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Police Science Legal Abstracts and Notes

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POLICE SCIENCE LEGAL ABSTRACTS AND NOTES

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Illegal Detention in Itself Does Not Inviolate Voluntary Confessions—In *Tyler v. United States*, 193 F.2d 24 (D.C. Cir. 1951) the court held a written confession made in the period before arraignment admissible notwithstanding the *McNabb* rule. Tyler had been legally detained in jail on a burglary charge and placed in the exclusive custody of the jail superintendent. The jail officials, without legal authority, delivered Tyler to police headquarters to take a lie-detector test. Tyler had agreed to submit to this test. While in the temporary care of the police he confessed to a charge of murder. The court took the position that the rule of the *McNabb*, *Mitchell* and *Upshaw* cases applies only to inculpatory statements made during illegal detention which are caused by the failure to carry a prisoner before a committing magistrate promptly. The court concluded that the mere fact that Tyler was in temporary care of the police officer at the time of the written admission did not, of itself, render the confession inadmissible at his trial; nor was the confession vitiated by the failure to take him before the commissioner sooner on the murder charge, for he had been legally held under the burglary commitment and, presumably when before the commissioner on the burglary charge was advised of his rights to counsel and that his statements might be used against him.

Constitutional Protection Against Illegal Searches Applied to Automobiles—In *Dalton v. State*, 105 N.E. 2d 509 (Ind. 1952) the court held that consent to search given by the legal owner of an automobile will not satisfy the state constitutional guarantees against illegal searches if the car is in a third party's custody, control and possession. The Indiana Constitution, Art. I, §11, provides the same guarantees against illegal searches on the state level as the United States Constitution. In this case the defendant's wife had title to the car, but never drove it, and it was under the defendant's complete control. The fact of ownership was not considered relevant; the matter of possession controlled.

Results of Blood Test Admitted as Evidence—In *Kallnbach v. People*, 242 P. 2d 222 (Colo. 1952), the defendant was convicted of causing death by operating an automobile under the influence of intoxicating liquor and an exhilarating and stupifying drug. Kallnbach had taken a barbituate known as nembutal. This drug was prescribed by a dentist to relieve the pain from an abscessed tooth but the dentist failed to advise Kallnbach of the effect the drug would have. Sleepiness overtook Kallnbach while driving. After the accident Kallnbach, without objection, allowed a physician to take a sample of his blood for alcohol content analysis under the Nieloux method. Kallnbach, of course, did not realize that the "aspirin like" tablets had affected him. The admission of the results of the blood test, plus the testimony of the registered medical technologist, was objected to in the lower court without success. Error was claimed on the ground that the Nieloux method was not accurate, that the technologist was incompetent, that the eight tenths of one per cent saturation was insufficient to establish the impairment of Kallnbach's driving ability, and that Kallnbach's constitutional rights and privileges had been violated. The court, in denying the allegations of error, pointed out that Kallnbach submitted to the blood test "without objection," and that the adequacy of the technologist as well as the accuracy of the Nieloux method was a question for the jury to decide.

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