

1953

Police Science Legal Abstracts and Notes

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Recommended Citation

Police Science Legal Abstracts and Notes, 44 J. Crim. L. Criminology & Police Sci. 272 (1953-1954)

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POLICE SCIENCE LEGAL ABSTRACTS AND NOTES

Nat P. Ozmon*

No Entrapment Where Chief of Police Sets Up Situation to Observe the Honesty of Police Officer—The police department arranged with restaurant owners to leave \$52 in an unlocked cash register and allow the back door to remain unlocked and then stationed officers to observe the defendant policeman. The defendant entered the restaurant and was apprehended with the money on his person. The Supreme Court of New Hampshire held that there was no entrapment as no one had implanted the idea of the crime in the mind of the defendant nor had any of the officials induced him to commit the crime. All they did was to help create a situation where, if the defendant was dishonest, he had the opportunity to commit a crime. Under these circumstances there was no entrapment and the court properly refused to submit this question to the jury. *State v. Snow*, 93 A.2d 831 (1953).

When All Other Witnesses Have Been Excluded From the Court Room the Presence of Investigating Officer to Advise Prosecuting Attorney Is Not Error—The defendant was convicted in the Superior Court of Los Angeles County of having received stolen property. On appeal he contended that the court erred in allowing the investigating police officer to remain in the court room after all the other witnesses were excluded at the appellant's request. The District Court of Appeal for the Second District of California held that this was not error. *People v. Boyden*, 253 P.2d 773 (1953). The court said that the exclusion of witnesses on motion of the accused is not a matter of absolute right but rather rests on the discretion of the court according to the circumstances of the case. In the instant case the district attorney had said that he needed the officer in order to properly present his case. It was pointed out that it has long been general practice to permit such an officer to remain for advisory purposes. The court therefore held that in the absence of any showing to the trial court of prejudice that would probably arise from the presence of the investigating officer that it did not appear that there had been any abuse of discretion by the trial court.

Constitutionality of District of Columbia's Sexual Psychopath Act Is Upheld—In 1940 the Supreme Court of the United States upheld the constitutionality of Minnesota's sexual psychopath act as it had been interpreted by the Minnesota court. *Minnesota v. Probate Court*, 309 U.S. 270 (1940). The District of Columbia's act was drafted from this interpretation. Its constitutionality was upheld in *Miller v. Overholser*, 21 U.S.L. Week 2429 (March 5, 1953) which was a habeas corpus proceeding. The court pointed out that the procedural steps for the protection of an alleged sexual psychopath are meticulously provided for. It was held that the prisoner could not claim that the requirement for a stay of the criminal proceeding until his recovery violated speedy trial guaranteed by the Sixth Amendment. Here the prisoner is being confined, not by reason of delay in trial, but because he is a sexual psychopath. The habeas corpus proceeding tests only the legality of the prisoner's present confinement and not the legality of the delay in trial. Furthermore, before a prisoner is entitled to relief from delay in trial he must address a demand for trial to the court in which he was accused. No such demand was made here.

* Senior Law Student, Northwestern University School of Law.