

1944

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Recommended Citation

John E. Reid, Police Science Legal Abstracts and Notes, 34 J. Crim. L. & Criminology 279 (1943-1944)

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POLICE SCIENCE LEGAL ABSTRACTS AND NOTES

John E. Reid

Police Officer's Expert Testimony Regarding Bookmakers' Code

In the recent case of *People v. Bateman* (Cal. 1943) 135 Pacific (2) 192 the defendant was convicted of booking horse-race bets under the California Penal Code and appeals. He alleged the Court erred in allowing a police officer to testify as an expert to the significance of cryptic letters and figures which appeared on a yellow sheet of paper found on the defendant at the time of his arrest. The California *Court of Appeals* affirmed the decision of the trial court and stated that the police officer qualified as an expert in the methods and practices of bookmakers by having testified in 175 cases and by having made a study as to the methods of such bookmakers. The Court further stated that it was proper for this expert to identify a yellow slip as a "betting marker" used by bookmakers and to testify as to the significance of the cryptic letters and figures on such yellow slip.

Undertaker's Testimony as to Cause of Death Admissible When No Expert Medical Witness Available

In the case of *Franklyn v. State* (Tenn. 1943) 171 S.W. (2) 281 the defendant was convicted of voluntary manslaughter and alleges the court erred in allowing an undertaker, a non-expert witness, to testify as to whether certain knife wounds caused the deceased's death. The record indicates that the deceased died on the spot and his body lay there until it was removed by the undertaker, and that no medical attention was given him before he died. The Supreme Court ruled "a non-expert witness may express an opinion as to whether certain wounds caused death, provided the witness describes the wounds and gives his reason for his conclusion . . . ; however, when it is apparent that expert knowledge is necessary to an intelligent opinion, experts only may testify—for example, when injuries are internal." Also the court said that if there is no available expert testimony on the question as in this case then non-expert opinion is the best available evidence.

Expert Witness—Testimony of an Assistant Fire Chief as to What Created a Fire Hazard

In a civil action (*Rinco Realty and Investment Corporation v. La Vigne et al*, 1943, 50 N.E. (2) 953) decided against a tenement house owner for damages resulting from a fire that originated in a garbage chute, the Supreme Court held that the testimony of an assistant fire chief having qualified as an expert was properly admitted over the objection of the defendant. The Court stated that the witness could give his opinion as to how the fire started and to state in answer to hypothetical questions whether the situation involved created a fire hazard.

Expert Testimony—Direction from Which Gun Was Fired to Inflict Wounds

In a recent Texas case, *Arseneau v. State* (1943) 171 S.W. (2) 132, the court of Criminal Appeals stated it was not error to allow an expert to testify as to the direction from which the gun inflicting certain wounds on the deceased's body was fired.

Physician's Testimony Not Admissible to Show Mentality of the Defendant by the Type of Wounds Inflicted on the Victim's Body

The Supreme Court of Massachusetts in the murder case of Commonwealth v. Sheppard, et al (1943, 48 N.E. (2) 630) ruled it was not improper for the trial court to exclude the testimony of a physician to state his opinion as to the mentality of the defendant based on the witness's experience and observations of the type of wounds found on the body of the deceased. The Court stated that even though the witness was the medical examiner and surgeon who examined the body of the deceased shortly after his death, he was not offered nor did he qualify as an expert on mental diseases and therefore could not give his opinion as to the mentality of the perpetrator of the crime.

Photographs That Have Probative Value Are Not Prejudicial to the Jury Regardless of What They Depict

The Supreme Court of Indiana reviewing the conviction of the defendant for negligent homicide by automobile in the case of Turrell v. State, 51 N.E. (2) 359 (1943) held it was not prejudicial to show photographs of the automobile involved immediately after the accident even though the bodies of two boys killed therein were depicted lying on the ground near the automobile. The court further stated that the photographs had probative value, disclosing some details on which there was no testimony by the witnesses and said that even if every fact they tended to prove had been covered by testimony, the photographs would still be admissible and not prejudicial to the jury. The decision of the lower court however was reversed on other grounds.