

1942

Police Science Legal Abstracts and Notes

John E. Reid

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

John E. Reid, Police Science Legal Abstracts and Notes, 32 J. Crim. L. & Criminology 689 (1941-1942)

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

John E. Reid

Medical Association of Minnesota Plan to Control Medical Testimony

A definite, clear cut plan for the control of dishonest, unethical medical testimony, source of opprobrium for many years to some members of both the medical and legal profession, was officially adopted by the Council of the Minnesota State Medical Association on September 22, 1941.¹

After Special Committees of both the Minnesota Medical Association and the Minnesota Bar Association met in a joint effort to carefully consider this problem, it was decided to have no change in present legislation. Instead, a permanent Committee on Medical Testimony of the Minnesota Medical Association will be formed. The services of this Committee will be at the disposal of any judge in the state who has any reason to believe that the medical testimony in any case heard in court has deliberately deviated from the truth.

Judges will be invited to submit such instances to the attention of this Committee on Medical Testimony. When, after careful consideration, it is the opinion of this body that the testimony of the doctor was dishonest, the case shall be referred to the State Board of Medical Examiners for appropriate disciplinary action.

Offenders who are thus reported to this State Board, shall be subject to censure

and warning, to suspension, or revocation of medical license.

The utter seriousness of unethical expert testimony as both a medical and legal problem has been recognized for many years by members of both professions. This plan is a step in a definite direction for its control and ultimate elimination.

The plan does not have as its purpose the elimination of differences of opinion based upon professional experience, but to control the occasional unethical doctor, who, like his legal counterpart, the "shyster" lawyer, makes a farce of justice and casts discredit upon his profession.

Associate Justice Royal A. Stone of the Supreme Court of Minnesota, in commenting upon the plan,² states that, "No judge is qualified even to investigate such a situation. However much he might investigate, he would yet lack the personal qualifications requisite for correct decision. The problem is one susceptible of competent investigation and decision only by doctors. Furthermore, the remedy, wholly adequate, is in their hands. Where deserved by the incompetent or untruthful medical witness, a professional disciplinary proceeding cannot be bettered as both punishment for the offender and deterrent for others."

Expert Testimony—Blood Test to Determine Alcoholic Intoxication

In a prosecution for operating a motor vehicle while intoxicated (State v. Haner, 1 N. W. (2d) 91 (Iowa) 1941) where the accused voluntarily submitted to a blood test (Widmark method), the medical expert testified that 400 milligrams of alcohol was present per 100 cc. of accused's blood. The medical expert also testified that under this method 150 or more milligrams of

alcohol was accepted by physiologists as the minimum alcoholic requirement necessary to determine intoxication. The defendant objected to this testimony on the ground that this last statement was a mere conclusion of the witness.

The Supreme Court of Iowa held this was not a conclusion of the witness but was actually an accepted scientific fact.

Expert Testimony—Bank Cashier as a Handwriting Expert

In a directed verdict for the defendant in the case of State v. Wickett, 300 N. W. 268 (1941), the Supreme Court of Iowa commented only on the evidence that was subject to an objection. In substance, the court said that a cashier in a bank who

has compared signatures for twenty years is sufficiently qualified by his work, intelligence and experience, to express an opinion regarding the signature on the questioned document, after comparing it with a specimen writing of the defendant.

¹ Minn. Medicine, 23 (10): 728-729 (Oct. 1940).

² Minn. Medicine, 24 (7): 536 (July 1941).