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POLICE SCIENCE LEGAL ABSTRACTS AND NOTES

John E. Reid

The Electroencephalogram in the Witness Box¹

In two English murder trials the electroencephalogram was introduced and accepted in evidence. The facts in both cases indicated that the attacks were without motive and unpremeditated. The defense in the first case was that the defendant had no knowledge of the affair, and that he had suffered a head injury a few hours before the alleged time of the crime. No one witnessed the injury. An electroencephalogram showed abnormal changes compatible with a head injury of the severity described by the defendant, which abnormalities subsided in a few weeks. The defendant was discharged as a result of this evidence.

The defense offered testimony in the second case that the act was committed in a period of postepileptic confusion. Evidence was introduced that the defendant had an abnormal EEG and that the changes seen after over-breathing were epileptic in character. It was pointed out that "although an absolute diagnosis of epilepsy could not be made on the EEG alone, since no subclinical attacks were seen, the presence of such a record in a man who had behavior suspicions of epilepsy made that diagnosis very likely indeed." The defendant was found guilty of murder, but insane.

Experts state that the EEG does not show characteristic changes in every case of epilepsy and that apparently normal relatives of these people may show similar abnormalities. These experts urge the most conservative use of the method in that a high proportion of murderers have unstable temperaments and are consequently likely to have an abnormal EEG, the value of the test is reduced, since a diagnosis of psychopathic personality is no defense in law. They believe that since the EEG has been shown to have some forensic value, its application should be guarded lest it present a fertile field for the unscrupulous. The real obstacle in these cases is that the machine may contribute proof of a specific dysrhythmia from which conclusions may be drawn, but it cannot tell the jury the state of a man's mind at a particular moment in the past.

Expert Testimony—Photograph Admissible to Substantiate Expert Testimony Regardless of its Content

In the recent case of *State v. Wilson*, 11 So. (2d) 563 (Alabama, 1943), the defendant was convicted of murder and alleged on appeal that the jury was prejudiced when the court allowed the state toxicologist to introduce photographs of the deceased's body, showing entrance and exit wounds, in order to substantiate his oral testimony. (The expert's qualifications as a photographer were not questioned.)

The Alabama Court of Appeals held that the photographs reasonably tended to prove or disprove a material fact in issue and therefore were admissible even though they might prejudice or inflame the minds of the jury.

¹Lancet, 1942, 243, 459.