of a document, usually does not know whom to consult or what reliance he can place on the results of an investigation.

Most lawyers are aware that there exist certain individuals often loosely referred to as "handwriting experts" or "graphologists" to whom they may refer their problems, but unless he has been unusually fortunate in the past, the more experienced a lawyer is, the less likely is he to place much reliance upon the opinions of the majority of these gentlemen. In the past, not only in this, but in other countries as well, "handwriting experts" and "graphologists" in general have enjoyed a very low status in the courts. The general and usually well-justified feeling has been that their findings are largely intuitive and that consequently there are often as many opinions as there are experts in the case. The contrary opinions expressed by the experts on the two sides often cancel each other out with the result that the case has to be settled on other, and, it is to be hoped, more reliable grounds. A number of factors make for the understandable reluctance of the

courts to place much reliance upon the opinions of many of the "handwriting experts" who appear to testify in them. In professions such as law and medicine, there are powerful governing bodies who see that the standards of those practicing are maintained by a system of prescribed study and qualifying examinations. This means that anyone consulting a doctor or lawyer is guaranteed a certain minimum standard of professional experience and attainments. Similarly if anyone is engaged to testify as an expert witness in such sciences as chemistry, physics or medicine he will have to be a most exceptional man to be accepted as an expert unless he possesses one or more degrees granted by a university, or the diploma of fellowship of a learned society or institute of accepted standing, such as the Royal Institute of Chemistry in the case of analytical chemists, or the Fellowship of the Royal College of Surgeons when expert evidence in surgical matters is to be given.

The demand for specialists in the examination of documents is so small that comparatively few qualified men are ever likely to be wholly engaged in this work. No university college of any standing either in Great Britain or America offers a course of study leading to a degree² and if such a course were contemplated it would be a difficult matter to provide either teachers or anything like full employment for any substantial number of students when qualified. Apart from the occasional examples of sheer incompetence there are several good reasons for the low status formerly enjoyed by the document examiners in the courts. The first and undoubtedly the most important reason is that, even today when full advantage can be taken of elaborate and often very expensive apparatus embodying the most recent developments in microscopy, photography and micro-chemical analysis, the complete physical examination of a suspect document is by no means a simple matter. In spite of considerable advances in technique, a number of problems such as that of the relative ages of ink writings of documents still await complete solution and others such as the absolute age of an ink or pencil writing show no signs as yet of yielding to attack.

The second reason is that it is only now being realised that the exposure of a forgery, the establishment of the authorship of an anonymous manuscript or of the source of a typewritten document is a co-operative process which must pass through certain well-defined stages and involves persons with three quite different functions. Each of the three must be aware of both the needs and the capabilities of the others, and to some extent, at least, be acquainted with what they have to do and how they set about it. In the first place we have the legal adviser, who is generally the first to be consulted if civil

proceedings are being contemplated, or the investigating officer, who takes charge of the preliminary investigation when obvious breaches of the criminal law, such as blackmail or criminal libel, are concerned. The ordinary duty of either is to establish the facts surrounding the first appearance of the suspect documents and to investigate both the "stories" and the standing of the witnesses in the case. This must be accomplished by the preliminary examination of the documents, upon which will usually rest the decision as to whether or not an expert is to be consulted. If it is decided that an expert is to be consulted it is necessary to gather the data which will almost certainly be needed when he is brought into the investigation.

Once the decision to seek expert advice has been taken there must follow the closest cooperation between the investigator and the expert. The expert, being remote from the matter, has only the material supplied to him by those who have carried out the preliminary investigation to guide him during his examination of the documents. No expert can express a stronger opinion than is justified by the nature of the standard of comparative material with which he has been supplied. Long experience has shown that the limiting factor in over 90 per cent, of such cases is the nature of the standards. Poor standards result in inconclusive opinions and many of the mistakes made by the "handwriting experts" in the past have been due to their attempting to do too much with inadequate material in the way of standards. The provision of adequate standards of comparison is by far the most important phase of the preliminary investigation, and experience has shown that it when the expert has completed his examination he must render his report in a form suitable to the third person involved. This is the advocate whose duty it is to present the facts uncovered by the expert, together with any opinion he-the expert-feels justified in expressing, in such a manner that a jury will appreciate the issues involved. In this connection the following steps are used to examine the questioned documents.

3.1. The Main Objectives Of This Paper Are

- To know the examination of questioned documents.
- To understand the collection of questioned documents evidence.
- To know the examination of Handwriting.
- To know the examination of typewritten documents.
- To understand the comparison method of samples.

4.Collection Of Questioned Document Evidence

The officer or investigator collecting the document should avoid touching the item with the fingers to prevent any existing latent fingerprints from being obscured. The document should be moved by sliding another sheet of paper underneath it or by lifting with forceps or another such instrument, and then placed into a clear plastic envelope or folder so that the message can be read without any further handling of the item itself. If the document is a letter which arrived in an envelope, the envelope should be collected as well. The postmark may reveal the location of the sender, or additional fingerprints on the envelope or even some indented writing might reveal the identity of the sender. Package the envelope separately from the questioned document itself.

If the document consists of several pages clipped or stapled together, the entire document should be placed into a single envelope or folder. The investigator should not attempt to separate the sheets. Two or more single sheets may be packaged separately. If the document has been handled and read by persons other than the complainant, establish their identities and arrange for elimination fingerprints. These will allow the laboratory to quickly establish whether or not any identifiable fingerprints belong to known individuals in the home or business where the document was received or possibly belong to the person(s) responsible for sending it.

If latent fingerprints may be important to the case, mark the evidence folder or envelope "Questioned Document Evidence. Process for Fingerprints". This will alert the laboratory to do the fingerprinting first, but in such a way that will still allow the document examination to be performed once the fingerprint unit is finished. Do not expose the document to unfavorable climatic or environmental conditions. These include extremely bright sunlight, high temperature and high humidity. Such conditions could damage the document or the writing on it.

The document should be transported open and flat, regardless of the position in which it was received. The paper should not be folded or refolded, but kept flat in the clear envelope or folder. The officer should learn the preferences of the local laboratories for placing evidence markings on the documents. Some may prefer that the officer's markings be placed on the back of one corner, while others prefer that no markings be placed on the document itself, but only on the protective envelope. They may stipulate that the officer use pen, pencil or other specific writing instrument.

5.Examination Of Handwriting

Identification of handwriting is important in the highest degree when the authenticity of a writing or a signature is contested in a court of law. The litigant all over the world depends on the testimony of the handwriting expert for establishing the genuineness or otherwise of questioned documents. Although the courts have been solving knotty problems arising in cases of disputed deeds and documents with the assistance of handwriting experts, yet the handwriting expert is often asked, if the identification of handwriting is a science; and if so, whether it is an exact science. Paradoxical as it is, many still believe that the identification of handwriting is not a science but a mere guess work and that the 'so-called' expert has made it a hunting ground to found a market for himself. The argument that they advance against its being a science is, firstly, that any literate person can, if he so desires, create radical differences in his writing to defy identification; and, secondly, that in almost all disputed cases experts appear on either side in courts of law to support diametrically divergent views.

The first objection that any person can at will create, differences in his handwriting to defy identification has not much of substance, in that the differences so created affect only the pictorial appearance of the style of writing and are by no means radical. Identification of handwriting is not dependent upon a single factor, such as its pictorial appearance, but is the cumulative effect of the various characteristics and traits which by the large remain unaltered. It is, of course, true that there are persons who have their command more than one style of handwriting. There are also persons whose bank specimen signatures are quite different from their routine signatures and the comparison of such signatures at first sight is liable to suggest that they are written by two different persons. Again, a person while signing an important document may well make his signature legibly, completely and carefully whilst in the normal routine, he may be signing in a careless, abbreviated or scribbling manner. Likewise, a person while signing on revenue-stamps may try to cover all of them with his signature and he may, therefore, make the size of the letters larger than what he is normally accustomed to. In all such cases, it is the formation of letters or the deviation from the normal mode of writing which conveys the impression of being written by different persons. The differences are, however, merely superficial, which can usually be detected to a degree of reasonable certainty. It is also likely that the handwritings of different persons might resemble and have certain misleading similarities, but such writings though apparently similar in the general outlook cannot deceive the expert who does not depend upon the visual

impression or the superficial similarities in the forms of letters but looks to the basic characteristics which radically distinguish one handwriting from the other.

It can be taken as axiomatic that no two persons write exactly alike, even though they may write similar forms of letters. The trained and critical investigator is not confused by such similarities or intentionally created dissimilarities, The expert studies and analyses the internal writing habits and does not confine his attention merely to the pictorial appearance of the writings. The most important things are to examine the general characteristics, formation of letters, fixed pen habits, mannerisms and idiosyncrasies which it is not at all possible for anyone to abandon or discard abruptly. Habits die hard. Intrinsic traits of writing which develop by long course of writing become as if engrained and constitute the essential features of writing habits which invariably betray the writer no matter howsoever he may disguise his handwriting. "The existence of disguise certainly makes the task of the expert and of the court more difficult. The obstacles are, however not insurmountable." Mature handwritings seldom undergo any radical change. Handwritings do get affected by the advancing age of the writer or may be by his illness too. The changes that generally occur due to age or illness are generally of form and not of substance. On the other hand, the differences that a writer can deliberately create in his writing are generally with regard to speed or skill of writing; formation or design of letters; size of letters; spacing between the letters, words or lines; slant or slope of the letters; alignment of letters or words; and arrangement or legibility of the writing.

Apart from these deliberate or artificial differences, the pictorial appearance of the writing may also be affected by the following circumstances and conditions which sometimes produce baffling results:

- The writing instrument.—If the nib of the pen is not in good condition, the writing is not likely to be smooth and strokes are prone to be scratchy, uneven and disjoined. Due to the bad quality of the pen, the speed of writing is also likely to be affected.
- The quality of the paper.—If the paper is highly glazed, there may occur sudden wide deposits of ink on the strokes; and if the paper is rough, there may occur ink-featherings and the writing may give a clumsy appearance.
- The quality of ink.—If the ink is such which does not flow readily or is extremely thick, the speed of writing is bound to be affected. Due to bad quality of ink,

there may also occur frequent interruptions in the movement of writing as well as ink-featherings.

- The supporting surface upon which the paper is placed for the purpose of writing. If the supporting surface happens to be rough or uneven, the letters may contain small irregular bars or dots and the general appearance of the writing would be naturally poor. The speed of writing is also likely to be affected.
- The position of the writer. In a writing made while the writer is standing, the size of the letters is likely to be bigger than when the writer is sitting at ease. A writing written in a moving train or a speeding car, or riding on a horse-back, will contain sudden erratic departures due to unavoidable jerks and some of the strokes may become abnormally longer and irregular. Such writing will never be normal or smooth. There is, however, no doubt that some writers write fairly smoothly in a moving train, but such cases are rare.
- The health of the writer. If the writer is ill, his writing is likely to exhibit weak and tremulous strokes. Again, writing of a person under mental strain may be considerably illegible or abbreviated.
- Mental state of the writer. When the writer is drunk, he does not invariably have a steady hand and there are tremors in his writing, and the overall appearance of the writing is bound to be irregular, illegible and may be even incomplete. Size of the letters may be uneven and some may be quite large whilst others may be comparatively small in size; and the connections between letters would also be longer. Further, the writing of a person in such an inebriated state or condition of mind would necessarily be inconsistent. Then again, a writing made when a person is tired or fatigued will ordinarily have small size of letters coupled with frequent stoppages or lifts of the pen. Likewise, there is a tendency of a writing being affected when a person is in a despondent or sullen mood or is in anger. When a person is in a hurry, the expansion of the writing will be greater than otherwise.
- Age of the Writer.-Handwriting does not remain static and as the man advances in age, his handwriting changes gradually. Handwriting of an individual as a school-boy is quite different from the one he has in later years and his handwriting in old age would be quite different from the one he had in his youth.
- Occupation of the writer- The avocation of a writer also has an important bearing

on his handwriting. A person who has not to write much may be writing legibly and slowly, but when called upon to write continuously and for longer periods, or when he has to record notes or long drafts daily, his handwriting is likely to undergo a marked change; particularly in the matter of formation of letters which tend to be abbreviated and the connecting strokes between the letters may become longer. In such cases, the handwriting is also likely to deteriorate.

Thus there are several factors which affect the quality of the handwriting of an individual writer generally, and the common impression that the identification of handwriting is a very simple matter is not true. In fact, it is a very difficult and intricate subject which requires a keen and thorough study and a matured experience, which unfortunately some experts lack. If the identification of handwriting were not a science, forgery would be rampant and false and fake documents would pass undetected bringing in their wake disastrous consequences. There will be, in such conditions, utter chaos in the business world and the entire business would come to a standstill. There would be no faith in the authenticity of documents which constitute the hub of the trade and commerce. As identification of handwriting can correctly and accurately be made, there is absolute confidence in the sanctity of documents all-round and transactions involving millions of dollars, pounds and rupees are done from day to day on the face value of the documents. Numerous cases have been successfully decided by courts on purely scientific analysis of writings by the handwriting experts.

Again, the art of photography has so much advanced during the last few decades that the characteristics of handwriting, especially of a microscopic nature can be successfully laid bare by photography. The authentic photographs, when properly demonstrated, may well be conclusive proof in establishing the genuineness or falsity of the particular document in dispute. Whatever the criticism, it is now well recognized that the study of identification of handwriting which is an offspring of forgery is no longer empirical but is an art and a scientific matter. It has now developed to such an extent that it can safely be asserted that it is an exact science.

The sources of error in the identification of handwriting lie in ignoring the causes of differences occurring in the writings of the same individual or similarities found in the handwritings of different persons. Causes responsible for such differences or similarities among others are

- Natural variations that always occur because the hand does not move in a mechanical manner and cannot always produce characters exactly alike;

- Similarities in the forms of some of the letters of the writings executed by different persons in any script based on the same system;
- The fancy to a particular shape or design of a letter that some persons take to someone else's writing and try to adopt the same in their own handwriting;
- paternal influence that affects handwriting of many and there occur similarities in the forms of the letters written by a father and a son, a brother and a brother, and so on;
- Tutorial influence as the handwriting of the school children who learn the art of writing from a common teacher is likely to resemble with one another.

It has, however, to be conceded that the science of identification of handwriting has not yet reached that stage of perfection as other sciences, such as the science of mathematics or fingerprints, yet it has made such a remarkable progress that a correct conclusion can be arrived at in every case of handwriting problem. The other objection against its being a science is that no two handwriting experts generally agree with regard to the identity of the same set of writings or signatures in a court of law. It may be stated that the fault lies not with the science but with those who having an imperfect grasp of the subject and profess to know it thoroughly; or who distort their opinions deliberately in their zeal to benefit their clients. This malady of distorting facts and conflicting expert opinions, unfortunately is more prevalent in our country than anywhere else. It is because of such pretenders or charlatans that the Hon'ble Judges of the Supreme Court and High Courts of India have often been constrained to warn against deciding cases solely on expert evidence.

6.Examination Of Typewritten Documents

Type-written document is also one of the evidence and provides some useful characteristic clues to the identification of crime. People in the past, depended mostly upon handwriting for their transactions. "Hater on the typewriter was introduced and people started using more and more for their business. But nowadays its use is very limited and narrow because of the introduction of computers. In the beginning when typewriter was introduced, people had their own doubt that the typed scripts looked similar and hence cannot be identified in respect of the production of fraudulent documents which were on the increase. This is not true. Every machine produces some or the other individual, characteristics which differentiate one machine from another.

Typewriting machines were first used in china. Halda was the first company to introduce typewriters in India and later on around 1873 the Remington typewriter was also introduced^ People started using typewriter for their business since then. Afterwards some of the companies showed interest in introducing different makes of type writers like facit, Godrej etc to the market. Many changes were periodically made to introduce new features by the different companies and are useful in ascertaining the age of documents.

There are various makes of typewriter introduced in the market. Any typewriter used for typing usually leaves its own characteristics on the paper. These minute variations are bound to occur in the design of letters which differ from machine to machine. The moment the typewriter starts functioning where it begins to develop an individual characteristic in the form of worn, broken or defective letters out of alignment either horizontally or vertically. Further the individual characteristics of a machine may increase in number provided the machine is in operation continuously for several years. Even if two machines are of the same make and manufactured in the same year also produces minute differences in the typed scripts and with this it is possible to establish the identity of a typewriter.

Whenever a disputed typewritten document is in question, it will be examined for three purposes. They are as follows:-

- Whether the typewritten document has been typed by the suspected typewriter.
 - Whether the altered or interpolated portion of the document has been typed by the same machine or different machine
 - Whether the suspected operator has typed the document.
- As far as the first question is concerned there are different makes of typewriters available in the market and the models which differ from company to company as well as year to year. So to decide the typed script was typed by the suspected typewriter or not is not a difficult task to the expert. While examining a disputed document, the document expert consider the following characteristics to identify the machine Margin, Line of alignment, Size and shape of letters, Spacing, Overtyping or jumbling of letters, Colour of ribbon, Perforation of paper.
- Secondly to decide whether the erased or interpolated portion of the document was typed subsequently requires to be examined by the expert on the following

characteristics.

Colour of the ink, Line of alignment, Spacing, Faults between the letters

- Thirstily to know whether the suspected typist is the offender or not, mainly his style of typing will be considered by the expert. The expert in this situation examines the following characteristics to identify the typist.

Margin towards left and right , Style of typing, Spacing between lines , Key pressure applied – light pressure, medium and heavy pressure, Use of punctuations, Grammar , Spelling mistakes etc.

7.Comparison Of Samples

When a question arises as to who wrote the message or which machine typed or printed the message, samples must be obtained as in the case of elimination fingerprints. These may be called samples, known standards or exemplars. There are two basic kinds of samples: those known to have been written by the suspect or typed on that particular machine before the particular incident, and those obtained from the suspect after the incident has occurred. In cases involving handwriting and hand printing, the suspect may attempt to disguise his style to prevent identification or to make it more difficult.

Samples known to have been prepared before the incident are often referred to as collected standards because there is no doubt as to their origin. The problem merely lies in finding something actually written by the suspect. Signatures are generally easier to locate than narrative text, but possibly letters, reports, applications, or other forms containing the suspect's own handwriting or printing may be found. Material prepared on a typewriter or other machine presents little difficulty if there is but one machine in the business establishment or owned by the suspect. More machines make the task increasingly difficult. The investigator who can recognize differences in type styles may be able to differentiate between samples typed on two or three machines, but if they all have identical typefaces, the officer may have to submit many samples to the laboratory for comparison.

When the suspect is asked to provide samples of handwriting or printing, the samples are usually referred to as request standards. The suspect must not be allowed to observe the letter or note in question. The officer or investigator should instead dictate the material as the suspect writes. A number of samples are needed; as soon as one has been written, it should be removed so that the suspect has no previous writing to copy in an effort to disguise penmanship. The samples should be prepared to resemble the original document

as closely as possible. The paper should be very close to the original in color and texture, the writing instrument should be the same type as used in the preparation of the original material, and the desk or shelf upon which the paper is placed should approximate the height of the desk or other surface where the suspect is believed to have prepared the original. If at a desk, the samples should be written while the suspect is seated at a desk; if the writing was with a spray can on a plywood wall, the suspect should stand and spray a test wall or sheet of paper. As a general rule, the laboratory will want at least twenty-five copies or more of the suspect's writing.

The investigator should never spell words for the suspect; characteristic misspellings sometimes help to establish whether the same person wrote both the original and the dictated forms. The laboratory may want a specific message dictated; normally this will be the same message as received by the victim, but this practice may vary from one laboratory to another. The best policy is to check with the laboratory to make sure. In cases involving typewriting or other machine printing, the investigator can usually collect the sample unless the laboratory feels it could possibly identify the typist from the written material. Although extremely difficult, it can be done, especially with manual machines where the finger pressure or rhythm of the typist may affect the pressure with which the type element strikes the paper.

The investigator should again be guided by the desires of the laboratory and the document examiner, but generally the sample contains the complete text of the original in the same format so far as spacing, spelling, punctuation, and paragraphing. In addition, the laboratory may request that one or more samples of each individual character be obtained as well. The investigator should identify each sample with the date, make, model (if known), and serial number. The laboratory may have a particular format to be followed concerning typing with carbon ribbon, fabric ribbon, backing sheets, carbon paper, etc. In some cases, the laboratory will request that the machine itself be submitted for examination. As mentioned before, if the machine has interchangeable elements, each one will have to be collected and identified separately.

8. Conclusion

The examination of documents is a scientific procedure only if the examiner seeks out similar characteristics and at the same time remains constantly alert to any evidence of differences. Further, one must distinguish between actual differences and variables that are present in every individual's writing, as well as in the work of any typewriter or other

office machine or device, every pen or other writing \ instrument, and in paper and inks from a single source. The true scientist looks for evidence that leads to the solution of the problem, and after reaching an apparent solution, makes sure that there is no neglected evidence that might invalidate or modify the findings. The 1 document examiner also ascertains that differences that can disprove an identification have not been overlooked. Variations must be distinguished from basic differences in order to avoid an inaccurate conclusion. The examiner must be completely satisfied that the standards are representative of the person's handwriting so that unusual variations are not misinterpreted as distinguishing characteristics. Basic, true differences establish nonidentity, but variables cannot necessarily invalidate a conclusion of identity based upon a unique combination of similarities. In other words, the document examiner must be ever critical so that when a final conclusion is reached it is completely accurate.

9.Reference

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