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CRIMINAL LAW CASE NOTES AND COMMENTS

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THE LAW TODAY ON STATE COURT CONFESSION ADMISSIBILITY

For a seven year period, from 1944 to 1951, the United States Supreme Court insisted that state courts determine a confession's admissibility on the basis of whether or not it had been obtained by "inherent coercion."¹ In three cases since 1951, however, the Court has re-established the original voluntary-trustworthy test which had been used prior to 1944. The most recent decision to this effect is *Stein v. New York*,² which was decided on June 15, 1953. The *Stein* case also made two other very important departures from views previously held by the Court upon the matter of confession admissibility.

It will be recalled that in the case of *Haley v. Ohio* a 5-4 majority of the Court said that a conviction must be reversed even though without the coerced confession there might have been sufficient evidence to support the verdict.³ In the *Stein* case, however, the Court held that a state conviction which was supportable by other evidence would stand even though a coerced confession had been used at the trial. Defense counsel in the *Stein* case had requested a jury instruction to the effect that if the jury found the confession to have been coerced they must return a verdict of acquittal. The trial judge's refusal to give this instruction was held to be proper. The majority of the Supreme Court expressed the view that "coerced confessions are not more stained with illegality than other evidence obtained in violation of law". The majority opinion also made the point that the Fourteenth Amendment of the United States Constitution is not a rigid exclusionary rule of evidence but only a guarantee against convictions upon untrustworthy evidence.

The Court's opinion in the *Stein* case also quite clearly indicated that there is nothing inherently wrong about a lengthy interrogation. It does appear, however, that during a lengthy interrogation time must be taken out for eating, drinking, and rest. As to just what is required will depend upon the particular case. The interrogator will have to exercise his own discretion as to what is reasonable under the circumstances.

Until the *Stein* case the Supreme Court seemed to view an interrogation by several interrogators operating in relays as an inherently coercive practice. The *Stein* case opinion, however, does not consider the practice so inherently oppressive as to necessarily "overwhelm the suspect's power of resistance". Relay questioning, of course, will always be a factor for consideration in determining the voluntariness or trustworthiness of a confession, but it will not automatically render a confession inadmissible as evidence. Nevertheless, the better interrogation practice, for legal as well as psychological considerations, is to avoid relay interrogations and entrust the task of a criminal interrogation to one, or at most two, interrogators.⁴

1. The "inherent coercion" rule was first set forth in *Ashcraft v. Tennessee*, 322 U.S. 143 (1944). For its strict application thereafter, see *Haley v. Ohio*, 322 U.S. 596 (1948).

2. 346 U.S. 156 (1953). The other two cases since 1951 are: *Gallegos v. Nebraska*, 342 U.S. 55 (1951), and *Stroble v. California*, 343 U.S. 181 (1952).

3. *Supra* note 1.

4. For a comprehensive analysis and discussion of the law of confession admissibility today, see Inbau and Reid, *LIE DETECTION AND CRIMINAL INTERROGATION* (3d ed., 1953), which is the source of the foregoing summary of the subject.