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POLICE SCIENCE LEGAL ABSTRACTS AND NOTES

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"Voluntary" Confession Held Not Admissible When Preceded by Coercion—A confession "voluntarily" given on the morning following a beating by police officers was held involuntary and inadmissible in *People* v. *Thomlinson,* 81 N.E. (2d) 434 (Ill., 1948). The defendant, subsequent to his arrest in Chicago by the sheriff of Madison county, was taken to Alton in the same county, and was immediately placed in the custody of the chief of police. That night, according to the defendant, he was severely beaten until he agreed to confess. Other witnesses testified as to his bruised and dazed condition when he signed confession papers the following morning. The trial court admitted this confession on the ground that coercion exercised the previous night had no connection with the confession signed the following day. The Illinois Supreme Court found this case to be a stronger one for reversal than *People* v. *Santucci,* 374 Ill. 395, 29 N.E. (2d) 508 (1940), where the beating occurred several days prior to the confession. The Thomlinson case presented a background of unfairness which undoubtedly had effect in the disposition of the case. The defendant was not taken before the justice of the peace when returned to the county as was required by statute nor was he placed in the county jail to await a preliminary hearing. His demands that he be allowed to see a lawyer were refused. In the hearing over the admissibility of the confession, only one of the officers present at the taking of the confession testified. These facts convinced the Court that the confession was not free of coercive influence and the case was reversed and remanded.

Order to Submit to Blood Grouping Test Improper in Bastardy Case—In a recent bastardy case, *State ex rel. Wollock* v. *Brigham,* 33 N.W. (2d) 285 (S.D., 1948), a trial court order directing the defendant to submit to a blood grouping test for purposes of determining paternity was held erroneous by the Supreme Court of South Dakota. The defendant challenged the order on the ground that the test would compel him to give evidence which might tend to incriminate him. However, in setting aside the trial court order the Supreme Court did not rely on this attack, but based its holding on the ground that since such a blood test only indicates non-paternity and does not establish paternity the order in question could serve no useful purpose in the trial and was improper. (For a discussion of the general problem respecting the admissibility of blood grouping test to show possibility of source, etc., see 37 J. Crim. L. & Criminology 300.)

Clothing Fibers Taken From Accused Held Admissible in Murder Case—In *People* v. *Trujillo,* 194 P. (2d) 681 (Calif., 1948), fibers were taken from the clothing of the defendant to compare with those found on a scarf which was left at the scene of the murder. The defendant objected that the taking of the fibers was a violation of his privilege against self-incrimination. The court, citing Wigmore extensively, held that the rule that an accused need not testify against himself was devised to

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prevent officials from relying on the verbal evidence they could get from the defendant himself, and that a preservation of that rule does not extend to this case where scientific, objective evidence was involved. (See *Coleman* v. *State*, 209 S.W. (2d) 925 (Tex., 1948), abstracted in 39 J. Crim. L. & Criminology 271, where a similar ruling was made in a case involving the removal of tissue from defendant's fingernails.)

Sound Motion Picture of Confession Held Admissible—The presentation of a confession by use of a sound motion picture was upheld in the recent case of *People* v. *Dabb*, 197 P. (2d) 1 (Calif., 1948). Three pictures were presented in which the defendants reenacted the robbery and murder. The defendants contended that the motion pictures were inadmissible because susceptible of fabrication, but the court took the position that motion pictures are not different from still photographs in this respect and that if a proper foundation is laid they are equally admissible. The court also suggests that there is little danger that the jury would give undue emphasis to the material thus presented where the defendants themselves willingly enact what happened. In a case where the testimony of a witness was thus offered, the undue emphasis problem would raise a more serious question of admissibility.

Question of Intent for Jury in Bribery Case Where Entrapment Defense Raised—In a case where the defense of entrapment is raised the question of the origin of intent to commit the crime is for the jury to decide where there is any conflict in the evidence. (*Ossen* v. *Commonwealth* Va. 48 S. (2d) 204 (1948). The defendant Ossen had been charged with murder. While the murder case was pending before the grand jury, Ossen contacted West, a friend of Nowitzky, the police officer in charge of the case, and made an offer to bribe Nowitzky. After some discussion, arrangements were made for a meeting, and as Ossen passed over the money, he was arrested and charged with bribery. Upon his trial for bribery Ossen contended that it was West who opened the negotiation. The fact which led the court to conclude that there was at least conflict in the evidence as to whether Ossen originated the bribery plan, was that West, the intermediary, testified that there was not a planned entrapment. This was a tacit admission that he had been an accomplice in an attempted bribery, yet the police had made no attempt to charge him with that crime. Hence there was an inference of collusion between West and the police.