

1951

Criminal Law Notes and Comments: Abstracts of Recent Cases

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

Criminal Law Notes and Comments: Abstracts of Recent Cases, 41 J. Crim. L. & Criminology 471 (1950-1951)

This Criminal Law 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.

harshly with the loser, it would bring strict enforcement to this much abused segment of criminal law, something which the public interest in a peaceful and orderly society demands. At the same time it would force the loser to pursue his civil remedies, if any exist, and if they are non-existent in his particular state, the loss of the apparent right of forcible recovery would perhaps stimulate the legislature to provide appropriate statutory remedy.

Abstracts of Recent Cases

Admission Against Interest by Silence—In *People v. Hodson*, 94 N.E. (2d) 166 (Ill. 1950), two defendants in a murder case had signed confessions which implicated one Hodson, a co-defendant, in the crime. These signed confessions were read aloud to Hodson who, when asked if the statements contained therein were true, made no reply except to shrug his shoulders. At Hodson's trial the confessions of the co-defendants were admitted into evidence against him on the theory that Hodson's silence was a tacit admission of the truth of the incriminating statements made in the confessions. Having been convicted on the basis of this evidence, Hodson appealed. In reversing the conviction, the Illinois Supreme Court pointed out that in tacit admission cases it must appear that the silence of the accused is affirmative, that is, "that the accused has heard the statement implicating him and has voluntarily refused to challenge the statement." In examining the circumstances surrounding the alleged admission the court noted two facts which refuted the supposition that the defendant's silence was affirmative: first, that the defendant refused to speak because he had been advised by his counsel not to talk, and second, he had refused to accompany the sheriff to hear the confessions read until he had been told that he would be taken by force if need be. Regarding the restrictions attending the tacit admission rule, the court said: "Where statements are made in the presence of the accused under circumstances showing that his silence is of a character which does not justify the inference that he should have spoken, or if he is restrained in any way from speaking by fear, doubt of his rights, instruction by his attorney, or reasonable belief that his security would best be promoted by silence, his silence does not amount to an admission of the truth of the statements made and such statements are not admissible as against the accused." (For a discussion on admission by silence, see Vol. 31 page 461 of this *Journal*.)

Proof of the Corpus Delicti Through Statements and Actions of the Accused—The question of establishing the corpus delicti by proof independent of the defendant's own confession arose again recently in *State v. Saltzman*, 44 N.W. (2d) 24 (Iowa, 1950). The defendant had been driving along an Iowa highway when he stopped at a gas station. Another automobile was traveling closely behind him. Running into the gas station the defendant excitedly announced that he was being hijacked and used the phone to contact the police. The hijackers pushed his car down the road where they removed the "stuff," and when the defendant and the police arrived the scene was empty except for the deserted car. Defendant then accompanied the officers to the county jail where he gave a detailed description of all that had happened, including repeated admissions to the effect that he had been transporting a load of liquor from Omaha. When his statements were committed to paper he read them over and admitted that they were true, but he refused to sign it. On the basis of this statement and his other admissions he was tried for the illegal