

Spring 1941

Police Science Legal Abstracts and Notes

Follow this and additional works at: <https://scholarlycommons.law.northwestern.edu/jclc>

 Part of the [Criminal Law Commons](#), [Criminology Commons](#), and the [Criminology and Criminal Justice Commons](#)

Recommended Citation

Police Science Legal Abstracts and Notes, 31 *Am. Inst. Crim. L. & Criminology* 771 (1940-1941)

This *Criminology* is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in *Journal of Criminal Law and Criminology* by an authorized editor of Northwestern University School of Law Scholarly Commons.

POLICE SCIENCE LEGAL ABSTRACTS AND NOTES

Fred E. Inbau

Police Officer's Testimony Regarding Blood Stains

In *State v. Edwards*, 194 S. C. 410, 10 S. E. (2d) 587 (1940), involving a prosecution for murder, a police detective was permitted to testify that certain stains on the defendant's clothing were blood stains. Upon appeal from his conviction, the accused contended that the trial court erred in admitting the detective's testimony since he had not qualified as an expert in the examination of blood stains. The appellate court in a three to two decision affirmed the trial court's ruling and conviction. The majority opinion held that since the detective had been familiar with blood stains generally—as the result of his frequent examination of crime scenes—he was a competent witness in this particular case. The majority opinion pointed out that if an effort had been made to distinguish between human blood and the blood of some animal, "the question would

have been one of science and would have required the application of very great skill and knowledge, but no such effort was made." The minority opinion, on the other hand, took the position that in effect the detective had testified on the basis of a report of a laboratory technician, who had not been offered as a witness and whose report had not been admitted in evidence at the trial. Since the detective himself was not an expert in the laboratory examination of blood stains, the two dissenting justices were of the opinion that his testimony should not have been admitted in evidence. They took the position that the inference to be drawn from the expert's testimony was that the stains were human blood—which testimony the majority of the court conceded was exclusively within the realm of expert testimony.

Firearms Identification—The Law of Mathematical Probability as Applied to the Identification of Fired Bullets

In *State v. Burney*, 143 S. W. 273 (Mo. 1940), at the defendant's trial for shooting a pistol into the dwelling house of another person, a firearms identification expert was permitted to testify that on the basis of a comparison between the evidence bullet and the test bullet fired from the defendant's gun, it was his opinion that the evidence bullet had been fired from the defendant's weapon. Upon appeal from a conviction, the defendant attacked the firearms identification expert's testimony on the ground that the expert had based his conclusion on the "law of probability." The defendant's counsel contended that there should be no conviction of a crime on the basis of mere probabilities. In replying to this argument and in sustaining

the conviction, the Supreme Court of Missouri said: "But this contention is not fair to the witness who explained that the principle is based on the fact that no two things are alike, as illustrated by fingerprints. He declared no man has examined enough fingerprints to say he will never find two alike, meaning, as we understand, it is within the remote possibility that identical finger prints may some day be discovered, but such have not yet been encountered by any one man. In other words, practically it is impossible for a pistol to make dissimilar markings in the aggregate on bullets fired from it. This character of evidence has been several times recognized by this court as having high probative value. We need not go into the question further."