

# Court Upholds Forced Blood Test by Police

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The Supreme Court ruled yesterday that police taking a blood sample from an objecting motorist who is suspected of being intoxicated does not violate the Federal Constitution.

Justice William J. Brennan delivered the 5-to-4 ruling. Chief Justice Earl Warren and Justice Hugo L. Black, William O. Douglas and Abe Fortas dissented.

Brennan, in upholding the tests, said they are reasonable, and commented that blood samples for testing are "a highly effective means of determining the degree to which a person is under the influence of alcohol."

He concluded his 15-page opinion with this statement:

"That we today hold that the Constitution does not forbid the states minor intrusions into an individual's body under stringently limited conditions in no way indicates that it permits more substantial intrusions, or intrusions under other conditions."

Joining in Brennan's majori-

ty opinion were Justices Tom C. Clark, John M. Harlan, Potter Stewart and Byron White.

The ruling applied specifically to Armando Schmerber, who was allegedly driving a car that struck a tree in Los Angeles. In a hospital, a policeman asked him to agree to a blood sample. Schmerber's appeal said he agreed at first but later objected on advice of his lawyer.

Blood was extracted by a doctor and it resulted in a reading of .18 blood alcohol. Objections to the use of blood-test evidence were overruled and an expert testified that all persons would be under the influence of alcohol with such a reading.

Schmerber was sentenced to 30 days in jail and fined \$250. California State courts upheld the sentence, and he appealed to the Supreme Court. There he asked if the taking of the blood sample violated the privilege against self-incrimination, if it constituted an unlawful search and seizure, and if it was a violation of due process of law.