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Sound Recording Devices Used as Evidence*

Peter P. Roper**

IN 1906, SOME THREE DECADES after inventor Thomas Alva Edison sketched out on paper his "talking machine," an enterprising plaintiff, disturbed by the clatter of trains going by his residence, went to court with sound recordings of the noise and, offering them in evidence, won his case against the railroad.¹

While early defendants clearly did not like to confront this sort of evidence, particularly in the absence of case law on the subject, few could match the outrage of the famous Clarence Darrow as he defended himself from a charge of bribery based upon dictograph recordings presented in evidence against him.

To Darrow, use of the machine was a monstrous invasion of privacy, and the secret methods used to make the recordings, bellowed Darrow, were without parallel in the annals of criminal trials.²

Since Edison's first model, recording devices have made amazing progress. Instead of recording on Edison's original tin-foil cylinders, modern recorders make their impression—either magnetic or mechanical—on magnetized wire or tape, plastic belts, or discs.

Some recorders are small enough to be tucked under the armpit. Others can be concealed under a belt³ or in a brief case, while the miniature microphone can be hidden in a shirt pocket, behind a necktie, or disguised as a wristwatch or boutonniere. It is fully within reason to anticipate a future model on the order of spectacles with built-in hearing aids.

Recordings have been offered in evidence in a wide variety of cases, including an attempted bribery of a draft board official,⁴

* Subjects such as wire-tapping, use of silent or sound-track motion pictures, and the recording of court proceedings, while related in varying degrees to the principles of operation and use of sound recording devices were felt to be beyond the scope of this article.

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¹ *Boyne City, G. & A. R. Co. v. Anderson*, 146 Mich. 328, 108 N. W. 429 (1906).

² *Weinberg, Attorney for the Damned* 516 (1957).

³ *State v. Lyskoski*, 47 Wash. 2d 102, 287 P. 2d 114 (1955).

⁴ *United States v. Schanerman*, C. A. 3 N. J., 150 F. 2d 941 (1945).

treasonous radio broadcasts,⁵ conspiracy to obstruct justice in a federal narcotics case,⁶ illegal short-wave radio transmissions aiding the illegal entry of Mexican nationals,⁷ disturbance to a motel by barking dogs in an adjoining pet hospital,⁸ and noises made by trains,⁹ planes,¹⁰ and a cement factory.¹¹

Use by attorneys is virtually limitless, including the recording of discussions with clients, of library research, of depositions, and of wills.¹²

The present status of reported case law in this field, while dating back as far as 1906,¹³ is of relatively recent development. Slightly more than half the states report any cases at all, with the preponderance being decided in California, New York, Oklahoma, Pennsylvania, Texas, Washington, Connecticut, and Minnesota.¹⁴

The admissibility of sound recordings as evidence in court was aided largely by the rules of evidence governing telephone conversations. One court in 1906 said:

Communications conducted through the medium of the telephone are held to be admissible, at least in cases where there is testimony that the voice was recognized . . . The ground for receiving the testimony of the phonograph would seem stronger, since in its case there is not only proof by the human witness of the making of the sounds to be reproduced, but a reproduction by the mechanical witness of the sounds themselves.¹⁵

Professor John Henry Wigmore, in his highly esteemed work on *Evidence* said "the phonograph and the 'dictagraph' fall under the principle of the telephone."¹⁶

⁵ Gillars v. United States, 87 App. D. C. 16, 182 F. 2d 962 (1950).

⁶ Zamlock v. United States, C. A. 9 Cal., 193 F. 2d 889 (1952).

⁷ United States v. Sugden, C. A. 9 Ariz., 226 F. 2d 281 (1955).

⁸ Wilms v. Hand, 101 Cal. App. 2d 811, 226 P. 2d 728 (1951).

⁹ Boyne City G. & A. R. Co. v. Anderson, *supra* note 1.

¹⁰ Andresen v. Clear Ridge Aviation, Inc., 9 F. R. D. 50 (D. C. Neb. 1949).

¹¹ Frank v. Cossitt Cement Products, 197 Misc. 670, 97 N. Y. S. 2d 337 (1950).

¹² Rippner, Drafting of the "Simple" Will, 8 Clev-Mar. L. R. 320.

¹³ Boyne City G. & A. R. Co. v. Anderson, *supra* note 1.

¹⁴ 58 A. L. R. 2d 1026 (1958).

¹⁵ Boyne City G. & A. R. Co. v. Anderson, *supra* note 1.

¹⁶ Wigmore, *Evidence* 195 (3rd Ed. 1940).

A more direct comparison can be made to the admissibility of photographs. As recently as 1955, another court said that a "dubbed" or re-recorded tape bore the same relationship to the original recording that a photograph bears to a negative.¹⁷ The similarity warrants further comparison. Discussing the objection that a photograph may be made to misrepresent the object, Wigmore scoffed that the argument "is of no validity," adding,

It is true that a photograph can be deliberately so taken as to convey the most false impression of the object. But so also can any witness lie in his words. A photograph can falsify just as much and no more than the human being who takes it or verifies it. The fallacy of the objection occurs in assuming that the photograph can come in testimonially without a competent person's oath to support it.¹⁸

It soon became apparent to most courts that a sound recording possessed attributes unknown to other forms of evidence, such as the ability to capture the shades of meaning that come with inflection, emphasis and other qualities of speech.¹⁹ As a result, many courts today feel that sound recordings may be more accurate and of more help to the court than the testimony of a human witness,²⁰ although, as we shall see later, this acceptance is not universal.

Nevertheless, virtually all courts which have considered sound recordings offered in evidence have accepted them with relatively minor reservations. The main problem has been to apply adequate safeguards to assure authentic recordings of past events without requiring an "excessive burden of preliminary proof to establish their admissibility." Said the court in *State v. Williams*,²¹ "Too stringent requirements could effectively limit the use of a valuable addition to the evidentiary mediums now available to the trial court." But, the court cautiously added, "Too little restriction could result in ingenious fraud and tampering." This last remark would be of no surprise to radio station engineers who are able to edit out coughs, sneezes, and even stutters from a person's tape recorded speech, or completely juxtapose words, sentences, and paragraphs without detection by even an alert listener.

¹⁷ *State v. Lyskoski*, *supra* note 3.

¹⁸ Wigmore, *supra* note 16 at 185.

¹⁹ *State v. Reyes*, 209 Or. 607, 308 P. 2d 182 (1957).

²⁰ *United States v. Lewis*, 87 F. Supp. 973 (D. C. Dist. Col. 1950).

²¹ 49 Wash. 2d 354, 301 P. 2d 769 (1956).

From the beginning, the courts have applied the same exclusionary rules of evidence to second recordings as they have to other kinds of evidence. But while the principle of laying the foundation for admission of evidence has not changed, the peculiarities of sound recordings have caused the courts to establish certain requirements for the admission of sound recording devices in evidence.

Synthesizing the courts' experience in the newly developed and rapidly expanding field, a Georgia court²² in 1955 laid down this set of rules which has been liberally quoted in cases since then:

1. It must be shown that the mechanical transcription device was capable of taking testimony.
2. It must be shown that the operator of the device was competent to operate the device.
3. The authenticity and correctness of the recording must be established.
4. It must be shown that changes, additions, or deletions have not been made.
5. The manner of preservation of the record must be shown.
6. Speakers must be identified.
7. It must be shown that the testimony elicited was freely and voluntarily made, without any kind of duress.

Authorities, along with general case law, support the validity of the outline, which is here adopted for a more comprehensive examination.

I. Device must be capable of recording testimony

Determination of the mechanical efficiency and ability of the sound recording device most often hinges upon the discretion of the trial judge himself after evaluating the testimony of a competent witness as to the operation of the device.²³ The courts seem not to be concerned with the type of recording device that is used, so long as it is capable of authentic transcription of sound.²⁴ Points I and II of this outline are usually dealt with at the same time by the courts.

²² *Steve M. Solomon, Jr. Inc. v. Edgar*, 92 Ga. App. 207, 88 So. 2d 167 (1955).

²³ *Monroe v. United States*, 98 App. D. C. 228, 234 F. 2d 54 (1956).

²⁴ *Ray v. State*, 213 Miss. 650, 57 So. 2d 469 (1952).

II. Competence of the operator

It seems logical that the competence of an operator of a sound recording device depends in some measure upon his testimony as to the machine's operation, and his method of operating it,²⁵ but apparently his product sometimes betrays him. In *Hunter v. Hunter*,²⁶ where a recording containing evident deletions, blurrings, and lack of continuity was offered in evidence, the court ruled the recordings inadmissible because of the inexpertness and incompetence of the operator of the device, rather than attributing the recording's poor quality to intentional manipulation.

III. Establishing the recording's authenticity

The authenticity of recordings is usually attacked on the grounds that the evidence submitted is a re-recording, or because it is inaudible, incomplete, or unintelligible.

Re-recordings are submitted usually because the original recording was made on a device on which the recording could be heard only with the aid of earphones, and the recording was dubbed by a standard reproduction process to a tape which could be played audibly without recourse to earphones.²⁷

However, it is recommended that the original recording be submitted as well, to validate the re-recording,²⁸ otherwise the re-recording might be excluded as secondary evidence.²⁹ It is particularly important to remember this when the re-recordings are being dubbed by a professional recording firm which makes a practice of erasing tapes once the sound has been transcribed onto other tapes or discs.

Where an original tape is destroyed, the re-recording may be admitted if its authenticity is corroborated by the accused in his testimony;³⁰ and where the original is too fragile to be used, an affidavit may be filed as to this fact.³¹

Ordinarily, an entire recording will not be ruled inadmissible merely because some portion is inaudible or incomplete, on the

²⁵ *Monroe v. United States*, *supra* note 23; *Ragusa v. American Metal Works, Inc.*, 97 So. 2d 683 (1957).

²⁶ 169 Pa. Super. 498, 83 A. 2d 403 (1951).

²⁷ *State v. Lyskoski*, *supra* note 3.

²⁸ *Ibid.*; *People v. Porter*, 105 Cal. App. 2d 324, 233 P. 2d 102 (1951).

²⁹ *People v. King*, 101 Cal. App. 2d 500, 225 P. 2d 950 (1950).

³⁰ *Hurt v. State*, 303 P. 2d 485 (Okla. Crim. 1956).

³¹ *Monroe v. United States*, *supra* note 23.

ground that a witness may testify to only a part of a conversation if that is all he heard.³² In *State v. Raasch*,³³ the court said:

The fact that there was no record made of those parts of the telephone conversations which related to subjects other than those of which the defendant stands here accused did not render the relevant part of the conversations inadmissible. The operators of these machines were informed as to the nature of the conversation which they were asked to record, and so when the conversation began to relate to other subjects they did not record it. If there was further conversation which the defendant thought bore upon the matter, he was, of course, perfectly at liberty to show it by the other party to the conversation if he did not care to go upon the stand.³⁴

In a case where much of the recording was unintelligible, and no witnesses were presented who heard the conversation as it was being recorded, the court ruled the recordings inadmissible in evidence on the grounds that they were subject to varying interpretations by the jurors who were left to speculate as to what testimony had been presented to them.³⁵

IV. Changes, additions, or deletions

Fundamentally, the party objecting to a recording on the grounds of changes, additions, or deletions has the burden of proof. An interesting factor here is the relative ease with which a tape recording under certain circumstances can be edited to say exactly the opposite of what the speaker said in the original recording. While there might be a natural tendency to be wary of such evidence, as Wigmore points out, photographs—and, it follows, tape recordings—cannot be introduced without a competent person's oath to support them.³⁶

But, a demonstration of the ease of editing might well affect the credibility of an expert witness in the eyes of the court and jury. In *People v. Feld*,³⁷ the appellant called a wire-tap expert to testify whether the conditions of the recordings indicated mutilation, or the possibility of duplicate or substitute recordings,

but his testimony proved abortive for when asked on direct examination whether after looking at the record and examin-

³² *People v. Jackson*, 125 Cal. App. 2d 776, 271 P. 2d 199 (1954).

³³ 201 Minn. 158, 275 N. W. 620-21 (1937).

³⁴ See Also: *People v. Feld*, 305 N. Y. 322, 113 N. E. 2d 440 (1953).

³⁵ *People v. Stephens*, 117 Cal. App. 2d 653, 256 P. 2d 1038 (1953).

³⁶ Wigmore, *op cit.*, 185.

³⁷ *Supra*, note 34.

ing it, he could tell if it was a duplicate or an original, his reply had been "No, sir, I could not" and at another point "Could you tell from that record and having heard it played, whether words had been inserted * * * or whether it was the original record?" he answered "I could not tell." Thereafter, on objection by the People, the witness was not allowed to state why he could not tell nor was he allowed to state his opinion as to what accounted for the pauses.

Sometimes a recording is challenged because its sound has been amplified, and thus changed. In a 1957 case, in which the plaintiff went to court with recordings of noises made by a neighboring metal working shop, the judge accepted the testimony of the operator and of those parties who were present when the recordings were made, that the normal tones of the voices on the tape speaking in explanation and narration were on a proper level with the noises being recorded.³⁸

V. Manner of the preservation of the record must be shown

This requirement of showing the manner of preservation of the record is best accomplished by being able to trace, to the satisfaction of the court, the status of the recordings from the time they are made until they are admitted in court.³⁹ Probably the wisest course is to have the equipment operator hand over the tape to the office clerk or secretary who may then keep it in a safe place, much in the same manner that an attorney would have his secretary handle such details in the mailing of a registered letter, so that she can testify on the witness stand, if necessary.

VI. Identifying the speakers

It is generally held that a witness may testify as to what he heard on a recording if he can identify the voices recorded.⁴⁰ This identification may be based upon observation or upon familiarity with the voices' tonal qualities. It is not vital that the witness know or see the person whose voice is being recorded before the recording itself is made. In *State v. Raasch*,⁴¹ after the witnesses made the recordings, they saw the defendant and heard him talk repeatedly, and were able to testify in court that the voice they heard over the telephone at the time the recordings were made

³⁸ *Ragusa v. American Metal Works, Inc.*, *supra* note 26.

³⁹ *State v. Lyskoski*, *supra* note 3.

⁴⁰ 20 Am. Jr. 249 (1939).

⁴¹ *Supra*, note 33.

was the voice of the defendant. This, the court ruled, was sufficient identification.

VII. Testimony must be given freely, voluntarily, without duress

Sound recorded confessions are becoming increasingly valuable to the courts as compared with a confession taken in shorthand and later reduced to writing. This is especially true where a question is being raised as to whether the confession is voluntary, since the court can hear the actual voices of the accused and of those doing the questioning.⁴²

It must be remembered that a witness whose sound recorded voice is being offered in testimony may claim privilege against self-incrimination, particularly in cases where the evidence was illegally or surreptitiously obtained.⁴³ Of course, a voluntary disclosure will not be protected by the constitutional privilege against self-incrimination, nor will a waiver of immunity signed or stated before the sound recordings are made.⁴⁴

Where a recording is made of a speech, presentation of the sound recording as evidence is governed by the rules applying to witnessing the speech rather than by rules applying to the speaker whose voice was recorded.⁴⁵

However, in *State v. Spencer*,⁴⁶ the secretly recorded statement of the defendant in a murder prosecution was construed by the court as an admission against interest, not as a confession, and was held properly admitted despite the objection that it constituted compulsory self-incrimination. The court said that there was no duty on the part of the state to prove that the admission was voluntary, pointing out that the record failed to show otherwise.

Sound recordings made while the subject was under the effects of truth serum (sodium pentothal) have been ruled inadmissible,⁴⁷ as have privileged communications as between husband and wife,⁴⁸ or attorney and client, unless a third party made the voice recordings. Such rulings are made on the theory that

⁴² *Ray v. State*, *supra* note 24; *Williams v. State*, 93 Okla. Crim. 260, 226 P. 2d 989 (1951).

⁴³ n., 58 A. L. R. 1036 (1958).

⁴⁴ *State v. Gensmer*, 235 Minn. 72, 51 N. W. 2d 680 (1951).

⁴⁵ *Burgman v. United States*, 88 App. D. C. 184, 188 F. 2d 637 (1951); *Gillars v. United States*, *supra* note 5.

⁴⁶ 74 Idaho 173, 258 P. 2d 1147 (1953).

⁴⁷ *Lindsey v. United States*, C. A. 9 Alaska, 237 F. 2d 893 (1956).

⁴⁸ *Hunter v. Hunter*, 169 Pa. Super. 498, 83 A. 2d 401 (1951).

the third party—and hence the recording—was an eavesdropper and thus subject to the rules of evidence governing witnesses.⁴⁹

However, in *People v. Buckowski*,⁵⁰ in which a wife and husband were being tried for murder, the court admitted recordings of statements made by the wife, not to prove the truth of what she had said as to the husband, but for the purpose of showing his conduct in the face of an accusatory statement.

Once the recordings are admitted in evidence, their use encounters still further problems, such as the admission of typewritten or printed transcripts of the recordings, the weighing of evidence as presented by mechanical or human witnesses, the inclusion of irrelevant or prejudicial matter, use of recordings to impeach witnesses, as well as the consideration of sound recordings under the rules applying to cross-examination, hearsay, and corroboration.

Typewritten or printed transcripts of the recordings prepared for distribution to the court, counsel, and each juror can meet the requirements of the best evidence rule by having the stenographer testify to the transcription's accuracy, and by having the original recordings introduced in evidence at the same time.⁵¹

When typewritten transcripts are placed in evidence in place of recordings, a proper foundation must be laid for their admission, connecting the various steps required to trace the transcript all the way back to the source of the recording.⁵²

When a transcript was used in place of a recording in the preparation of a stenographer's transcript of the trial court proceedings, the court reporter was permitted to replay the phonograph recordings heard by the jury, even though the discs themselves had not been introduced. The court held that the conversations on the discs were in evidence, and that the situation was comparable to the introduction in evidence of a voluminous report which the court reporter was allowed to copy later into his record for the reviewing court.⁵³

Written transcriptions of sound recordings often are used to refresh the memory of a witness who participated in or overheard the conversation. However, the accuracy of the transcript must

⁴⁹ *Erlich v. Erlich*, 278 App. Div. 244, 104 N. Y. S. 2d 531 (1951).

⁵⁰ 37 Cal. 2d 629, 253 P. 2d 912 (1951).

⁵¹ *People v. Feld*, *supra* note 34.

⁵² *Applebaum v. Applebaum*, 84 N. Y. S. 2d 505; *State v. Raasch*, *supra* note 33.

⁵³ *Jones v. State*, 151 Tex. Crim. 519, 209 S. W. 2d 613 (1948).

be established, and it must have been made under the witness' direction,⁵⁴ or reviewed, corrected, and approved by him soon enough after the written transcript was made so that the conversation was still fresh in his memory.⁵⁵

Although the courts are basically in agreement as to the requirements for the admissibility of sound recordings in evidence, they are somewhat at odds as to deciding whether to accept the testimony of a mechanical witness as opposed to that of a human witness reporting on the same matter before the court.

In some cases, the testimony of the human witness has been accepted as primary evidence, notwithstanding the fact that the same evidence was on a sound recording, or was reduced to writing.⁵⁶ Where the conversation of two prisoners was overheard by a police officer in an adjoining cell at the same time that the conversation was being recorded, the court ruled in favor of the police officer's oral testimony, saying, ". . . surely even the tape recording could not be regarded as any more efficacious than the testimony of the officer from memory as to what he actually heard."⁵⁷

However, even though the oral testimony of the human witness was accepted as best evidence, sound recordings are not ruled inadmissible.⁵⁸ In *United States v. Lewis*,⁵⁹ the court drew no distinction between the two, but it did regard the sound recording as being able to present the more trustworthy evidence. Still another court looked upon the sound recorded evidence as being more apt to be accurate and complete than the witness' recollection.⁶⁰

When it comes to a question of the presence of irrelevant, objectionable, or prejudicial matter in the sound recording, it is advisable to have the recording played before the court and counsel in the absence of the jury, so that incompetent portions of the recording may be skipped or deleted before permitting the

⁵⁴ *McGuire v. State*, 200 Md. 601, 92 A. 2d 582 (1952).

⁵⁵ *People v. Sica*, 112 Cal. App. 2d 574, 247 P. 2d 72 (1952); *People v. Vera*, 131 Cal. App. 2d 669, 281 P. 2d 65 (1955); *People v. Goldberg*, 152 Cal. App. 2d 562, 314 P. 2d 151 (1957).

⁵⁶ *People v. Kulwin*, 102 Cal. App. 2d 104, 226 P. 2d 672 (1951).

⁵⁷ *Thompson v. State*, 298 P. 2d 464 (Okla. Crim. 1956).

⁵⁸ *Monroe v. United States*, *supra* note 23; *Schwartz v. State*, 158 Tex. Crim. 171, 246 S. W. 2d 174 (1951).

⁵⁹ 87 F. Supp. 970 (D. C. Dist. Col. 1950).

⁶⁰ *United States v. Klosterman*, 147 F. Supp. 843 (D. C. Pa. 1957).

jury to hear the sound recordings.⁶¹ But if the prejudicial matter cannot be edited out, the recording may be excluded, as in the case involving two defendants, one charged with rape and the other with attempted rape, whose recorded statements were not admitted because the court felt the jury would be unable to distinguish which portions of the recordings would be admissible as to one defendant and not the other.⁶²

If the objectionable matter does not result in prejudice, the court may find this to be harmless error.⁶³ Similarly, the court will not exclude a recording because it contains vulgar and obscene language.⁶⁴

The prosecuting attorney who makes sound recordings of defendants' statements must be careful not to phrase his questions or statements in such a manner that they may be construed as an expression of his belief in a defendant's guilt, since this would constitute prejudicial matter and quite probably would result in the court ruling the sound recordings inadmissible.⁶⁵

Sound recordings or typewritten transcripts of recordings generally have been admitted by the courts for the purpose of impeaching a witness by contradicting his trial testimony.⁶⁶ However, the successful impeachment of a witness may depend upon first laying the foundation for such tactics during cross-examination.⁶⁷

Conversely, where a witness' veracity has been attacked under severe cross-examination, a sound recording of his original statements may be admitted into evidence to refute the inference which may have been implanted in the minds of the jurors.⁶⁸

Sound recordings are sometimes attacked as hearsay evidence, apparently without much success if the proper founda-

⁶¹ *Leeth v. State*, 94 Okla. Crim. 61, 230 P. 2d 942 (1951).

⁶² *People v. Dorsey*, 144 Cal. App. 2d 258, 300 P. 2d 885 (1956).

⁶³ *Paulson v. Scott*, 260 Wis. 141, 50 N. W. 2d 376; *People v. Curtis*, 134 Cal. App. 2d 624, 286 P. 2d 446 (1955).

⁶⁴ *State v. Slater*, 36 Wash. 2d 357, 218 P. 2d 329; *People v. Feld*, *supra* note 34; *People v. Fratianno*, 132 Cal. App. 2d 610, 282 P. 2d 1002 (1955).

⁶⁵ *People v. Dorsey*, *supra* note 62; *Commonwealth v. Bolish*, 381 Pa. 500, 113 A. 2d 464 (1955).

⁶⁶ *Baron v. Kings-Suffolk Realty Corp.*, 4 Misc. 2d 587; 158 N. Y. S. 2d 923 (1957); *Applebaum v. Applebaum*, *supra* note 52; *Calumet Broadcasting Corp. v. Federal Communications Com.*, 82 App. D. C. 59, 160 F. 2d 285 (1947).

⁶⁷ *State v. Simon*, 113 N. J. L. 521, 174 A. 867 (1934).

⁶⁸ *People v. Feld*, *supra* note 34.

tion has been laid for their admissibility, and if the contents of the records are subject to counteracting rules of evidence. For example, when a sound recording was offered in evidence to impeach a witness, the court overruled the objection on the grounds of hearsay because the recording was offered to prove only that the witness contradicted himself, not to prove the facts in the recording.⁶⁹

Also, by having the defendant say that he told the truth at the time the sound recording was made, the prosecution successfully set the stage for its inclusion in evidence over an objection that the recordings constituted hearsay, conclusions, or replies to leading questions.⁷⁰

In an action to contest a will, the trial court rejected as hearsay evidence a sound recording containing the true identity of a named beneficiary. This was held to be reversible error by the appellate court since the recording was admitted to show only that the secretary had erred in placing the wrong name in the written transcript of the will, and that other evidence was available to prove whether the testator intended the appellant or the appellee as beneficiary.⁷¹

The sound recording even has its place in the jury room, according to the judge in *State v. Reyes*,⁷² answering the objection that use of a record player by the jury to hear discs offered in evidence would have the effect of giving undue weight to the evidence:

The disc, being an exhibit in the case, necessarily went to the jury . . . but without a machine on which the recording could be played back it would serve no purpose. The objection that the evidence would be unduly emphasized could be made as well to a written and signed confession, which, when it is received in evidence, goes to the jury and can be read and reread as many times as the jurors desire.

After a somewhat slow start, sound recordings have made increasingly frequent appearances before the courts, and the trend toward more compact and easily-operated equipment is in itself sufficient indication of the future of sound recordings used as evidence in court.

⁶⁹ *State v. Porter*, 125 Mont. 503, 242 P. 2d 984 (1952).

⁷⁰ *People v. Dorsey*, *supra* note 62.

⁷¹ *Hultquist v. Ring*, 301 S. W. 2d 303 (Tex. Civ. App. 1957).

⁷² 209 Or. 607, 308 P. 2d 196 (1957).