LAW COMMISSION

OF INDIA

TWENTY-FIFTH REPORT

(REPORT ON EVIDENCE OF OFFICERS ABOUT FORGED STAMPS, CURRENCY NOTES, ETC).

(Section 509A Cr. P. C. as proposed)

September, 1963

GOVERNMENT OF INDIA ● MINISTRY OF LAW

CHAIRMAN,
LAW COMMISSION.

5, Jorbagh, New Delhi-3,
September 27, 1963.

Shri Asoke Kumar Sen,
Minister of Law,
New Delhi.

MY DEAR MINISTER,

I have great pleasure in forwarding herewith the Twenty-fifth Report of the Law Commission on evidence of officers about forged stamps, currency notes, etc.

2. The subject was taken up by the Law Commission under the circumstances mentioned in paragraphs 1 to 3 of the Report. A note discussing the points for consideration and the case-law on the subject was prepared in September, 1962. This was discussed at the 40th meeting of the Law Commission held on the 29th and 30th September, 1962.

3. The subject was discussed again at the 44th meeting of the Law Commission held on the 2nd and 3rd March, 1963. A draft Report was prepared in the light of the discussion at the meeting, and circulated for comments to State Governments and Ministries of the Central Government.

4. Comments received from the Ministries and the State Governments on the draft Report were considered by the Law Commission at the 48th meeting held from the 16th to 19th September, 1963, and the draft Report was revised in accordance with the decisions taken at that meeting, and finalised.

5. Mr. Niren De was unable to attend the meeting of the Commission at which the Report was finalised, and was out of India when the Report was signed. The Report has not, therefore, been signed by him.

6. My colleagues and I wish to record our appreciation of the assistance we have received from Mr. P. M. Bakshi, our Joint Secretary and Draftsman in the preparation of this Report.

Yours sincerely,

J. L. KAPUR.

REPORT ON EVIDENCE OF OFFICERS ABOUT FORGED STAMPS, CURRENCY NOTES, ETC.

CONTENTS

APPENDICES

REPORT ON EVIDENCE OF OFFICERS ABOUT FORGED STAMPS, CURRENCY NOTES, ETC.

Problem for consideration.

1. The Law Commission has been invited[1] to consider the following problem in connection with section 510 of the Code of Criminal Procedure, 1898. In a number of cases, both civil and criminal, in which the genuineness of a document is assailed, the date of the manufacture of the sheet of paper on which the document is written or the date of the manufacture of stamp used becomes a vital issue. While the officers concerned tender the requisite information after having the documents examined, they cannot disclose details of their line of investigation or the distinctive marks on the paper or stamps issued in a particular year, as that might result in a large scale forgery of commercial documents and counterfeiting of stamps. But if the officers concerned do not disclose the grounds of their opinion, the value of their evidence is affected. This situation has created a difficult problem, and it was suggested to the Commission that an amendment of section 510 of the Code of Criminal Procedure may be considered so as to make the report of such officers *admissible* in evidence (without summoning the officers) and in case the court desired a second opinion, to make the report of the higher officer *conclusive*.

Scope of the Reports.

2. The suggestion referred to above[2] also contemplated that a similar amendment may be considered in respect of officers of the Mint. These officers are mentioned in section 510, but their report, though admissible, is not conclusive. It was therefore proposed that their reports may also be made conclusive in the manner stated above[3].

Since the problem relating to stamp and currency notes presents common features, it will be proper to treat reports of officers of the Mint on the same footing as those of officers of the India Security Press.

Genesis of the Report.

3. As the matter mentioned above[4] was of some importance, the Law Commission felt it desirable to examine this question separately in advance of the general examination of the Code of Criminal Procedure in which it is now engaged.

Judicial decisions.

4. Apart from the suggestion made[5] to the Law Commission by the Ministry of Finance, there are certain decided cases which have focussed attention on the problem now under consideration. A brief reference may be made to those cases[6].

---

[1]A suggestion on the subject was received from the Ministry of Finance, Department of Economic Affairs, which is the administrative Ministry concerned with the India Security Press, including the office of the Controller of Stamps and the Mint.

[2]Para. 1, *supra*, footnote.

[3]Para. 1, *supra*.

[4]Paras. 1-2, *supra*.

[5]Para. 1 and footnote thereto.

[6]As to decisions on the *value* of reports of Chemical Examiner, *see* Appendix II.

In a Calcutta case[1], the accused was on trial on a charge of giving false evidence by denying a statement that certain documents were forged. The prosecution case (that the documents were really false) was based upon the assertion that the cartridge papers bearing a particular water mark (on which they were written) were not in existence on the 20th April, 1909, the date on which the documents purported to have been executed. To prove this, the prosecution called an employee of the Office of the Controller of Stamps and Stationery who gave evidence to that effect. He based his knowledge of the fact not on his experience at that time (because he was not employed in the particular office until 1925), nor on his subsequent experience, but on an entry in an unpublished record of the Government which, he stated, showed the date on which cartridge papers bearing the particular water mark were issued, and the period for which they were in use. The witness claimed privilege as to the particular date and the period, as being a State secret, and was not prepared to let the Judges or the lawyers see the entry. The court held that such evidence was inadmissible, because—

> (*i*) it was not expert evidence, the evidence merely consisting of a statement that if a certain proposition were true, then the document was not in existence in 1909;
>
> (*ii*) the witness was making a very plain inference from an entry of which no evidence was to be taken.

The court did not consider it necessary to decide whether secondary evidence could in such a case be given of the entry. But the court made the following observations:—

> "There is room for the view that in some cases where a witness is not compellable to produce a document, the party who can get other secondary evidence can give secondary evidence of it. On the other hand, it would seem only commonsense to say that section 123 would prevent *any person* from giving secondary evidence of a document in a case such as the present.".

This case was followed in a later Calcutta case[2], where the evidence of one S. K. Chatterjee, a Superintendent of the Office of the Deputy Controller, Stamp and Stationery, Calcutta, given in support of a written report of that office, to the effect that a certain demi-paper bearing the water mark M.D. constituting the second page of a will was not in existence on a particular date, was held inadmissible. The reason was, that the evidence was given by reference to the "confidential register" which was not produced before the Court. The question whether such evidence could be treated as secondary evidence, and if so, whether secondary evidence of a State secret given by a Government witness was admissible, was only

---

[1]*Emperor* v. *Jaffarul Hossain* (Rankin C.J. C.C. Ghose J. agreeing), I.L.R. 59 Cal. 1046, 1050 = (1931-32), 36 C.W.N. 514, 517.

[2]E. B. *Souza* v. *J. F. Souza*, A.I.R. 1958 Cal. 440, 443 (D.B.).

indirectly touched in this case. The Court made these observations:—

> "As the evidence of Shri S. K. Chatterjee is based upon unpublished and privileged Government records, that evidence is not admissible, as has been laid down in the case reported[1] in 36 C.W.N. 514 and we respectfully agree with the decision.".

The correctness of this view was assailed before the Supreme Court *in re John Francis Souza and another* v. *Ernest Bento Souza and another*[2], but the Court did not decide this question and left it open.

Existing law.

5. Before discussing the problem posed before us, we may set out the provisions of the existing section 510 of the Code of Criminal Procedure, which is in the following terms:—

Report of the Chemical Examiner.

> "510. (*1*) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government or the Chief Inspector of Explosives or the Director of Finger Print Bureau or an officer of the Mint, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code.
>
> (*2*) The Court may, if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any such person as to the subject-matter of his report.".

Difficulty experienced under existing section.

6. While the section[3] mentions officers of the Mint, it does not include within its ambit officers of the India Security Press and of the Office of the Controller of Stamps. Further, even as regards the officers mentioned in the section, it makes their reports admissible, but not conclusive. It is also to be noticed that the section, as at present worded, makes it obligatory upon the court to summon the officer making the report as a witness in Court, if either party to the proceedings so desires. There is one further difficulty[4]. Bringing the records of the various departments in courts is inconvenient, and may even involve the risk of the valuable records being stolen or otherwise lost or tampered with.

Analysis of the suggestion and objectives to be achieved.

7. On an analysis of the suggestion received by the Law Commission[5], it appears that the main objectives to be achieved are the following:—

> (*a*) the report of the officer concerned should be admissible as evidence in criminal cases;

---

[1]*See* para. 4, *supra—Emp.* v. *Jaffarul Hossain.*

[2]Civil Appeal No. 470 of 1960 decided 26-3-1962 (Kapur, Das Gupta and Raghubar Dayal JJ.).

[3]*See* para. 5, *supra.*

[4]This point was not stressed in the suggestion received by the Commission.

[5]*See* paragraph 1 and footnote thereto, *supra.*

(*b*) subject to a second opinion of a superior officer, the report should be conclusive as to the facts stated therein;

(*c*) the officer concerned should not be liable to be summoned in Court—

(*i*) either to produce the documents on which the report is based; or

(*ii*) to give oral evidence derived from such records.

Evidence on commission or *in camera*.

8. A suggestion has been made that in order to meet the difficulty experienced[1], the evidence of the officers concerned may be taken on commission or *in camera*. The law can be amended so as to provide that the evidence of the officers in question shall invariably be taken on commission. This will prevent the officers from being summoned in Court. It is, however, not desirable to make a mandatory provision in the law that the evidence of a witness in a criminal case upon which may depend the entire case of the prosecution shall be taken on commission[2].

The law can also provide that the evidence of such officers may be taken *in camera*. This will, however, mean that the officer concerned will be liable to be summoned as a witness in court. In our opinion, the taking of evidence on commission or *in camera* of the officer concerned will not achieve the objectives[3] in view.

Possible solutions.

9. We have given careful consideration to the problem posed[4] to us, and we think that there are the following possible solutions:—

(*i*) Amendment of section 510, Criminal Procedure Code[5], so as to make it applicable to reports of officers of the India Security Press, Nasik Road and of the Office of the Controller of Stamps.

(*ii*) Insertion of a new section in the Code on the lines of section 25 of the Drugs Act, 1940, which will make the report of the officers in question conclusive evidence of the facts stated therein.

(*iii*) Insertion of a new self-contained provision in the Criminal Procedure Code on the lines of sections 509 and 510 of the Code, which gives effect to the objectives in view[6].

---

[1]Paras. 1 and 6, *supra*.

[2]*Cf.* cases in Appendix III.

[3]Paras. 1 and 7(c), *supra*.

[4]Paras. 1 and 7, *supra*.

[5]The section is cited in para. 5, *supra*.

[6]Para. 7, *supra*.

10. The first solution[1] may appear simple, but is not satisfactory. In the first place, with the exception of officers of the Mint (whom we propose[2] to omit from section 510), the class of officers at present mentioned in section 510 do not fall in the same category as the officers of the India Security Press or of the Office of the Controller of Stamps. The latter class of officers are in possession of information contained in certain records of the State, which if divulged, may affect the very security or financial stability of the State. Such is not the case when a report is made in criminal cases by a Chemical Examiner, the Chief Inspector of Explosives, etc. The report of such officers can only affect the parties to the case. Further, under sub-section (2) of section 510, if an application is made to the court in that behalf by either party, the court is bound to summon and examine any person mentioned in sub-section (1). It is true that the Law Commission, in an earlier Report[3], has recommended that the summoning of these officers should be in the discretion of the court. But even if such a change is made, the officer concerned could, under section 162 of the Indian Evidence Act, be summoned to produce the documents on which his report is based and in such a case the section requires that he must bring the documents in court.

Amending section 510, Cr. P. C. to add these officers.

11. The second solution[4], making the opinion of the officer conclusive subject to the opinion of a higher officer, is an unusual one, and is not in accordance with the procedure ordinarily adopted in criminal cases. It would deprive the accused of an opportunity to cross-examine the officer making the report and to lead evidence in rebuttal of the statements contained therein. It is true that there is a precedent in section 25, Drugs Act, 1940; but we do not think that, for the present purpose, it is necessary to adopt the drastic provisions of section 25 of the Drugs Act, 1940.

Insertion of new section making opinion conclusive.

12. In this connection, it may be pointed out that before the amendment of 1955, section 510 did not contain any provision for summoning the Chemical Examiner, etc., as a witness in Court, although section 509 of the Code contained such a provision. This defect in the law was pointed out by the courts[5]. The section was accordingly amended in 1955 to meet these objections. As already pointed out[6], it may not, therefore, be advisable to embody a provision in the law which altogether prohibits the summoning of the officer concerned in court and thus deprives the accused of an opportunity of testing the correctness of the opinion given by him.

Criticism of section 510 before the 1955 amendment.

---

[1]Para. 9(i), *supra*.

[2]*See* App. I, s. 510.

[3]14th Report, Vol. II, page 848, para. 26.

[4]Para. 9(ii), *supra*.

[5]*See* cases referred to in Appendix IV.

[6]*See* para. 11, *supra*.

Proposed self-contained provision preventing production, etc., of records.

13. The third solution[1] will, in our opinion, achieve the main objectives in view[2]. A self-contained provision may be inserted after section 509, Cr. P. C. which, while not preventing the summoning of the officer concerned as a witness, will bar—

(*a*) the production of the records on which the report is based; and

(*b*) except with the permission of the Master of the Mint, etc.,—

(*i*) the giving of evidence derived from such records;

(*ii*) the disclosure of the nature and particulars of the tests on which the report is based.

This solution will not be a serious departure from the existing law on the subject, because section 123 of the Indian Evidence Act already prevents the giving of evidence derived from unpublished official records. The only additional provision will be that, notwithstanding section 162 of that Act[3], the officer concerned cannot be summoned to produce the records on which his report is based. But subject to this, the officer concerned will be liable to be examined as a witness in court like any other person. We have already explained[4] that the production of the records in Court may be fraught with certain dangers. On the analogy of section 123 of the Indian Evidence Act, it may be provided that with the permission of the Master of the Mint, etc. (if necessary the permission of the head of the Department may be required) evidence may be given from the records on which the opinion of the officer concerned is based. A consequential amendment will be necessary in section 510 for omitting reference to officers of the Mint from that section.

Compared with section 25 of the Drugs Act, 1940, the new provision suggested by us is a mild one. It will be noticed that in the draft amendment proposed by us[5], the new section 509A will apply only to such gazetted officers as the Central Government may, by notification in the Official Gazette, appoint. The object is that the privilege conferred by the section should apply to high officers who could be trusted to make a report with a due sense of responsibility. The rights of the individual are being affected to the minimum possible extent. In any case, the new provision can be justified on the ground that the security of the State and its financial stability are primary and

---

[1]Para. 9(*iii*), *supra*.

[2]Para. 7, *supra*.

[3]It is considered unnecessary to use the formula 'notwithstanding, etc.' in the actual amendment.

[4]Para. 6, *supra*.

[5]*See* Appendix I, s. 509A.

overriding considerations which must prevail over the rights, if any, of the individual. In this connection, reference may be made to a recent case of the House of Lords[1] where the famous dictum of Lord Parker in the Zamora case[2] was cited with approval:—

> "Those who are responsible for the national security must be the sole judges of what the national security requires. It will be obviously undesirable that such matter should be made the subject of evidence in a court of law or otherwise discussed in public.".

14. We therefore recommend that the third solution[3] may be adopted. Recommendation.

15. To give a concrete shape to our recommendation[4], we have, in Appendix I, shown it in the form of draft amendments to the Code of Criminal Procedure, 1898. Appendices.

Appendix II summarises the case-law as to the value to be attached to the reports of the officers referred to in section 510 or of officers in an analogous position.

Appendix III summarises the case-law relating to the issue of commissions in criminal cases.

Appendix IV summarises the case-law pointing out the defect in section 510, Cr. P. C. as it stood before its amendment in 1955.

The cases cited in the last three Appendices are illustrative only.

1. J. L. Kapur—*Chairman.*
2. K. G. Datar.
3. S. K. Hiranandani.
4. S. P. Sen-Varma.
*5. Niren De.
6. T. K. Tope.

} *Members.*

P. M. BAKSHI,
Joint Secretary and Draftsman.

NEW DELHI;
The 27th September, 1963.

---

[1]*Chandler and others* v. *Director of Public Prosecutions* (1962) 3 W.L.R. 694, 714, 722.

[2](1916) 2 A.C. 77, 107.

[3]*See* para. 9 (*iii*) and 13, *supra.*

[4]Para. 14, *supra.*

*Member Shri De could not attend the meeting at which the Report was finalised. At the time of signing of the Report he was out of India. He has, therefore, been unable to sign the Report.

APPENDIX I

Proposals as shown in the form of draft amendments to the Code of Criminal Procedure, 1898.

(This is a tentative draft only)

Section 509A (New)

After section 509 of the Code of Criminal Procedure, 1898 (hereinafter referred to as the "principal Act"), the following section shall be inserted, namely:— 5 of 1898.

Evidence of officers of Mint, etc.

"509A. (*1*) Any document purporting to be a report under the hand of any such *gazetted* officer of the Mint or of the India Security Press *including*[1] *the office of the Controller of Stamps and Stationery*[2] as the Central Government may, by notification in the Official Gazette, specify in this behalf, upon any matter or thing duly submitted to him for examination and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial or other proceeding under this Code, although such officer is not called as a witness.

(*2*) The Court may, if it thinks fit, summon and examine any such officer as to the subject-matter of his report:

Provided that no such officer shall be summoned to produce any records on which the report is based.

(*3*) *Without prejudice to the provisions of sections* 123 *and* 124 *of the Indian Evidence Act*, 1872, *no such officer shall, except with the permission of the Master of the Mint or the India Security Press*[3], *as the case may be, be permitted*— 1 of 1872.

(*a*) *to give any evidence derived from any unpublished records on which the report is based*; *or*

(*b*) *to disclose the nature or particulars of any test applied by him in the course of the examination of the matter or thing.*".

Section 510

In section 510 of the principal Act, in sub-section (*1*), the words "or an officer of the Mint", shall be omitted[4].

---

[1]The words "including", etc. have been used following a suggestion made by the Ministry of Finance.

[2]It is intended that cartridge papers, etc. which have figured in cases should be covered clearly. (*See* para. 4) Hence stationery has been specifically mentioned.

[3]The wording 'Master of the Mint or the India Security Press' has been used, following a suggestion made by the Ministry of Finance.

[4]This is consequential on proposed section 509A.

APPENDIX II

Summary of case-law as to value of reports of Chemical Examiner, etc.

(Illustrative only)

(a) In the case of *Mst. Gajrani* v. *Emperor*[1], it was held that the Chemical Examiner, in giving the report that the contents of a dhoti were duly examined by him "with the result that arsenic was detected in the (Ib) but not in the remaining articles..... The Reinsch's test was used", should have also mentioned the precautions which he took to ensure that arsenic was not present in the laboratory material used in the experiment. It was further observed, that the officer in his report should have stated the grounds of his opinion. These objections, however, did not relate to the admissibility of the report in evidence but to its value. This is clear from the following observations in the judgment:—

> "In India the Chemical Examiner merely tenders a report and he does not appear to give evidence. It is extremely *desirable* that his report should be full and complete and take the place of evidence which he would give if he were called to Court as a witness.".

(b) In *Ramkaran Singh* v. *Emperor*[2], the oral evidence of an Excise Sub-Inspector stating that certain liquor was illicit, was criticised in these words:—

> "No doubt that the Excise Sub-Inspector is an expert in his own Department and is able to distinguish liquor. But the Court should have under section 51, Evidence Act, ascertained the grounds on which his opinion was based, so as to *test it.*".

(c) On a similar provision in a State Act, it has been held that the certificate of the officer concerned should contain the factual data prescribed by the statute. Otherwise it cannot be acted upon[3].

(d) Reference may also be made to a recent Supreme Court decision in which it was pointed out that the Chemical Examiner, in examining blood stains, should indicate the number of blood[4] stains discovered by him.

(e) See also the Bombay and Gujarat decisions separately cited[5].

---

[1]*Mst. Gajrani* v. *Emperor*, A.I.R. 1933 All. 394, 398, 399.

[2]*Ramkaran Singh* v. *Emperor*, A.I.R. 1935 Nagpur 13, 14.

[3]*State* v. *Sahati Ram*, A.I.R. 1958 All. 34 D.B.

[4]*Prabhu* v. *State of Bombay*, A.I.R. 1956 S.C. 51.

[5]*See* **Appendix IV.**

(f) See also the undernoted case[1]. All these cases, however, relate to the value to be attached to the report of the officer concerned, which necessarily must depend on the facts of each case and do not really assist in the solution of the problem under consideration.

---

[1]*Behram* v. *Emp.*, A.I.R. 1944 Bom. 321, 323.

APPENDIX III

Summary of case-law as to issue of Commissions in criminal cases.

(Illustrative only)

Courts do not usually view with favour evidence recorded on commission. The power to issue commissions for the examination of witnesses, it is true, exists under sections 503 and 506 of the Code of Criminal Procedure, 1898; but that power, as has been observed[1], "should be used sparingly and only in the clearest possible case". Ordinarily, it is not proper to allow the evidence of an important witness for the prosecution to be taken on commission on the ground of inconvenience[2]. In a recent case, the Supreme Court[3] had occasion to make the following observation, which may be of interest:—

> "It is not necessary to refer to case-law on the point because the matter is one to be decided on the facts in each case. As a general rule it may be said that the important witnesses on whose testimony the case against the accused person has to be established, must be examined in court and usually the issuing of a commission should be restricted to formal witnesses or such witnesses who could not be produced without an amount of delay or inconvenience unreasonable in the circumstances of the case. The idea of examining witnesses on commission is primarily intended for getting the evidence of witnesses other than parties principally interested such as a complainant or any person whose testimony is absolutely essential to prove the prosecution case. In short, a witness in a criminal case should not be examined on commission except in extreme cases of delay, expense or inconvenience and in particular the procedure by way of interrogatories should be resorted to in unavoidable situations.".

As was stressed in a Punjab case[4], examination on commission is an exception rather than the rule; the accused has a right to require that, save in special circumstances, he should be confronted with the witnesses who are to give evidence against him and to cross-examine them in the presence of the trial Court[4].

---

[1]*Mohammad Shafi* v. *Emp.*, A.I.R. 1932 Patna 242, 243, left (Wort J.) approved by the Supreme Court in *Dharmanand's* case, A.I.R. 1957 S.C. 594, 598.

[2]*Cf. the Queen Empress* v. *T. Burke* (1884), I.L.R. 6 All. 224.

[3]*Dharmanand* v. *State of U.P.*, A.I.R. 1957 S.C. 594, 598, right = 1957 S.C.J. 431.

[4]*State of Delhi* v. *Krishnaswamy*, A.I.R. 1954 East Punjab 294, 295, left (Bhandari C.J. and Bishan Narain J.).

APPENDIX IV

Summary of case-law relating to defect in section 510, Cr. P. C. before its amendment in 1955.

(Illustrative only)

(a) In *Emperor* v. *Happu*[1], Young J. (as he then was) observed that no person had to be put in peril of capital or any punishment on a written report not given on oath and untested by cross-examination. He observed, "to accept such a report—whatever it may contain—as proof of death by arsenic poisoning or of anything—appears to me to be an impossible proposition in law". Section 510 as it stood before its amendment in 1955 was also criticised in a Lahore case[2]. That the section is an exception to the hearsay rule has been pointed out by Bhagwati J. in a Gujarat case[3] in these words:—

> "There are two methods of testing evidence and ensuring that truth comes out in evidence. The first is by administration of oath and the other is by cross-examination..... These are the two most important safeguards against false testimony and unless evidence is given on oath and is tested by cross-examination, it is not legally admissible against the party affected. This is the reason why **hearsay evidence is** excluded; it is not on oath and cannot be tested by cross-examination..... Section 510 of the Code of Criminal Procedure as it originally stood prior to its amendment by Act 26 of 1955, however, made a departure inasmuch as it provided that (the section is then quoted). .....The Court could receive the report in evidence without insisting on proof of the report by examining the Chemical Examiner..... This was an extraordinary provision which was contrary to the fundamental basic principle of judicial procedure that the evidence of one party should not, to use the words of Lopes L. J. in *Allen* v. *Allen*[4], 'be received in evidence against another party without the latter having an opportunity of testing its truthfulness by cross-examination'.".

(b) The view taken by the Gujarat High Court has been dissented from in a recent case of the Bombay High Court[5]. That case related to section 129-B of the Bombay Prohibition Act, 1949 (25 of 1949) which is based on section 510 of the Code of Criminal Procedure, 1898. In that case it was held that if a report of the Chemical Analyser does not contain data of the tests or experiments performed by him and the reasons for his

---

[1]*Emperor* v. *Happu*, A.I.R. 1933 All. 837, 840 = I.L.R. 56 All. 228.

[2]*Ujaggar Singh* v. *Emperor*, A.I.R. 1939 Lah. 149.

[3]*Suleman* v. *State of Gujarat*, A.I.R. 1961 Guj. 120, 123.

[4]*Allen* v. *Allen*, 1894 Probate 248, 253.

[5]*State* v. *Ram Singh*, A.I.R. 1963 Bombay 68, 70.

opinion, the objection can only be to the weight attached to the report and not to its admissibility. If neither party summons the officer concerned it is open to the Court to act upon the report.

(c) A later Gujarat case[1] makes it clear that if the reasons are not given in the report, the objection is to the *value* only.

(d) In the Allahabad case[2], the criticism by Young J. was in these words:—

> "Whatever may be said of the wisdom of this enactment —contrary as it is to the accumulated legal experience of centuries of what is necessary for the protection of accused person—nothing is more certain than that section 510, fortunately for accused person, says nothing as to the weight to be attached to the report.".

---

[1]*State of Gujarat* v. *Lasanmal* (1963), 1 Cr. Law Journal 563. (Shelat and Divan JJ.).

[2]*Emperor* v. *Happu*, A.I.R. 1933 All. 837, 540 = I.L.R. 56 All. 228.

GMGIPND—T'SW—69 M of Law (4554)—8-5-64—1850.