

Winter 1952

Abstracts of Recent Cases

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Recommended Citation

Abstracts of Recent Cases, 42 *J. Crim. L. Criminology & Police Sci.* 648 (1951-1952)

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and to the Illinois Supreme Court for writ of error.¹⁰⁰ Presumably the petitioners would then be permitted to file new Post Conviction petitions alleging their inability to appeal and asking for special relief.

(4) The court could boldly reverse its former position, and declare that, in the light of the *Jennings* opinion, the Post Conviction Act does permit a hearing on the petitioners' claims.

It is to be hoped that the newly-constituted¹⁰¹ Illinois Supreme Court will adopt this latter view. The sponsors of the Post Conviction Act apparently intended to provide an adequate remedy for the same claims of federal right that would have been recognized in federal habeas corpus proceedings in the absence of such a state procedure. "In order to meet the test of adequacy the state remedy must be sufficiently broad and flexible to embrace the full reach of the inquiry required by the Due Process Clause."¹⁰² If the Illinois court were to hold now that the new remedy is not commensurate with federal habeas corpus, much of the hand-clapping over the Post Conviction Act would appear to have been unjustified. Illinois would then still be without an adequate post-trial remedy.

[On January 25, 1952, after this comment had first gone to the printer, the Illinois Supreme Court rendered its decision. Happily, the court adopted the rationale of the fourth alternative discussed above. In an elaborate *per curiam* opinion, the court rejected the defense of *res judicata* in Post Conviction proceedings, although conceding that the prior adjudication may be accorded "due weight." *People v. Jennings*, 102 N. E. 2d 824 (Ill. 1952).]

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Prolonged Detention Without Counsel Does Not Invalidate Confession If the Confession Is Voluntary—In *Gallegos v. Nebraska*, 72 S. Ct. 141 (1951), a Mexican, illegally in this country was detained a total of twenty-five days in Texas where he was arrested, and subsequently, in Nebraska where an alleged homicide was committed. Confessions were obtained in both states. The defendant knew no English and was without services of counsel. The Supreme Court held that the record of the Nebraska court did not show the confession to be involuntary and that *McNabb v. United States*, 318 U.S. 332 (1943) invalidating confessions obtained by federal officers while the defendant is illegally detained, was not a rule of due process but only one of procedure adopted for federal courts. Whether due process has been violated is a question of the fundamental fairness of the state proceeding and the facts of this case did not demonstrate such lack of protection of the defendant's rights. A dissent by Mr. Justice Black, joined by Mr. Justice Douglas, opined that even were the confessions voluntary, the use of confessions elicited by this kind of "secret inquisition" is prohibited by the Constitution. The dissent cites Robert Vogeler's article, *The Trap Closes*, as describing procedures comparable to those of this case.

Contraband Illegally Seized from Third Party Inadmissible—Federal officers learned that defendant had stored contraband narcotics in the hotel room of

100. *Id.* at 128-29.

101. Four of the Justices were elected to the court subsequent to the denial of writ of error in the instant three cases.

102. Jenner, *supra* note 12, at 343.

third parties. While the room was unoccupied, the officers entered without warrant and seized the drugs. In a prosecution for violation of the narcotics laws, the United States Supreme Court in *United States v. Jeffers*, 72 S. Ct. 93 (1951), held the seized narcotics inadmissible as evidence because obtained in the course of a search unjustified either by warrant, a concomitant arrest, or exceptional circumstances. The Court said that to admit this evidence "would permit a quibbling distinction to overturn a principle that was designed to protect a fundamental right." The Court did not, however, permit the defendant to regain possession of the property. It felt that this was justified in view of 26 U.S.C.A. 3116. There may be a question raised as to this in the future as that section refers only to liquor violations.

The Driving of an Automobile by a Person Who Knows That He Has Disease which Causes Dizziness Is Criminal Negligence—in *State v. Goose*, 81 A. 2d 811 (N. J., 1951), the court held that since the driver of a car on a public highway knew that he was suffering from "Meniere's Syndrome," and that because of that he might at any time lose consciousness or suffer a dizzy spell, he was guilty of wantonness within the scope of the statute.

(For additional abstracts of recent cases see p. 703.)

The 1952 Meeting of the National Association of County and Prosecuting Attorneys—According to an announcement by Mr. J. F. Coakley, President of the association, the next annual meeting will be held in Minneapolis on July 30, 31 and August 1st. This is the week end preceding the Northwestern University School of Law "Short Course for Prosecuting Attorneys," which will be conducted during the five day period from August 4 through August 8th.

For details of the association meeting, write Mr. J. F. Coakley, District Attorney's Office, Court House, Oakland 7, California.

For information regarding the N. U. "Short Course for Prosecuting Attorneys," write Fred E. Inbau, Northwestern University School of Law, Chicago 11, Illinois.