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POLICE SCIENCE LEGAL ABSTRACTS AND NOTES

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Blood Test Without Consent Not a Violation of Rule Against Self-Incrimination—In the recent murder case of *Davis* v. *State,* 57 A. (2d) 289 (Md., 1948) the analysis of blood taken from defendant after his arrest was offered in evidence to show that blood found on his coat was not his own but might have been that of the victim. Defendant objected to the admission of the evidence on the grounds that the blood test had not been performed with his consent and that, therefore, he in effect had been compelled to testify against himself in violation of the Maryland Declaration of Rights. The Court of Appeals of Maryland decided that even if the blood had not been obtained voluntarily the evidence was nevertheless admissible.

Without deciding whether a judge could compel a defendant over his objections to give a specimen of blood, the opinion rested on the broad ground that in Maryland "pertinent evidence, no matter how obtained, will be admitted." The court thus recognized "a line of demarcation between cases where the accused was compelled to allow a physical exhibition while on the witness stand, and those where the physical evidence, obtained from him, was testified to by other witnesses." Refusing to apply the privilege to the latter type of case, the court said that it could see no substantial difference between obtaining a specimen of blood from an accused and obtaining his fingerprints, or physical property, the possession of which by him is a pertinent question at issue in a felony charge against him. (For additional information concerning the privilege against self-incrimination, see Inbau, Self-Incrimination—What Can an Accused Person Be Compelled to Do? (1937) 28 J. Crim. L. & Criminology 261; Note (1947) 37 J. Crim. & Criminology 511; and Note (1947) 37 J. Crim. L. & Criminology 524).

Finger Prints at the Scene of the Crime Not Conclusive Proof of Guilt—The finding of a person's finger prints at the scene of a crime is not proof of his guilt unless the circumstances are such that the finger prints could only have been impressed there at the time when the crime was committed. In *State* v. *Minton,* 46 S. E. (2d) 296 (N. C. 1948), a burglar had broken into a lunch parlor at night and stolen two twenty-five cent pieces from the cash drawer. He entered the shop by breaking through the glass portion of the front door. Next morning the police found defendant's left thumb print on a piece of glass lying on the floor and observed some blood on a jagged piece of glass in the door. When defendant was arrested a short time later, police noted some small fresh cuts on the palms of his hands and found two twenty-five cent pieces in his possession. Accused contended that he had cut his hands while engaging in some leather work and explained the thumb prints by proof that he had stopped at the lunch parlor to buy a few beers shortly before closing time on the night of the burglary. The jury returned a verdict of guilty, but the Supreme Court of North Carolina granted a motion for nonsuit on the grounds that no evidence negatived the accused's theory that he had impressed his thumb prints on the piece of glass while visiting the shop during business hours. The court noted that the

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piece of glass contained other unidentified finger prints, that the finding of two coins in defendant's possession had no probative value since the coins were not connected up with those which had been stolen from the store, and invoked the general rule that circumstantial evidence is insufficient to sustain a conviction unless the circumstantial facts shown are of such a nature and so connected or related as to point unerringly to defendant's guilt and exclude any other reasonable hypothesis.

For earlier cases sustaining convictions based solely upon the testimony of experts concerning finger prints found at the scene of the crime see *Castleton's Case,* 3 Crim. App. 74 (1909); and *Parker* v. *The King,* 14 C.L.R. 681 (1912), 3 Br. Rul. Cas. 68 (1914).

Analysis of Fecal Matter as Evidence of Guilt—The Supreme Court of New Hampshire has recently affirmed a conviction which was based largely on expert analysis of some human fecal matter found on defendant's overshoes. Late one evening a store was broken into and burglarized. Next morning police found a pair of overshoes next to the bed where defendant was sleeping. The insteps of the shoes were smeared with fecal matter which was similar to matter which was tracked over the cellar floor of the store. At the trial an expert for the state testified that the markings or striations in the imprint on the floor were consistent with those on the pair of rubbers. He said that samples of the matter from the floor and from the overshoes were alike in consistency, color, and odor. Microscopic analysis of the two samples showed identity of content of certain undigested materials, such as partially digested meat fibers with some of the connective tissue and surrounding envelope material; vegetable tissue, consistent with the leaves of lettuce, cabbage, or other leafy vegetables; and particles of fruit hull or skin. The expert concluded that there was only a slim possibility that the two samples came from different persons. The Supreme Court of New Hampshire held that such evidence, accompanied by some evidence of the defendant's consciousness of guilt was sufficient to support a jury verdict of guilt beyond a reasonable doubt. *State* v. *Burley,* 57 A. (2d) 618 (N.H., 1948).

Use of Force in Arresting a Drunk—Two police officers in Benton, Arkansas, were attempting to arrest an intoxicated man. He tried to break away and attacked the officers with a screw driver. One of the officers knocked him down, and when he continued to resist, they struck him with a blackjack. In a suit against the officers for assault and battery it was held that in arresting a person for a misdemeanor the policeman "may exert such physical force as is necessary on the one hand to effect the arrest by overcoming the resistance he encounters, or on the other hand to subdue the efforts of the prisoner to escape; but he cannot in either case take the life of the accused, or even inflict upon him a great bodily harm except to save his own life or to prevent a like harm to himself." Whether excessive force had been used was held to a question for the jury, which in this case decided in favor of the officers. *Crouch* v. *Richards,* 208 S. W. (2d) 460 Ark. (1948).

Recent Decisions on Questioned Document Examinations—Document examiners will find interesting and profitable reading in a recent article by Charles C. Scott entitled "Recent Questioned Document Law," which appeared in the April-June, 1948 issue of the Kansas City Law Review (pages 68-140).