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ALBERT S. OSBORN

Clark Sellers

Clark Sellers, President of the American Society of Questioned Document Examiners, is recognized as one of the country's best qualified document experts. Although he maintains his office in Los Angeles, he has been consulted on document problems throughout the country and has testified as an expert witness in such famous trials as that of Richard Bruno Hauptmann in New Jersey, Winnie Ruth Judd in Arizona, the Wilson Strickland Estate in Texas, and Alfred S. Cline in California. As one of the organizers of the American Society of Questioned Document Examiners, Sellers was among the group of experts who prior to 1942 had met yearly with Mr. Albert S. Osborn to discuss mutual problems arising out of the study of disputed documents. Thus, he has known Mr. Osborn as a friend, a teacher, and a fellow scientist and from such associations has written this fitting tribute to a true pioneer and a dynamic leader.—EDITOR.

Albert S. Osborn, the noted author of *Questioned Documents* and dean of questioned document examiners throughout the world, died December 14, 1946 at his home in Montclair, New Jersey. His eighty-eight years were crammed with accomplishments, largely in the field of scientific document examination and proof of facts in court.

Osborn was a dynamic personality. He was a trail blazer. A close friend of Dean John W. Wigmore, he worked as effectively in his own sphere as Wigmore did in his, to overcome restrictions in court procedure which hampered and in many cases actually thwarted the administration of justice.

It is almost unbelievable now that when Mr. Osborn began testifying, more than 50 years ago, it was impossible for an expert witness to give effective testimony in most courts, due to restrictions and suspicions which surrounded all expert testimony. In a trial involving questioned documents in many states no standards of comparison could be introduced in evidence unless they were admissible for other purposes; enlarged photographs were either excluded or looked upon with grave suspicion; it was not permissible to give reasons for an opinion on direct examination; and even the use of a magnifying glass or a microscope was strenuously objected to or excluded altogether.

Along with Dean Wigmore and forward-looking lawyers and judges, Osborn fought against these restrictions. He contended that a law suit should be a judicially supervised scientific inquiry to determine the facts, not a battle of wits to win! He contended that an opinion was only as good as the reasons given for it. Wigmore summed it up in four words by stating that expert testimony should be "measured by its convincingness."

Today in questioned document trials, proven standards of comparison are readily admitted in evidence; illustrative photographs are the rule, not the exception; an expert witness in most states may give the reasons for his opinion on direct examination, and he may use any known scientific aid either in arriving at his opinion or in demonstrating the reasons for it. While Osborn was not responsible for all these advancements, he was definitely influential in bringing them about.

There were other advancements that were due almost entirely to him. These had to do principally with procedure in examining questioned documents. Osborn designed the comparison microscope enabling two objects to be examined simultaneously side by side under the same magnification, and he adapted this instrument for the use of Lovibond Tintometer Glasses (color filters) to measure the changing color of inks. He designed most of the glass measuring instruments used today which enable precise measurements of handwriting and typewriting to be made without obscuring the writing being measured. He brought other fields of knowledge to bear on his subject.

Up to Osborn's time the term "questioned documents" was unknown, and the term "handwriting expert" was universally used. He recognized the term "handwriting expert" was inadequate. His work did not stop at handwriting examination, but included typewriting, paper, inks, and other problems that might arise about a document in dispute. Through his writings he made the term "questioned documents" a recognized expression the world over.

Through his scientific procedures, which he disseminated widely, Osborn was the guiding light in making a recognized profession out of questioned document work. His leadership kept the United States in the forefront in scientific document investigation.

Osborn is best known to lawyers and judges for his two principal books *Questioned Documents* and *The Problem of Proof*. The former is the classic on the subject and deals principally with the scientific examination of a disputed document while the latter deals with the proof of facts in court. It contains most of Osborn's philosophy and has a number of unusual chapters which disclose the breadth of his observations and the depth of his thinking.

Dean Wigmore considered Osborn's book *The Problem of Proof* a worthy contribution to the literature and wrote an introduction to it in which he stated:

“This volume is a worthy successor of *Questioned Documents*. There is wisdom on every page. It is far more than a book of advice on Document Trials. It contains varied and valuable warnings for both counsel and witness. Chapter XV on Court Rooms, and Chapter XVIII on Judges, are samples of original and candid comments, which deserve the widest circulation. But Chapter V, on Advocacy, is my favorite. It is the climax of the book. The rest could not surpass that mark. I would like to have written that chapter myself,—only I could not. It should be read aloud every year before every law class.”

Osborn's other books, *The Mind of the Juror* and *Questioned Document Problems*, deal extensively with his experiences, his observations, and the conclusions he reached respecting the effective presentation of evidence in court.

While Osborn did not write primarily for the lawyer, there are few laymen who have been quoted as widely in law decisions, not only in the United States but in other countries as well.

His pointed observations were the result of more than half a century's experience as an expert witness in the courts of 44 states, in Puerto Rico, in all of the provinces of Canada, and in Cuba. From the Molineux case in the Nineties to the Lindbergh-Hauptmann trial, there were few trials of importance in the United States involving a questioned document in which Osborn did not take some part.

In his writings Osborn did not stop at pleasantries. When circumstances justified it he “applied the mustard” biting hot. He did not write merely to please. He wrote to correct, to advance, to improve. He was in dead earnest. A Benjamin Franklin type of man, working 10 to 15 hours a day for the greater part of his life, he left a heritage of accomplishment and inspiration that has rarely been surpassed in any field.

One of his greatest accomplishments was his ability to influence others in his own field. In Osborn's early days handwriting experts were looked upon with grave suspicion, but his scientific attitude, his honesty, and the high quality of his work began gradually to raise the caliber of the work of questioned document examiners. At the same time judges were receptive to the improvements, and in most courts today qualified document experts are heard with attention and respect.

To improve the work of questioned document examiners, 33 years ago Osborn began inviting experts of good reputation to meet with him to discuss methods of improving document examination, of demonstrating document testimony in court, and of raising ethical standards. These meetings grew in scope

and influence. They were attended by qualified men from all parts of the United States, Canada, and Cuba. In 1942 these men, who were engaged exclusively in questioned document work, organized the American Society of Questioned Document Examiners with Osborn as President. The main purpose of the Society is "the promotion of Justice through the discovery and proof of the facts relating to questioned documents," and these aims are parallel for the most part with the aims of the American Bar Association.

Osborn was honored not only by those in his own profession, but by others as well. In conferring the honorary degree of Doctor of Science on Osborn in 1938 the President of Colby College stated:

"Albert S. Osborn is best known to the general public for the testimony which led to the conviction of Bruno Richard Hauptmann. We honor him today for his achievements in science. He has reduced to the laws of an exact science the field of document examination, which had previously been the preserve largely of shysters and lunatics. In order to apply his new technique, he had to become his own engineer. He designed the necessary apparatus for his work: cameras, microscopes, and many ingenious instruments of precision. By patient and comprehensive research he has mastered and codified the information necessary for identifying styles of handwriting and typescript, and for dating papers, inks, and writing-instruments. Though he has confined himself to forensic work, his methods are generally applicable, and have revolutionized all manuscript examination."

One arises from the contemplation of the life of such a man with a wholesome respect, and this respect was prevalent among the legal profession. Dean Roscoe Pound wrote a notable introduction to Osborn's last book *Questioned Document Problems* in which he said that Osborn's accurate, fair, and clearly demonstrated testimony has put proof of handwriting on a new plane. In speaking of Osborn's writings Dean Pound stated:

"The observations of an exceptionally intelligent and observant layman, of long experience as a witness in courts in all parts of the country, must command the thoughtful attention of the profession. Mr. Osborn's observations apply to much more than the immediate subject of testimony as to handwritten and typewritten documents. They should be pondered by bar-association committees, judicial councils, and legislators."

Progressive document examination has suffered a great loss in the death of Mr. Osborn, but his principles and progressive attitude will live in those who felt his influence.