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Evidence—Privileged Communications—Per Curiam

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Admissibility of Radar Findings

Defendant was convicted of speeding based upon evidence of a radar speed reading made by officers well trained in the use of radar equipment. The officers, who were experienced drivers, testified in their opinion, independently of the speed shown by radar, that the defendant was travelling at a rate of speed in excess of the speed limit.[20]

The defendant appealed from the conviction on the grounds that expert testimony was not introduced to show the "operating principle" of the radar device,[21] that there was no evidence of its accuracy at the time of the violation,[22] and that the testimony of the police officers as to their visual observation of defendant's speed was insufficient, even in conjunction with other testimony in the case, to support the conviction.[23]

The Court of Appeals referred to the common and successful use of radar in the armed services as well as on ships, aircraft and in airports, and to the fact that radar speedometer devices are now used in forty-three states. It was felt that the time had come when the general reliability of the radar speedometer as a device for measuring the speed of a moving vehicle should be generally recognized by courts and that it would no longer be necessary to require expert testimony as to the scientific principles underlying it. The use of radar for speed detection should now be said to fall into the same category as fingerprinting, ballistic evidence, X-rays and a host of kindred scientific methods whose general reliability is no longer questioned.

Privileged Communications — Per Curiam

Section 352 of the Civil Practice Act provides that "[a] person duly authorized to practice physic or surgery, . . . shall not be allowed to disclose any information which he acquired in attending a patient in a professional capacity, and which was necessary to enable him to act in that capacity. . . ." In *People v. Runion*,[24] the Court held that information given by defendant to a physician as to the cause of certain wounds, was not necessary to enable the physician professionally to treat the defendant, and thus was not privileged.[25]

20. People v. Magri, 3 N.Y.2d 562, 170 N.Y.S.2d 335 (1958).
21. People v. Sachs, 1 Misc.2d 148, 147 N.Y.S.2d 801 (Mag.Ct. 1955).
22. *Ibid.*
23. People v. Marcellus, 2 N.Y.2d 653, 163 N.Y.S.2d 1 (1957).
24. 3 N.Y.2d 637, 170 N.Y.S.2d 836 (1958).
25. See *Griebel v. Brooklyn Heights R. Co.*, 68 App.Div. 204, 74 N.Y.Supp. 126 (1902), in which it was held that when it is "perfectly plain" that the information given is not of a necessary character, testimony as to the information may be admissible.