In a companion case[9] the Court held that the principle of the *Camara* case applied to commercial structures[10] as well as to private residences. This decision was based, at least in part, on prior decisions[11] which held that otherwise unreasonable criminal investigative searches were not valid even though commercial rather than residential premises were involved.

This writer agrees with the reasoning and the result of the *Camara* and the *See* cases. Were any other result reached, an unusual and unjust situation would exist wherein the individual and his property would be protected by the fourth amendment only where there was a suspicion of criminal behavior. Of course, the necessity of meeting the requirements of a warrant procedure will present problems to health and safety agencies, but this writer feels that the protections afforded far outweigh any problems which might be presented.

T. C. SANDERS

CRIMINAL LAW—EVIDENCE—ADMISSIBILITY OF CONFESSIONS OF JUVENILES

Two youths in Florida were apprehended for robbery and murder. They were placed under juvenile court authority.[1] While they were in the custody of the juvenile authorities, and after being apprised of their constitutional rights, they were questioned by the police and confessed to the robbery and murder. As to one of the youths five days elapsed between the time he made his confession and the time he signed it; as to the other, two days elapsed. The juvenile authorities then waived jurisdiction.[2] The two boys were indicted for first degree murder, tried in the Circuit Court of Dade County, Florida, and convicted. They appealed to the District Court of Appeals where the circuit court was reversed by a two to one decision and the case remanded for new trial.[3] The district court reversed the decision in *State v. Francois*,[4] on the ground that "it was error for the trial court to admit the confessions taken from the appellants while they were in the care, custody and control of the juvenile court, because . . . [while there] they were not entitled to the constitutional protection of due process of law as accorded an adult."[5] The court said that since the youths

9. See v. City of Settle, 387 U.S. 541 (1967).
10. In this case, a commercial warehouse.
11. Go-Bart Importing Co. v. United States, 282 U.S. 344 (1931); Amos v. United States, 255 U.S. 313 (1921); Silverthorne Lumber Co. v. United States, 251 U.S. 385 (1920).
1. F.R.S. §39.02 (1961 Rev.). "The juvenile court shall have exclusive original jurisdiction of dependent and delinquent children . . ." found within its jurisdiction.
2. F.R.S. §39.02 (6) (1961 Rev.). This statute provides that the juvenile court judge has the power to waive jurisdiction if the juvenile is over 14 years of age and would be charged with a felony under Florida law if he were an adult.
3. Francois v. State, 188 So.2d 7 (Fla. Dist. Ct. App. 1966).
4. *Id.*
5. *Id.* at 8.

did not have the same rights as adults their confessions should not be used against them when they were tried for their lives.[6] The Supreme Court of Florida, by certiorari, reviewed the case and handed down its opinion on April 5, 1967, reversing the District Court of Appeals and remanding the case to the district court with directions to affirm the circuit court.[7] The supreme court reversed saying that nowhere was it shown that the confessions were not voluntary, and the fact that the defendants were under juvenile authorities was not, in and of itself, enough to render their confessions inadmissible in a subsequent criminal proceeding.[8]

The district court placed heavy reliance on the cases of *Harley v. United States*[9] and *Edwards v. United States*.[10] In the *Harley* case the federal court held that a confession obtained while a minor was under the jurisdiction of the juvenile authorities could not be used when the juvenile court had waived jurisdiction and the youth had been bound over for trial in a criminal court.[11] In the *Edwards* case the federal court held that a juvenile's confession made while under the auspices of the juvenile court could not be used against him when the juvenile court waived jurisdiction.[12] In the federal court the confessions of the youths would ipso facto be inadmissible. The reasoning of the federal courts appears to be that a minor knowing his rights under a juvenile court's authority might confess something he would not confess if he realized it could, or would, be used against him in a criminal proceeding—this is the reasoning of the district court in the *Francois* case.[13]

In 1940, in *Clay v. State*,[14] the Florida Supreme Court held the extrajudicial confessions of three youths, all under sixteen, were properly admitted in evidence after the court had ascertained that the confessions were voluntary.[15] In the instant case the Supreme Court of Florida held the *Clay* decision binding.[16] The court appears correct in allowing the confessions of the youths to be admitted as evidence, although they were obtained while the youths were in the custody of juvenile authorities, because the boys had been apprised of their constitutional rights, offered counsel, which they refused, and told of their right to remain silent.[17] As a general proposition the holdings of the district court here and in the *Harley* and *Edwards* cases appear to be correct, but when each case is studied individual-

6. Francois v. State, 188 So.2d 7 (Fla. Dist. Ct. App. 1966).
7. Francois v. State, 197 So.2d 492 (Fla. 1967).
8. *Id.*
9. 295 F.2d 161 (D.C. Cir. 1961).
10. 330 F.2d 849 (D.C. Cir. 1964).
11. Harley v. U.S., 295 F.2d 161 (D.C. Cir. 1961).
12. Edwards v. U.S., 330 F.2d 849 (D.C. Cir. 1964).
13. Francois v. State, 188 So.2d 7 (Fla. Dist. Ct. App. 1966).
14. 143 Fla. 204, 196 So. 462 (1940).
15. *Id.*
16. Francois v. State, 197 So.2d 492 (Fla. 1967).
17. *Id.*

ly and it is ascertained that the juveniles in question have not been denied their constitutional rights, there would appear no reason not to allow their confessions to be permitted as evidence in a criminal proceeding.

This question of the admissibility of juveniles' confessions, and the whole area of juveniles' rights has to be reviewed in the light of the United States Supreme Court decision handed down on May 15, 1967, in the case of *In Re Gault*.[18] The Court, in this case, said, in the part of the opinion relevant to our discussion:

> We conclude that the constitutional privilege against self-incrimination is applicable in the case of juveniles as it is with respect to adults. We appreciate that special problems may arise with respect to waiver of the privilege by or on behalf of children . . . . If counsel is not present for some permissible reason when an admission is obtained, the greatest care must be taken to assure that the admission was voluntary, in the sense not only that it has not been coerced or suggested, but also that it is not the product of ignorance of rights or of adolescent fantasy, fright or despair.[19]

It appears from this statement, and the Court's opinion as a whole, that on appeal they would uphold the Florida Supreme Court's decision. The Florida court did use great care to determine that the confessions of the youths were voluntary and that the boys knew what they were doing, since they had time to contemplate their admissions before they signed them. Under these conditions there appears to be no reason why juveniles' confessions should not be admitted as evidence in a criminal proceeding.

JEFFREY D. DUNN

CRIMINAL LAW—EVIDENCE—CAPACITY OF PHYSICIAN TO TESTIFY AS EXPERT WITNESS AS TO ACCUSED'S MENTAL CONDITION

In the Wisconsin case of *Nelson v. State*,[1] the defendant was convicted in the trial court of robbery by force. He claimed, on appeal, that the trial court erred in appointing two county physicians to examine him with respect to his sanity and to testify to such at trial. The defendant claimed he blacked out before entering and robbing Marty's Tavern, but subsequently, in a written confession, he described the robbery in detail. All of the evidence presented showed that the defendant did not black out.[2] Appeal was had on several different grounds, but the question of paramount importance for our purposes is whether it was reversible error for the trial court to appoint general practitioners, not psychiatrists, to examine de-

18. 87 S. Ct. 1428 (1967).
19. *Id.* at 1458.
1. 151 N.W.2d 694 (Wis. 1967).
2. *Id.*