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Police Science Legal Abstracts and Notes

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square piece of white cloth moistened with 0.1 molar hydrochloric acid.

2. Detection of Antimony: Dry swab used to rub area to be tested. Add 1 or 2 drops of 10 per cent alcoholic solution of triphenylmethyl-arsonium iodide. The appearance of orange ring on cloth is a positive test for antimony. Two minutes should be allowed for full color development of ring.
3. Detection of Barium and Lead: Dry cloth used in antimony test. Add 2 drops of freshly prepared 5% solution of sodium rhodizonate to center of orange ring. Appearance of red color inside of orange ring is positive test for barium, or lead, or both barium and lead.
4. Confirmation of Test for Barium and Lead: Dry cloth from (3) with drying accomplished in absence of strong light. Add 1-2 drops of 1:20 hydrochloric acid to red-colored area. A blue color developing inside of orange ring is confirmation of test for lead. A red color usually remaining in center of orange ring is confirmation of test for barium. (WEK)

Recent Progress in Forensic Pathology—

Lester Adelson, *Journal of Forensic Sciences*, 4(2): 250-63 (April 1959). A survey has been made of recent contributions to the broad field of

forensic pathology. Included are discussions of anatomic findings in asphyxial deaths, the mechanisms and diagnosis of death by drowning, the establishment of time of death and evaluation of the changes arising after death, ageing of injuries, instantaneous physiologic death, matching weapon and wound, and soap abortions. (WEK)

Determination of Meperidine in Biological Specimens in Conjunction with a Case of Demerol Intoxication—Leo Kazyak, *Journal of Forensic Sciences*, 4(2): 264-75 (1959). High concentrations of a combination of meperidine and normeperidine were found in the tissues and fluids of a thirty-two year old male, suspected of meperidine intoxication. A rapid, simple technique for the identification and quantitative estimation of meperidine is described. This procedure is based on the ultraviolet absorption of phenylpiperidine. For the purpose of toxicology, metabolites do not interfere since those that extract under the prescribed conditions have essentially the same ultraviolet spectra as meperidine and serve to increase the sensitivity of the procedure. Chromatography provides an effective means for the separation of meperidine and normeperidine if this is necessary for metabolic and other studies. (WEK)

POLICE SCIENCE LEGAL ABSTRACTS AND NOTES

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Consent to Blood Test Can Be Freely Given Despite Intoxication—Petitioner was convicted of involuntary manslaughter and of driving a motor vehicle while under the influence of intoxicating liquor. Shortly following the accident in question, petitioner consented to and was given a blood test to indicate the percentage of alcohol in his bloodstream. The test indicated the presence of more than fifteen one-hundredths of one per cent of alcohol, the amount declared by statute to be *prima facie* evidence of intoxication. Upon appeal, the Supreme Court of Indiana affirmed, holding that consent to the blood test was freely given and that petitioner was not coerced into testifying against himself. *Wells v. State*, 158 N.E.2d 256 (Ind. 1959).

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Defendant contended upon appeal that his consent to a blood test could not have been freely given if he were in fact intoxicated as the results of the test indicated. The court was of the opinion that in the absence of evidence to the contrary a presumption existed that such consent was freely and voluntarily given. The defendant further contended that the legislature had usurped the function of the jury as trier of the facts by establishing a certain percentage of alcohol as *prima facie* evidence of intoxication. The court, however, insisted that this determination by the legislature that given a proven circumstance, a scientifically established effect may be considered to result therefore was no more an encroachment upon the province of the jury than the legislature's undoubted power to enact laws defining offenses.

Privilege Against Self-Incrimination Cannot Be Asserted In State Proceeding Despite Federal-State Collaboration—Petitioners were held in contempt for refusal to answer questions before a state grand jury when, after being promised immunity from state prosecution, they asserted the federal privilege against self-incrimination. The grand jury was investigating the bribery of police officials in New Orleans. The petitioners were suspected of bribery and of the operation of a lottery. Waivers of the statute of limitations on federal gambling tax liabilities had been executed by the petitioners rendering them liable for failure to pay the federal stamp tax levied on gambling operations. It was stipulated by the parties that there was cooperation and close collaboration between the district attorney, the United States Attorney, and the Internal Revenue Service in investigating the alleged bribery and tax evasion. On *certiorari* the United States Supreme Court affirmed the contempt judgement in a *per curiam* opinion citing *Knapp v. Schweitzer*, 357 U.S. 371 (1957). *Mills v. Louisiana*, 27 U.S. L. Week 4420, (U.S. June 9, 1959).

The dissent insisted the privilege should be available to petitioners since the fruits of the testimony sought to be compelled could be used against them in a subsequent federal prosecution. While the privilege against self-incrimination was not rendered applicable to the states by the fourteenth amendment, unless immunity from federal prosecution is extended in situations where collaboration between federal and state officers is apparent, the dissent concluded, the privilege can properly be invoked.

In a separate dissent, Justice Douglas argued that under the previous decisions of the Court in *Knapp* and in *Feldman v. United States* 322 U.S. 487 (1945), not only the fruits of compelled testimony but the testimony itself would be admissible in a subsequent federal prosecution. While such decisions are law, he concluded, "the state courts should be required to recognize the federal right against self-incrimination."

Re-Recording Admissible In Evidence Upon Proper Identification—Petitioners in two companion cases challenged the validity of sentences imposed upon conviction of conspiracy to bribe a public officer and for subornation of perjury. The admission as evidence before the grand jury of a magnetic tape re-recording of a conversation between the public official and the alleged co-

conspirators was assigned as error upon appeal. The tape recording was made by a sound engineer from the original recording which was taken upon a Minifone wire recorder, concealed upon the person of the public official. In the proceedings before the grand jury, the sound engineer, who had not been present at the time of the recorded conversation, played the tape *re-recording* as the original wire recording was not audible except through earphones. The Court of Criminal Appeals of Oklahoma in reversing held that the trial judge erred in not dismissing the indictment as "there was a fatal break in the chain of identification". *Hammers v. State*, 337 P.2d 1097; *Highers v. State*, 337 P.2d 1112 (Crim. App. Okl. 1959).

Defendants successfully contended that the attempted identification of the tape recording was insufficient. Although the public official had been present at the time the re-recording was made and had identified the tape, he was not present when the re-recording was played before the grand jury. The voices which were recorded were never identified and thus there was no guarantee of the authenticity of the re-recording. The proper procedure, the court suggested, would have been to have the re-recording played before the grand jury in the public official's presence, where he could have identified the voices, thus avoiding the "possibility of the substitution of tapes and voices and incorrect identification."

Similarly, the use of a re-recording was objected to in a recent California case where the defendant, a doctor, was convicted of rape. The defendant drugged his victim and then assaulted her. Subsequent to the assault the prosecutrix returned to the defendant's office with a microphone concealed on her person and induced the defendant to make incriminating admissions which were recorded. At trial both the original recording and a re-recording of the conversation were placed before the jury. The re-recording was used for it was a clearer reproduction than was the original recording. The defendant appealed his conviction claiming error in the use of a recording and in the admission of a re-recording. The Appellate Court affirmed the conviction holding that the re-recording was properly admitted where the original recording was also before the jury. *People v. Wojan*, 337 P.2d 192 (Cal. Ct. App. 1959).

Wojan objected to the admission of the recording as taken by illegal means. He objected to the admission of the re-recording as contrary to