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George Tyler Mairs

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POLICE SCIENCE



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FINGERPRINT SIGNATURES

(A WORD OF CAUTION CONCERNING THEIR USE)

GEORGE TYLER MAIRS†

With increasing frequency news items in the daily press note that wills are being offered for probate identified only by the testator's fingerprints in lieu of the usual written signature. This gives rise to the question, does the utilization of fingerprints for this purpose preclude the perpetration of fraud?

Fingerprints serve as very valuable and accurate marks of identification, whether they be from a body living or dead. The exclusiveness of the pattern configuration identifies the body possessing it. But when fingerprints are used as signatures the situation is vastly different, due to the inherent nature of a signature and the sharp contrast between the physical requirements incident to writing and those for registering a fingerprint.

Any mark made with the intent of recording assent to a proposition is a signature. The mark may be nothing more than the common cross used by the illiterate, but when properly attested it is as binding as the written name with all its flourishes. A person may write his name, make his cross, or impress his fingermark a thousand times without making his signature. Unless there is intent to

† Fingerprint Identifier, Fingerprint Bureau, City Magistrates' Courts, New York City.

register assent or to make some acknowledgment the writing is not a signature. It is obvious, therefore, that intent and assent are elements distinguishing a signature from an ordinary writing.

Intent and assent require conscious life; they also require mental capacity to choose between assenting and dissenting, to sign or not to sign, and an exercise of the will to do or to refrain from doing. Also, the very act of writing requires the physical ability to write, and any written signature implies a live body, physically capable of writing and registering assent. But not so with a fingerprint. Life is not necessary. Thousands of post mortem prints are made every day in our morgues and police stations. They certainly do not register their owner's intent or assent! In death or unconsciousness they are the same as in conscious life and their usual function is that of establishing bodily identity. No inference of conscious life arises from a fingerprint *per se*. The body may be dead or alive, conscious or unconscious.

The possibilities for fraud in palming off a post mortem print or one taken while unconscious as a duly executed fingerprint signature prompts this little note of warning. A fingerprint should be meticulously guarded by having several witnesses present at the time it is made, and properly notarized—particularly on a document which operates after death. Even then, there may be found those who, for a suitable fee, will falsely notarize. Conspirators could inveigle the victim into becoming intoxicated, or they could feloniously administer a drug that would cause him to become oblivious to the taking of his fingerprint for the purpose of later offering it as a bonafide signature. If the signature be to a will the testator would not be present when it was probated to deny that he had willingly signed with his fingerprint instead of pen. Proof of his physical condition at the time of signing would probably be very hard to establish. A person in death coma could be made to fingerprint a will satisfactory to the conspiring heirs. This could be accomplished with perhaps less risk of detection during the days between death and burial.

Situations of this nature may be deemed highly fanciful, but they are within the realm of accomplishment where the stakes are considered worthy of the risk. An unconscious or paralyzed person cannot write, but his fingerprints can be taken! Handwriting evidences life and physical ability, but fingerprints do neither!

That perfectly proper situations arise where a fingerprint signature saves much time and legal expense is illustrated by a personal

experience of the writer two or three years ago. Mrs. X, as a young matron, opened a savings account in a bank requiring her written signature as well as the plain fingerprints from the three fingers of her right hand. Years went by, her children matured, she grew older and became paralyzed on her right side. There was a balance to her credit in the bank. Her family did not know of the account but her condition was such that she had to tell them. She wished to close out the account but could not write her signature on the withdrawal order. The bank notified her son that they would accept her fingerprints as a signature on the withdrawal slip. The writer was called in to effect the fingerprint signature, and Mrs. X obtained her money. So far as is known, the affidavit thus made on the order is the first attempt to formulate an endorsement covering the peculiar circumstances surrounding a fingerprint signature. It read substantially as follows:

“These fingerprints are made as a signature, from the live, conscious and willing body of Mrs. X, with the assistance of G. T. Mairs, Fingerprint Identifier, and in the presence of (name of son and daughter).

Date..... Signed.....”

Another bank carrying the accounts of enlisted naval men sailing to all parts of the world made it obligatory that all withdrawal orders carry a three-finger signature of the depositor—with or without the written signature. The writer personally assisted a cook on shore leave, who had imbibed too much and landed in the jail for ten days to sober up, to place his fingerprint signature on an order for \$5.00. The cook wrote the order in longhand but signed only with his fingerprints. A messenger took the order to the bank and returned with the money.

Fingerprint signatures honestly used are ideal, as they function simultaneously both as a signature and as an identifying mark capable of accurate and relatively easy proof in court if necessity arises. It is the possibility of their perverted use which should concern us all. The more desirable procedure should require that both types of signatures be used together: the writing, which evidences life and ability, verified by the prints, which do neither.