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"WIRE TAPPING"

(*Editor's note:* A certain "jargon" has grown up in the field of criminal law which has become a part of the English language; at least many of the words have arrived as far as the dictionary is concerned. This "jargon" has been promulgated by law enforcement officers, newspapers, and those who have been convicted of or charged with crimes. Through perpetuation of these words throughout the years, a certain connotation has often been attached to them. For example, the use of the word "insanity" as a defense in legal circles has no stigma attached to it, while if you talk of a psychiatrist, he wants it changed to "mental health". The use of the word "cop", in referring to a police officer is widely used, and has different meanings to various members of the public. The same can be said of the use of the words "lie detector", "third degree" and "wire tapping". These latter two words have been described as "dirty business" and many persons believe this, while many law enforcement officers believe there is a need for "wire tapping" to combat crime. Recently a book was written about "wire tapping". Several members of the National District Attorneys' Association cooperated with one of the authors of this book because they understood the purpose of the book was to make an objective study of "wire tapping". It seems quite apparent from the moment one reads the title, looks at the jacket of the book (with a huge eye looking through a keyhole), and checks some of the footnotes and authorities which are used to substantiate the "facts" of the book, that the authors became more interested in writing a best seller than conducting an objective research.

The following material is presented in order to "clear the air". It is the hope of the editor that these next pages will help others to understand, and will be taken in the context and manner in which it is presented.)

AN ANSWER TO THE AUTHORS

FRANK S. HOGAN

The Eavesdroppers, Samuel Dash, Richard F. Schwartz and Robert Knowlton, Rutgers University Press, 1959.

(This brief review was written at the request of the Editor by Frank S. Hogan, District Attorney of the County of New York.)

Unlawful interference with the privacy of telephone communication, like any breach of a citizen's privacy, is a serious affront to our ideals of liberty and personal freedom. Wiretaps, in particular, have been a proper subject for considerable debate in recent years. It is unfortunate, however, that much of this discussion has been dominated by emotional considerations and fed by a wealth of irresponsible and inflammatory "data". Such recklessness, from purportedly objective sources has served to harm rather than secure the interests of the public by confusing the issue and by burying the valid purposes of responsible law enforcement officials to detect and gather evidence of serious crime.

The authors of *The Eavesdroppers* have firmly aligned themselves with this damaging contingent of critics by painting, particularly concerning New York City, a picture bearing no factual resemblance of the true situation, as known by reputable officials. They grind their axe upon a wheel of untruth and far-fetched speculation. The shabbiness

of their "factual" reporting should be apparent to the discerning reader from the text itself, but, perhaps, a word or two here might serve to point it up more clearly.

Although the authors include portions of my testimony on the subject, they apparently turn primary attention not to the uses and functions of taps legally installed, but rather to the total overall figure of all taps, legal and illegal. In this connection, they contrast Mr. Justice Douglas' figure of 58,000 with the district attorneys' computation of 480. The former, the text concedes, is based upon a private attorney's "general estimate" which, in turn, is based on statements of allegedly qualified but unnamed "police officials" and "judges". The quality of this information is, on its face, such as to make the result unworthy of belief.

Next, the authors seek to authenticate an estimate of 2000 to 3400 annual taps, installed by the Police Department's Central Investigation Bureau. In this argument, only the author's arithmetical operations are sound. Taking the figure of 77 impulse dial recorders, used in taps, they assume 65 are in daily use. By methods unrevealed, the authors divine that the average tap is in operation for one week: the rest is simple multiplication. It is my experience that a tap, used in connnection with the type of investigation undertaken by the Central Investigation Bureau, must be in operation for considerably longer than a week if it is to serve its purpose. Moreover, frequently several phones must be simultaneously tapped in a single investigation. It is clear, then, that this deceptively simple system of computing the number of taps made by the police is wholly useless without a more complete factual base. By merely assuming an average of six weeks and two instruments per investigation—a more realistic assumption, too—the figure is cut from 3400 to about 280. Similarly, to assume that the ten installers working for the bureau install a new tap every day, four days a week, 52 weeks a year, accounting for over 2000 new taps a year may be accurate arithmetic but it is also a mathematical exercise in a factual vacuum. And labelling the figures, thus derived, "pure approximations", as the authors do, does not relieve them of the responsibility for including their numbers game in a purportedly serious study of a vexing social problem.

Finally, the authors quote at length from a former plainclothesman who boasts of the ease with which free lance, unauthorized wire tapping is accomplished and of the great monetary temptations offered the $80 a week policeman in the form of "pay-offs" and bribes. Justifying his own corruption, the officer indicates that the practice is widespread. The policeman is not identified, the circumstances of the interview are not given, and, consequently, the reliability of this anonymous, admittedly corrupt officer is extremely doubtful.

In sum, it is unfortunate that an ambitious and potentially important book, like this one, should resort to such dubious speculation as the basis for its theme. My office and many other prosecuting agencies have sought to enforce strictly the law punishing unlawful wire taps and have never condoned violations, whether by private persons or police officers. On the other hand, we earnestly believe that our provisions for court ordered interceptions, like warranted searches, are indispensable tools of law enforcement. To the extent that this book lumps the two classes of taps under overall shock figures, it does a serious disservice to the public interest.

LAW ENFORCEMENT AND "WIRE TAPPING"

EDWARD S. SILVER

(Mr. Silver is District Attorney of Kings County, Brooklyn, New York, and President of the National District Attorneys' Association. The editor has arranged this article by taking excerpts from statements of Mr. Silver on three different occasions.)

A. Testimony before Subcommittee on Constitutional Rights of Judiciary Committee (United States Senate, July 9, 1959)

INTRODUCTION

Mr. Silver. Mr. Chairman, it is a very unfortunate thing that when we discussed this subject, we have to use the words "wire tapping and eavesdropping" which in themselves—

Senatory Hennings. They have a connotation.

Mr. Silver. A very evil connotation.

Senator Hennings. Like juvenile delinquency. We have to use some words to describe that, or some phrase.

Mr. Silver. I was trying to think of a word, and

perhaps someone will get a modern word or phrase for "modern crime detection device". When we do that, we will be a bit ahead of the game. It will encourage clearer thinking of the subject before us.

I do want to say this about the testimony of Mr. Dash. He has so well said—I have given him every possible help I could in his inquiry, but the one thing that he has made clear is that no law or court decision will have much effect on unlawful wire tapping by private individuals, whether in labor or business, or police who are corrupt. At the outset I should say that the record of the District Attorneys show that nobody has been more vigorous than we have been in making the laws as stringent as possible against any private people, not only doing any eavesdropping but even owning equipment. We must always keep in mind the distinction between law enforcement agencies who are fighting crime and private persons or groups who use wire tapping for their nefarious purposes.

He has indicated that law enforcement agents have some reluctance about prosecuting people who are in violation of eavesdropping laws. That is not so....

RE JUSTICE DOUGLAS' ALLEGATION

When I read Mr. Justice Douglas' statement about 58,000 tap orders being procured in New York City in one year (1952), I really became quite disturbed. In the first place, if you thought about it for a moment, if you had 58,000 tap orders, in one year with every plant having to be covered by eight men, there wouldn't be a New York policeman on the street. We have only got about 24,000, and we would have to get the Marines and Navy out to man these wires. It is an impossibility. I made a careful check of the number of orders procured and the fact showed only 480 orders were gotten by all five district attorneys and the police department....

HOW COURT ORDER IS OBTAINED BY THE DISTRICT ATTORNEY

Mr. Silver. When we get an order, we get an order for a wire, not for only a particular person, speaking from that wire. We couldn't possibly delineate it on that form. Let me suggest a question you might wish to ask me, "Mr. Silver, do you also tap on occasion public telephones?" My answer is "yes". If we are after criminals whom we ascertain are using a public telephone in their operation we will get a court order to tap that public phone. We would hear all conversations on that phone. The record shows that we have kept our interest only on the criminals. We have never abused that right. The record also shows, and the Savarese Committee said so in its report, that in 20 years, they have never had one instance where the district attorney has abused this privilege. It is just a sentence or two on page 17 of their report of March, 1957.

It says:

"We know of no instance in which illegal wire tap evidence has been offered by any prosecutors since law enforcement wire tapping was regularized in 1938."

In other places in this report, there has never been the slightest suggestion that district attorneys have every abused this right which we use for law enforcement. Nor did the Savarese Committee suggest that the right should be curtailed.

Now, actually, I think it ought to be said and made clear, that this is not a right or power that the district attorney has. I have this right as a trustee for 3 million people that I have to represent in fighting crime. If, for any reason, if the Senate or the Congress doesn't do something to correct the Benanti decision, we just will not be able to use wire tapping in our law enforcement and it simply means that a lot of people are going to have carte blanche in their criminal operations.

You will not be depriving me, but the people who elected me to fight crime in our County. If I am compelled to hunt lions with a pea-shooter, so be it. I think the Congress has a serious responsibility in this matter....

Mr. Silver. You asked before about the number of orders. For example, for those figures I gave you for the years '51 through '54, there were 214 orders covering 290 wires.

Senator Carroll. There is a time limitation on those orders too, is that correct?

Mr. Silver. Yes, it used to be six months. It has been amended to two months. You can go back to the court and on showing get an extension of the order if you need it.

In other words, you have to come back to the court and report to him that you feel you are justified in getting an extension. If the court is satisfied you may get an extension.

You would, if you would like to get an extension, you submit another order extending that order for another two months, but no more than two months at a time. Generally you know within two months whether an order is good or not.

Sam Dash has testified about the fact that you take a sample of the wire and see if it is "hot" and then you get your order. I can only say that that does not happen in my office. I am not going to say what the police do, though I doubt it, because I have not checked into that, but in my office we don't know whether a wire is going to be profitable or not. We only get a court order when we have sufficient independent evidence on which I can say that I have reasonable grounds to believe that we will get evidence of crime....

Senator Carroll. When you apply for a court order, that is in chambers?

Mr. Silver. That's right.

Senator Carroll. Is this testimony taken at that time for the record, is that testimony taken?

Mr. Silver. Not for the record, but the judge may ask such questions as he desires either from the police officers, investigators or the assistant who goes with the police officer because we hesitate to put in—

Senator Carroll. Do you make a showing by a written affidavit or how do you make a showing? What is there in the nature of a record that is made?

Mr. Silver. It is a written affidavit which in itself must show the district attorney has reasonable grounds to believe he can get evidence of crime by a tap. He states facts in it that shows to the court that he has reasonable grounds to believe that if you tapped this man's wire, we have reasonable grounds to believe we will get evidence of criminal activity. That is in the affidavit. It must be within the affidavit.

The judge may still, if he desires, make further inquiries to satisfy himself that our request is proper....

A FICTIONAL STORY PRESENTING THE EFFECT OF THE BENANTI CASE

... Let me read this little column I wrote about what the effect of the decision will be in law enforcement. This is an imaginary piece, but I think it states the law. It is a telephone conversation between a top racketeer and one of his henchmen. I call the henchman Peanuts and the other is "the Boss", so you will know who the characters are in this play: It is not written like a decision, but it sets forth the law.

PEANUTS: "Lo, Boss, thisez Peanuts."

THE BOSS: "Yeah, hello, did the shipment come in OK?"

PEANUTS: "Sure thing, Boss, 50 horse."

THE BOSS: "What do you mean '50 horse'? I was expecting 50 kilos of heroin. Give it to me straight."

PEANUTS: "Gee, Boss, dats no way to talk on the phone, you warned me y'self. I...."

THE BOSS: "Listen, dope, that's old stuff. My mouthpiece told me the bulls aren't allowed to stick their snoots in our private business. It's against the law, y'hear? It's dirty business to do such a thing."

PEANUTS: "Are you all right, Boss? You ain't cockeyed or something? Are you hitting the stuff y'self?"

THE BOSS: "Look, dope, I'm telling ya. Let 'em listen. The lip tells me and he gets paid to know. The more they listen, the better, it's bettern's you think."

THE BOSS: "It's better'n you think. There's some stuff known like the fruit of the poisoned bush, or something. If they grab the stuff after lisnen, it's out. They ain't allowed to do such naughty things no more."

PEANUTS: "Look, Boss, Should I come over? I think you need me."

THE BOSS: "Forget it, Peanuts. I'm fine, great. The boys is all with me—forget it, and say, you get another grand for the job you did yesterday. The D. A. will know his canaries can't eat lead, it's bad for their diet. Ha, ha, ha—that's pretty good, what?

PEANUTS: "OK, if ya says so, ya had me worried there for a bit...."

THE BOSS: "And listen, I want you should give a couple of yards to the Criminal Liberties Union. Deys the main outfit dat made tappin' a dirty business. Now we got a right to talk 'bout our private business, like good Americans should what the Constitution says they should."

PEANUTS: "Boss, dats what I call a good union —is it one of Dio's outfits?"

THE BOSS: "I don't care what outfit it is—they earn our t'anks. Take care of it. Ain't you got no 'preciation? Bye Peanuts, keep your nose clean."

PEANUTS: "Bye, Boss."

I may have been kidding when I wrote it, but actually that is the effect of the *Benanti* case. In other words, if we should, in violation of the law, listen to people dealing with narcotics or murder or anything else, we not only cannot use the testimony via the taps, but, as you know, the fruits of the poisonous vine as well, anything that develops

from that may not be used. If it is shown in preliminary examinations under the Supreme Court ruling, they have these voir dires when they cross examine everybody as to was there wire tapping and what did you learn and what did you find out —the law enforcing agency will just have to give up this very valuable instrument of detecting crime....

WHAT DO THE DISTRICT ATTORNEYS WANT?

... We felt that the district attorney should, and does welcome some reasonable restraint on his own judgment, because he might be so zealous about trying to convict somebody that he might go overboard, that he ought to have some restraining hand of the court who sits back and says, "What are you getting excited about? I will give you the order, or I won't give you the order."

I think the record shows where we have had strong laws restricting wire tapping, where we have operated for 20 years—people even investigated us—the State Legislature fully and clearly said we have never violated the right.

At the present time, law enforcement is in a precarious position as a result of the *Benanti* case, and I want to make it clear that I am not leveling any criticism at the Supreme Court. I bow with deep respect to its decisions. I am not here to say that therefore we should pass laws that stop this and stop the others. I am not talking about that at all. I am saying there is the decision; we recognize it as the supreme law of the land.

I say to the Senate and to the House that I think they ought to come to the help of the district attorneys of this country, whatever their names may be, county solicitors or prosecutors or county attorneys, that we need this right to fight crime.

We have said it and we say it again, that if you take away from us this instrument not only will we feel it strongly but the people whom we represent will have taken from them an instrument which is necessary in the enforcement of laws against crime.

So I say to you as humbly as I know how, as a law enforcing agent, I hope that it will not be too long before Congress considers a law, at least a limited law, taking out of the operation of 605 those areas, those states that have the type of laws that New York State has where the law enforcing agent can tap wires for a limited time on a showing of reasonable grounds that he has the basic evidence to believe that he will get evidence of crime if he taps a wire under the restraints which I have talked about under the Constitution of New York State and Sec. 813A of our Code of Criminal Procedure....

B. Summary of speech delivered at the 66th annual conference of The International Association of Chiefs of Police, Hotel Statler-Hilton, New York City, Sept. 29, 1959

The words "wire tapping" are ones which have evil connotations. If we had a word or term that meant the "scientific devices to combat crime" the very use of that term would make most people understand a lot more clearly what law enforcing people have in mind. Many well-meaning people who do not understand law enforcement problems are, to say the least, very careless about what they say when they deal with the problem of wire tapping. Everybody sort of likes to wrap himself around with the robes of Mr. Justice Holmes and Mr. Justice Brandeis and carelessly use the term "dirty business" when discussing the problem of wire tapping. I doubt whether even one per cent of those people have ever read the *Olmstead* case[1] where the words "dirty business" were used. The *Olmstead* case dealt with the situation where Federal officers in connection with some bootlegging case in violation of the statutes of the State of Washington tapped wires and on the basis of those unlawful taps, convicted the defendants. Those great Justices said that law enforcing agents should not violate the law in fighting crime. Nobody argues with that.

Wire tapping by law enforcing agencies with the proper safeguards does not mean that we are not very alert to civil liberties, with which, I am sure, all of us are very concerned. If time permitted, I can list a number of bills which the *District Attorneys* of this State introduced for the protection of the rights of defendants.

Let us get down to the crux of the problem. Why do District Attorneys and police officials favor the right to tap wires under certain conditions and with the proper safeguards of civil liberties? The answer is a simple one—we need this tool to fight crime.

Nobody knows more about the seriousness of this problem than the police and the District Attorneys. The crime syndicates and organized rackets have no limitations upon them as to what

[1] 277 U.S. 438, 48 S. Ct. 564.

instrumentalities they can use to further their nefarious activities. But in spite of this, Congress has been sitting on its hands and done nothing to correct the effect of the *Benanti* case, which was decided by the Supreme Court, in December, 1957. The *Benanti* case, in substance, holds that it is a crime for anyone to intercept and divulge a telephone conversation, and this is true even though it is done under the very restricted wire tapping law in the State of New York.

In other words, if we should, in violation of the law, listen to people dealing with narcotics or murder or anything else, we not only cannot use the testimony via the taps, but, as you know, the fruits of the poisonous vine as well, anything that develops from that may not be used. If it is shown in preliminary examinations under the Supreme Court ruling, under voir dire proceedings when defense counsel cross examine everybody as to whether wire tapping was used and what was learned from them and what was found out—the law enforcing agency will just have to give up this very valuable instrument of detecting crime.

Senate committees have acknowledged, with thanks, information given to them by District Attorney Hogan and myself which we got in a large measure through wire tapping. They have used that information to point up the dangers of organized crime and yet have done nothing to date to correct the effect of the *Benanti* decision.

Surely nobody can expect law enforcement agencies themselves to violate the law in the fight against crime. There may be countries in this world where the end used justifies the means. That is not an American or democratic doctrine. It is my fervent hope that when Congress re-convenes in January they will correct this situation.

There are those who, with vivid imagination, conjure up dire consequences that will result from the power to tap wires with a court order. Over 20 years of experience in New York State show that this is not true; over 20 years of experience in New York State show that facts are more reliable than fiction.[2]

Why do we need this right to tap wires with court order? Simply, to fight crime—modern crime —organized crime. Where is the sense or logic to say that those engaged in crime may use the telephone in furtherance of their nefarious operations. and we know that they do, without let or interference.[3]

There may be those that think wire tapping is a "dirty business", but who will gainsay the fact that murder, the narcotic racket, labor racketeers, extortionists and other criminal elements are not engaged in a far dirtier business. All we ask is the weapons with which to fight.

C. Answers to questions regarding the book, "The Eavesdroppers" (Portions of a letter addressed to Yale Kamisar, Professor of Law, University of Minnesota, dated November 27, 1959)

PROSECUTING ILLEGAL WIRE TAPPERS

... It must be remembered that it is very difficult for the most careful District Attorneys or Police Department to ascertain illegal wire tapping. It is a very surreptitious business and generally doesn't come to light. Many crimes are not solved but, of course, at least we know that the crime was committed. A person may be found murdered or premises found looted and then the police can get busy to see if they can discover the perpetrator, but there are no signs left if an unlawful wire tap is made and then taken off. Perhaps a law can be passed requiring telephone companies to report unlawful wire taps when they learn of it, instead of just taking off the tap.

Recently, in the early part of this year, in the month of February, 1959, we convicted two policemen for unlawful wire tapping. The names of the

[2] "The New York system of control has worked well for twenty years. It has had the overwhelming support of our people, as well as our highest State officers, executive, legislative, and judicial." A quote received by Edward S. Silver, September 2nd, 1959, from the New York State Joint Legislative Committee.

[3] "The underworld of today would rate Jesse James as a small-fry amateur. Crime has become big business, with campaigns planned and organized like operations in legitimate big business, with a structure of chief executives, fiscal departments, legal departments, public relations and the rest. Advantage has been taken of the most modern methods in business organizations, swift communications, swift transportation. Advantage has also been taken of lagging organization of government. Law enforcement systems operating along lines good enough for 1851 or 1901, are too slow for the swifter pace of the times we are living in." and "If we are in dead earnest in insisting that organized crime be defeated, we should lose no time in putting this powerful weapon, i.e., wire tapping, into the hands of the officers we depend on to do the necessary work. Experience in the states where interception of telephone talks by law officers is allowed proves that the liberties of decent citizens have been in no way interfered with or injured." Quoted from a speech given before the American Bar Association, Sept. 19, 1951, by the Hon. Robert P. Patterson, Federal Judge and former Secretary of War.

policemen are Joseph Weiner and Norman Connolly. We also tried a police inspector in connection with the situation but after a disagreement, we came to the conclusion that we could not possibly have a successful prosecution. That we can go after a situation when we know about it, there is no question.

Also recently, my colleague, Frank Hogan, in New York County, convicted a Mr. Broady on an extensive wire tapping operation. Not so long ago, the Supreme Court denied certiorari in his case.

REGARDING ALLEGATION OF "EASY" ORDERS.

2) You refer to pages 45, 46–47 and 67 [of the book]. The gravamen of Dash's charge, if one may call it that, is that there is no problem in getting wire tap orders and therefore the safeguard, as you put it, is illusionary.

This is completely wrong. We do not make applications for wire taps unless we feel we are legally entitled to do it. At the bottom of page 47, Dash says, "All that is required is a statement that there is reasonable ground to believe that evidence of crime may be obtained by interception of conversations over a specified telephone. An example of a New York wire tap application follows:".

If you will read the application, you will see that we do not just say we have reasonable grounds, but actually set forth detailed facts indicating on what our beliefs are based. He answers the charge himself.

During the legislative inquiry, we submitted many affidavits showing how we set forth the facts on which our belief is based. Also, if you look at Sec. 813a of the Code of Criminal Procedure, you will see that the judge may also ask any questions he desires before he signs the order.

ERRONEOUS STATEMENTS OF FACT AND INNUENDOS

Here, as throughout the book, there is constant nnuendo set forth without any facts. To pit a former disgruntled Assistant of Hogan's office who was convicted of contempt of court against an outstanding tested prosecutor like Hogan, hardly deserves comment.

As I told Dash personally a few weeks ago, he wrote a "thriller" but not an objective study of the wire tapping situation which I thought the book would be....

... Now let me give you some quick comments—on page 39, where Dash says the law enforcing agencies say they might just as well go out of business without wire tapping. It is not so. It means that we'll not be able to solve many crimes and that the underworld will have a field day in their operations. We wouldn't go out of business if they took our own telephones away but we would have a rough time.

On page 41, Dash states that subsequent to the Celler committee, I set out to disprove Justice Douglas' statement, that I polled all the District Attorneys in the State of New York and offered this evidence to the Joint Legislative Committee to Study Illegal Interception of Communications, created in February 1955.

The fact is that the New York Joint Legislative Committee sent out this poll. I merely got a copy of the figures. The Legislative Committee did not report on them, and I read them into the record so that the figures would be there. Whether the Committee didn't publish the figures because it didn't prove anything to them, I do not know, but this was not my poll but the Legislative poll.

On top of page 43, he states, "In the meantime, however, as we shall see later, police were engaged in wholesale illegal wire tapping, during the Harry Gross era and afterward, and private detectives were outdoing one another in illegal wire tapping for worrying spouses, competing business, and political factions.

Investigation did not show that the police were engaged in wholesale illegal wire tapping. There are only *very few* illegal wire taps uncovered by police.

This is the kind of thing that I feel is so unjust in Dash's book.

On page 47, Dash says, "Silver and Hogan deny that applications for wire tap orders are perfunctorily heard by judges of the Court of General Sessions. They also deny that any tapping has been done out of their offices without the authorization of a court order." He does not say that the statement is not correct. The fact is that it is, but he leaves it up in the air with an innuendo that it is not. That is terribly unfair. In all of the 20 years of investigation, not one situation was unearthed where the District Attorney tapped without an order....

... On page 71, Dash states that the District Attorneys are in favor of leased lines so that we can "maintain a minimum of monitoring equipment". He goes on to say, "This type of wire tap procedure is preferred by district attorneys and

police, since it only requires them to maintain a minimum of monitoring equipment and aids them in policing their own wire tapping crews. If all the wire tapping were being done out of a central monitoring headquarters, it would be easier to spot illegal wire tapping done by law-enforcement officers throughout the city". One cannot tell from his book whether he thinks this is a good thing or not. He just leaves it up in the air. I thought his inquiry was to determine some of these things.

Again, on page 75, in the first paragraph, he says how effective wire tapping is in keeping in touch with what the real underworld is up to. Here again, he seems to think it is a good thing but leaves it up in the air. He seems to be afraid to express an opinion.

What he says at the bottom of page 82 and the top of page 83 is just a lot of more innuendo without any proof at all or any basis to prove what he says. He seems to indicate that the District Attorneys do not care about prosecuting unlawful wire tapping and just look the other way. This is completely contrary to the fact and the truth. By prosecuting *unlawful* wire tappers we only emphasize that it is good for *lawful* wire tapping. His conclusion is completely erroneous but as I pointed out above we cannot prove what we do not know about.

NOTES

Minnesota County Attorneys Meet

The Minnesota County Attorneys' Association held its annual conference in St. Paul, on December 29 and 30, 1959. The host was Ramsey County Attorney William Randall. The program themes were Criminal Negligence and Trends in the Criminal Law. Participating in the program were Lyman Brink, Si Weisman, Godfrey Nelson, Dr. Harold Wright, Senator Harold Schultz, Professor Maynard Persig, Professor Yale Kamisar, Robert Gillespie, Ben Grussendorf, James Manion and Robert Mattson. Honored guests included, Mayor Joseph Dillon, Governor Orville I. Freeman, William Williams, Roy T. Nunan, Ralph Keyes, Harry Sieben, Chief Justice Roger Bell, Attorney General Miles Lord, Keith Mossman and Will C. Turnbladh.

Officers for 1959 in charge were President Einer C. Iversen, Vice-President Attell P. Felix, and Secretary-treasurer George M. Scott.

Actual Murder by Motor Case

In a recent case in Stark County (Canton, Ohio), State of Ohio vs. Ellis Patterson, Jr., et al., the defendant Ellis Patterson was convicted of second degree murder. The defendant was alleged to have raced at high speed within the corporate limits of Canton, Ohio, in order to settle a barroom bet as to whose Buick Roadmaster was the fastest. It was not a common law murder conviction, but came under the statute "whoever purposely and maliciously kills another". The Court instructed the jury that they must find an intent to kill someone other than the defendant, and that the intentional killing must be malicious. This may be the first conviction of a person based on a finding of fact of a malicious purpose and intent to kill by an automobile driver, where the victims were unknown to the defendant. Norman J. Putman, Prosecuting Attorney of Stark County, handled the case for the State.

SUPREME COURT JUSTICE TOM C. CLARK AND WILLIAM RANDOLPH HEARST, JR. TO SPEAK AT MID-WINTER MEETING OF NATIONAL DISTRICT ATTORNEYS' ASSOCIATION IN MIAMI BEACH, MARCH 17, 18, and 19; HARRY S. TRUMAN TENTATIVE SPEAKER

The National District Attorneys' Association will hold its mid-winter meeting at the Americana Hotel in Miami Beach, Florida, March 17, 18 and 19. Supreme Court Justice Tom C. Clark and William Randolph Hearst, Jr., who is chairman of the President's Committee on Traffic Safety, will be

featured speakers, along with ex-President Harry S. Truman, who has tentatively accepted an invitation to speak. At the time this notice is going to press, the tentative schedule provides for a meeting of the Executive Board of the Association on Wednesday evening, the 16th of March.

"Murder by Motor" will be the featured theme. The program is all-inclusive on the problems of traffic safety, and the method by which the prosecutors of the country can help in cutting down the deaths, injuries and property damage on our highways. National experts on traffic safety, prosecution of traffic offenders, use of scientific evidence in traffic cases, etc., will participate in the program.

There is being contemplated a special meeting of the Presidents of the State Prosecutors Associations which will be announced later. This is in furtherance of the objective of having a Federation of State Associations within the National District Attorneys' Association, whereby all prosecutors who are members of state associations will also be members of the National Association.

State Prosecutors Organizations

(A compilation of the officers of state prosecuting attorneys' associations was made by Edward S. Silver, President of the National District Attorneys' Association, in order to facilitate the interstate cooperation of prosecutors. The complete list has been forwarded to the respective states having organizations of prosecuting attorneys and is reprinted here.)

State	*President*	*State*	*President*
Alabama	George Johnson. Circuit Solicitor, Athens, Ala.	Michigan	J. Franklin Huntley, Prosecuting Atty., Hastings, Mich.
Arizona	Harry Ackerman, County Atty., Tucson, Ariz.	Minnesota	Einer C. Iverson, County Atty., Waseca, Minn.
Arkansas	Frank Holt, Prosecuting Atty., Little Rock, Ark.	Mississippi	H. T. Carter, District Atty., Columbus, Miss.
California	Vern B. Thomas, District Atty., Santa Barbara, Calif.	Missouri	Thomas F. Eagleton, Circuit Atty., St. Louis, Mo.
Colorado	Matt J. Kikel, District Atty., Pueblo, Colo.	Montana	Jean A. Turnage, County Atty., Polson, Montana
Connecticut	Lorin Willis, State's Atty., Bridgeport, Conn.	Nebraska	Elmer Scheele, County Atty., Lincoln, Nebr.
Florida	Richard E. Gerstein, State Atty., Miami, Fla.	Nevada	Roland W. Belanger, District Atty., Goldfield, Nev.
Georgia	Walton Usher, Solicitor General, Guyton, Ga.	New Jersey	Guy Lee, County Prosecutor, Woodbury, N. J.
Idaho	Robert McLaughlin, Prosecuting Atty., Mountain Home, Idaho	New York	Abraham Isseks, District Attorney, Middletown, N. Y.
Illinois	Lloyd Middleton, State's Atty., Pinckneyville, Ill.	North Carolina	Lester V. Chalmers, Jr., District Solicitor, Raleigh, N. C.
Indiana	Patrick Brennan, Prosecuting Atty., South Bend, Ind.	North Dakota	August Doerr, State's Attorney, Napoleon, N. Dak.
Iowa	Donald L. Nelson, County Atty., Nevada, Ia.	Ohio	John T. Corrigan, Prosecuting Attorney, Cleveland, Ohio
Kansas	John W. Plummer, Newton, Kansas	Oregon	Winston L. Bradshaw, District Attorney, Oregon City, Ore.
Kentucky	W. Major Gardner, Commonwealth's Atty., West Liberty, Ky.	Pennsylvania	F. Porter Wagner, District Attorney, Danville, Pa.
Louisiana	J. St. Clair Favrot, District Atty., Baton Rouge, La.	South Carolina	Julian S. Wolfe, Solicitor, Orangeburg, S. C.
Maryland	Saul A. Harris, State's Atty., Baltimore, Md.	South Dakota	William F. Clayton, State's Attorney, Sioux Falls, S. D.

State	*President*	*State*	*President*
Tennessee	Clarence Blackburn, Dist. Atty. General, Knoxville, Tenn.	Virginia	J. Wilton Hope, Commonwealth's Atty., Hampton, Va.
Texas	Jack Hightower, District Attorney, Vernon, Tex.	Washington	John Panesko, District Attorney, Chehalis, Wash.
Utah	James P. Alger, County Attorney, Price, Utah	Wisconsin	Dexter Black, District Attorney, Racine, Wis.
Vermont	Theodore G. Corsones, State's Attorney, Rutland, Vt.	Wyoming	Jack F. Lewis, County & Pros. Atty., Cody, Wyo.