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## Police Science Legal Abstracts and Notes

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## POLICE SCIENCE LEGAL ABSTRACTS AND NOTES

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**Requirement of Proper Service of a Search Warrant**—The recent case of *Walker v. State*, 222 P. 2d 766 (Okla. 1950) serves to illustrate another problem in the search and seizure field which may arise to plague the unwary police officer. In this particular case the defendant was charged with operating gambling games in violation of a state statute. The police officers involved secured a warrant to search certain rooms in the hotel where the games were conducted. They went directly to the designated rooms without making any effort to serve the warrant on one Drake, who was named in the warrant and who was in charge of the illegal operation. After searching the rooms and securing the necessary evidence the officers served the warrant on a Mrs. Abbott, who apparently was not connected with the illegal enterprise. An Oklahoma statute provides that "A search warrant may in all cases be served by any of the officers mentioned in its direction, but by no other person except in aid of the officer, on his requiring it, he being present, and acting in its execution." (Title 22, §1227). The Court interpreted this to mean that "The foregoing provision 'a search warrant may in all cases be served' within reason and common sense, requires service of the warrant on the person in charge of the place to be searched unless service of the same will defeat enforcement of the law." Since there was no reason given by the officers for their failure to serve the warrant upon Drake, the search and the seizure were invalid "from beginning to end."

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**Testimony Regarding Intercepted Telephone Messages Under the Communications Act**—Under the Communications Act (Act of June 19, 1934, 48 Stat. 1103, 47 U.S.C.A. Sec. 605) testimony is prohibited which attempts to divulge any intercepted communication. The extent of this prohibition was recently defined in the case of *Billeci v. United States*, 184 F. 2d 394 (D.C., 1950) where federal officers, operating under a search warrant, entered premises belonging to the defendant to seek evidence regarding an alleged gambling operation. While making their search the telephone rang several times. The officers answered and found that several of the callers wanted to place bets on certain numbers. The trial court permitted the officers to testify to this fact, and the appellant brought error on the ground that such testimony was in violation of the Communications Act. The Court of Appeals held that the actions of the officers did not constitute an interception within the meaning of the statute. In the course of its opinion the court noted that ". . . if the marshals had impersonated the wanted recipients [of the messages] a different question might have been presented. But in the conversations in the case at bar the callers, in some cases after being advised that the desired recipients of the messages were not there, proceeded to say what they had to say to whoever might have responded to the calls. We think that interception of a phone call necessarily involves the idea that a speaker thinks he is talking to one person whereas in fact a third person is listening."

(For abstracts of other recent criminal cases turn to page 646.)

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