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## Police Science Legal Abstracts and Notes

William K. Bachelder

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## POLICE SCIENCE LEGAL ABSTRACTS AND NOTES

William K. Bachelder\*

**Admissibility of X-Rays of Stomach to Prove Person Swallowed Stolen Objects**—The recent case of *Taylor v. State*, 213 P. 2d 588 (Okla. Cr. App. 1950), suggests an appropriate police procedure for obtaining evidence that a person swallowed stolen objects, such as rings or other jewelry. In that case the prosecution offered in evidence an x-ray taken of the stomach of a witness which showed the presence of metal rings. The purpose of using this x-ray was to corroborate the testimony of the witness that the defendant had been his accomplice in several robberies. The x-ray helped to verify his story about the last of these robberies at which time the witness had swallowed the rings in order to prevent their seizure as evidence.

If the police should use a stomach pump or give an enema to a person who has swallowed evidence, some courts may regard this as an unreasonable search and seizure and suppress the evidence. (See the last volume of this *Journal*, at p. 535.) It may be advisable for the police to fortify themselves with an x-ray of the accused person's stomach before resorting to these other more drastic methods of obtaining the objects themselves just in case the court should exclude from evidence the objects so obtained. An x-ray may be considered a reasonable and proper method of search and so would still be available as good evidence of the swallowing of the objects in question.

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**Effect of Illegal Wire-Tapping on the Use of Other Evidence Against Accused Persons**—In *United States v. Coplon*, (S.D.N.Y., 1950), the defendants to an espionage charge wanted to prove that at one time the F.B.I. had been set on their trail by an informer who had tapped their wires while they were planning their actions. However, the indictment of the defendants was based on the later crime itself rather than the planning of it, and the Government had obtained all its information for this indictment by lawful means. For this reason the court held that the illegal act of the informer was immaterial since the prosecution was not based on anything learned illegally. As the court said, criminal ventures "may not be carried out and perfected with impunity, for no license or privilege to commit a crime is conferred on wrongdoers by reason of the fact that the wires over which they talk are unlawfully tapped." However, this case should not be construed to condone wire-tapping, or to change in any way the practice in federal courts of excluding information obtained directly or indirectly as a result of wire-tapping. All the case says is that the defendant, to get advantage of this exclusionary rule, must show that the information sought to be excluded was obtained in that way. Here the F.B.I. gathered its information for the trial in processes unrelated to the wire-tapping.

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**A Confession to a Crime Will Not by Itself Result in Conviction**—Although the police may have a completely unchallenged confession by a defendant that he has committed a crime, they may still be unable to convict him. This is illustrated in *Parker v. State*, 89 N.E. 2d 442 (Ind. 1950), where a conviction was reversed even though the police had the defendant's confession to a murder and had dug up bones around where the defendant confessed to burying his alleged victim. This extra evidence was not enough in Indiana to prove that a crime had been committed, and until there is proof of the existence

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\* Senior Law Student, Northwestern University School of Law.

of a crime anybody's confession is immaterial. Courts say that there must be some independent proof of the *corpus delicti*, which means that there must be proof that a crime has been committed, apart from any proof that a certain person committed the crime. This rule developed out of the fear that people, as a result of their own mental delusions or of pressure applied to them, would confess to fictitious crimes. The many states in the United States are not uniform as to how much of this extra evidence is necessary. There are three rules. (1) The most strict states require that there be other evidence wholly independent of the confession which establishes that there was a crime committed. (2) Others say that there must be some evidence besides the confession, but part of the job of proving existence of a crime can be done by the confession. (3) A few states will permit the existence of a crime to be proved by the confession alone, if there is some outside evidence, no matter how unrelated to this particular crime, which tends to show that the confession is probably true. It can be seen that in no state can the police come into court with just a confession and expect to get a conviction. It is important for the police to know just how much of this outside evidence is necessary in their state. This can be found in Wigmore, *Evidence* (1940) §§2071-2075. (Also see Vol. 30, page 261 of this *Journal*.)

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Electrical Transcription of Voice Introduced As Evidence—In *Gillars v. United States*, 18 U.S.L. Week 2534 (2d Cir. May 16, 1950), the court upheld the introduction into evidence of electrical transcriptions of the defendant's speeches made over the German radio during the war. Defendant was being tried for treason and the transcriptions were introduced to show the content of the speeches she had made. The court upheld this use against two major attacks. (1) Defendant claimed that this constituted self-incrimination since he was being convicted by records of his own voice. The court pointed out that the basis of the privilege against self-incrimination is that a person can not be forced to tell things which will tend to incriminate him. Here there was no compulsion. Actually, a recording like this is no different from another witness' testimony as to what defendant had said, or the introduction of a written statement, like a letter. (2) Defendant claimed he had been denied his right to an open and public trial because the limited number of headphones available for hearing the transcriptions meant that most of the spectators were not able to hear them. The court examined the conduct of the trial and found that there was no element of secrecy or limitation upon the people who would be permitted to listen—what was being heard was not kept secret from the other spectators, there was no organized sorting out of which spectators could use the sets, and the press was equipped with sets in order to keep the general public informed. Under such circumstances, there was a public trial.