The Wiretappers

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V. Listening In With Uncle Sam

THE RECENT movie "Walk East on Beacon," based on an article by J. Edgar Hoover and produced in cooperation with the Federal Bureau of Investigation, proved once again that stealing United States military secrets does not pay. In the process, the film also offered vivid testimony as to the technical ingenuity of the FBI, which has apparently adapted every sort of modern device to the needs of scientific detection.

Still cameras hidden in auto spotlights traced the movements of Russian agents. Radar located a boat they were using. At an indoor rendezvous a concealed microphone and a camera which needed no light televised ensuing events directly to FBI headquarters. At outdoor meetings movie cameras with telescopic lenses substituted for television, recording lip movements for later translation at a school for the deaf. Nowhere in the picture, however, was there the slightest suggestion of wiretapping.

Generally, the subject of FBI tapping was avoided by portraying the Russian agents as too smart to use a telephone. Still, an occasional well-timed tap would have simplified the FBI's task—and incidentally shortened the picture—a good deal.

IN THE LIGHT of periodic statements by various Attorney Generals and by Hoover himself, all admitting that FBI agents did tap telephone wires, the obvious avoidance of the practice in "Walk East on Beacon" may seem somewhat strange—at least until it is recalled that these periodic official admissions have only been made after some public disclosure of Federal wiretapping. Each admission has been quickly coupled with a claim that the government taps only in a limited number of especially serious cases. Federal investigative agencies are always unhappy about disclosures of their wiretapping activities, partly because they don't want their current targets to become suspicious, but mainly because they fear the public reaction to this particular type of invasion of privacy, and because they have not been really sure of their right to tap since the passage of the Federal Communications Act of 1934.

Today the FBI is the only Federal agency that openly admits to any wiretapping, and it insists that the practice is limited to cases of kidnaping and of espionage, sabotage, and other "grave risks to internal security." But if it is a fact that FBI regulations do restrict tapping to certain "grave" cases, then it must also be a fact that the question of what is grave and what isn't is often left to the discretion of individual agents and officials, some of whom seem to cruise over a wide latitude of judgment.

There is further evidence that other Federal agencies, including the Central Intelligence Agency and various military intelligence units, have been avidly tapping away. J. Edgar Hoover, who should know, has said that his is not the only Federal agency employing wiretapping. While the others strongly deny the practice, some will frankly admit that they would deny it even if it were true; others admit that they would not hesitate to tap "in the interest of national defense."

'Never Heard of It!'

Elsewhere in Washington, official denial of wiretapping is even more emphatic. The Treasury Department's Alcohol Tax Unit, Narcotics Bureau, and Bureau of Internal Revenue all claim they haven't tapped wires since 1939, although they do say that they gladly accept wiretap information contributed by the FBI or local police.

Sometimes private professional tappers are hired for specific assignments. Sometimes the FBI or local police are requested to do the tapping. But generally, Federal wiretapping is done by a regular member of the agency in question, a man whose skill is the result of former telephone-company em-

STRAIGHT TALK

(Words of an Assistant United States Attorney in a mail-fraud case, as quoted by Supreme Court Justice Frank Murphy in his dissenting opinion in a 1942 wiretap decision.)

"I am telling you before we go any further that there is no use of us kidding each other. We have watched your telephone; we have watched all these lawyers' telephones; we have had rooms tapped. We know what is going on. We are not stabbing in the dark. If you want to hear your voice on a record we will be glad to play it. . . . You have been in this for so many years that we feel that in order for you to help yourself, since you are considered one of the principals here, it would be wise for you to indicate to us whether you intend to tell us everything and come clean. . . . That is straight talk."

ployment or of training at the FBI Police Academy or at one of the Treasury Department schools that have taught wiretapping in Detroit and New Orleans.

Hoover's Modesty

The FBI, which probably does more wiretapping than any other Federal agency, is at constant pains to depreciate its use of the technique. J. Edgar Hoover's most recent public statement on the subject of tapping was made before a House appropriations subcommittee early in 1950, when the FBI director said his agents were tapping "less than" 170 telephones at the moment. Assuming five conversations over the average phone each day, 170 telephones would carry more than 300,000 tapped conversations a year. Such a figure is merely a guess, but it compares favorably with the concurrent testimony of Mrs. Sophie Saliba, head of the record-file room of the New York office of the FBI. Mrs. Saliba disclosed that more than thirty-five hundred disks of FBI-tapped conversations had been destroyed in 1949. Since a disk can easily hold five telephone conversations, probably these disks held at least 17,500 conversations—all obviously the work of the New York office alone.

As usual, the 1950 statements of Hoover and Mrs. Saliba followed a public disclosure of FBI wiretapping—in this instance as an outgrowth of the Judith Coplon espionage case. When Miss Coplon, a Justice Department employee, was arrested in New York in March of 1949, her purse was found to contain notes lifted from twenty-eight detailed FBI reports. In her Washington trial later that spring, the notes were introduced as evidence that she had stolen government secrets.

Miss Coplon's attorneys, however, demanded that the full texts of the pilfered FBI reports be introduced, so that the jury could determine just how weighty the information taken by Miss Coplon really was. Reluctantly, Judge Albert Reeves agreed. The full reports were introduced on the twenty-eight FBI cases from which Miss Coplon had taken extracts. A quick review showed that wiretap information was included in fifteen of the twenty-eight reports. In four of these fifteen, the FBI had tapped home telephones; in the remaining eleven, the Bureau's information came from taps on the lines of foreign embassies and consulates and of pro-Soviet organizations.

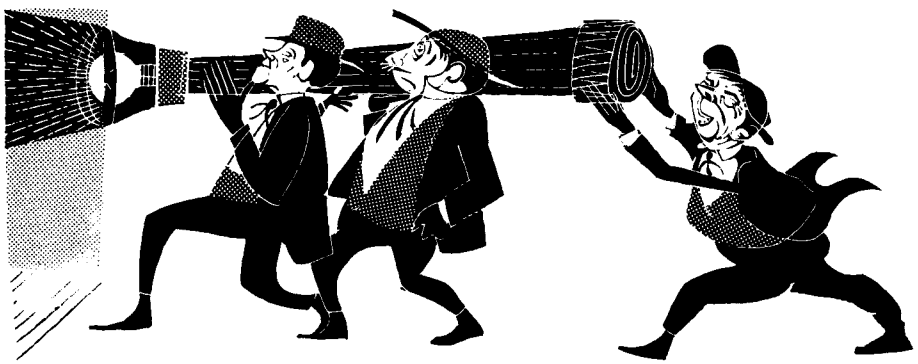
At Miss Coplon's Washington trial, her attorney, suspecting exactly this sort of widespread FBI use of wiretap information, demanded that Federal agents be called for questioning on the possible use of tapping against his client. He felt that under Section 605 of the Federal Communications Act, evidence gained through wiretapping would be inadmissible in court. Justice Department prosecutors called the defense demands "a fishing expedition," and Judge Reeves concurred. On June 30, 1949, without any determination as to whether the government had obtained its evidence through wiretapping, Judith Coplon was convicted of espionage and sentenced to a maximum of ten years in prison.

In December, 1949, however, prior to a second Coplon trial in New York on conspiracy charges, Judge Sylvester Ryan did allow defense attorneys to examine the sources of the government's evidence. Quickly the full story came out. Forty FBI agents had tapped the telephones in Miss Coplon's Washington apartment, in her office, and in her family's home in Brooklyn. They had tapped not only before her arrest in March but for two months thereafter. On July 12, after the Washington conviction, they had resumed the tapping and had kept at it until November 10. On the last date, the Coplon tap was discontinued by a directive (dated November 7) from Washington, "in view of the immediacy of her trial." The directive, which referred to the tap by the code name of TIGER, also ordered that all recordings be destroyed. At the end was written: "O.K.—H," and under that: "This memorandum . . . to be destroyed after action is taken."

Judge Ryan denounced the "unlawful activities of the wiretappers," and added: "Section 605 . . . not only forbade such interception but rendered its contents inadmissible as evidence and made . . . the use of divulgence of information so obtained a felony . . . This is still the law."

However, the judge ruled that the FBI had a case against Miss Coplon completely aside from the wiretap evidence. On March 7, 1950, just a year after her arrest, she was convicted and sentenced to an additional fifteen years in prison.

IN DECEMBER, 1950, the New York Circuit Court of Appeals reversed the conviction of the lower court, partly because it felt the government had yet to prove its evidence was not the product of unlawful wiretapping. Nevertheless, the court, pointing out that



Miss Coplon's "guilt is plain," refused to dismiss the indictment and suggested a retrial.

Six months later the Court of Appeals for the District of Columbia also passed judgment on the conviction of its lower court. While upholding Miss Coplon's conviction, it remanded the case to the lower court for hearings to determine whether her conversations with her attorney had been tapped—as the report of round-the-clock FBI tapping until November 10 certainly indicated. Such tapping, the court held, would have constituted a grave violation of Miss Coplon's Constitutional rights. "No conviction," the decision stated, "can stand, no matter how overwhelming the evidence of guilt, if the accused is denied effective assistance of counsel."

Miss Coplon remains free on bond. To date, the FBI tapping has merely served to protect a woman in whose purse classified government information was found. The evidence also served to show how far the FBI's tapping practices had extended in invading Constitutional rights and in trying to deceive the courts.

Some 'Routine' Taps

Today, reports persist that the FBI maintains a constant tap on the telephones of all Iron Curtain embassies. Whether the telephone company, always uneasy about wiretapping, has actually co-operated to the extent of stringing these taps into a central switchboard makes little difference. It usually co-operates. Quite recently, when a company repairman found a tap installed at the basement terminal box in Washington's National Press Building, he reported his discovery to the company. "Forget it," he was told. "That's on the Russian news agency, Tass, upstairs." Earlier, another company employee had surprised two men at a terminal box in an apartment building where a foreign official was staying. When he asked for their company passes, they ran. Later his boss called him in and introduced the two, both FBI men.

In the field of domestic crime, the FBI insists it taps wires only in kidnaping cases, although sometimes it expands this statement to include all cases "involving life and death." But here again, at least some agents of the FBI seem unable to stick to the Bureau's defined limits. In 1941, FBI men were found to be tapping the telephone of union leader Harry Bridges in the Edison Hotel, New York, in the course of deportation proceedings against him. In the same year, it was reported that the FBI had tapped telephones at Miami police headquarters during a corruption inquiry—and incidentally had had its own wires tapped in return.

In 1948, John L. Lewis, United Mine Workers president, accused Attorney General Tom Clark of using FBI men to tap UMW telephones. "Surely," said Lewis, "old Tom hasn't forgotten the day he sent one of his gumshoe men in to tap our telephones in our office and our boys threw him out on his ear. They caught him right at the control box in the basement, tapping her up, and they threw him out." Clark answered that no tap was necessary because Lewis roared so loud.

LESS THAN two years ago, a United Auto Workers union official in Detroit discovered an even more arbitrary reason for wiretapping by local FBI agents. The official had been investigating the series of bombings and shootings that had destroyed UAW property and had wounded UAW leaders Walter and Victor Reuther. When the FBI moved into the case, the Federal agents refused to pool their energies with the UAW man, perhaps because he had once exposed an FBI informant who was also active in labor-espionage work. They could have got the UAW man's information by simply asking for it. Instead, the UAW investigator surmised, the FBI agents preferred to tap his telephone line and find out in that way what he knew.

Suspecting such a tap, he complained to the telephone company. There an official would only answer that the requests of certain agencies "had to be complied with."

FBIdes of April

On the last day of March, the UAW investigator decided to find evidence that the FBI was tapping his line, a fact of which he was so sure that he bet a fifth of whiskey on it. From his Detroit office, he telephoned a friend and reported that a certain hoodlum was going to hold a celebration, in company with all those involved in the Reuther shooting, at 11:30 that evening in an east-side tavern. The friend, who had been coached on what to say, agreed that "Plan A" would be best, and the two worked out certain complex signals. On his other office line, the UAW investigator then called a second friend upstate, who was in on the act, to be told that another hoodlum suspected in the Reuther case had just left for Detroit. The 11:30 meeting was again discussed along with "Plan A." Then the UAW man went home, from his home phone called a third friend, and again delivered his tavern information and discussed "Plan A."

Shortly afterward, his first friend showed up. Together, they painted crude signs on paper, rolled up the sheets, and headed for the tavern.

The tavern was hot and stuffy, but two young men sat at the far end of the bar in their coats—as if to hide shoulder holsters. The UAW investigator recognized one as an FBI agent; the other he was to meet later at the FBI's Detroit headquarters. The clock above the bar ticked past 11:30 and then reached midnight. It was April 1.

Suddenly the UAW man and his companion unfurled their hand-painted signs. Each was inscribed with the same two words: "APRIL FOOL." To date, the UAW investigator is not sure which he enjoyed more—the startled expressions on the agents' faces or the bottle of whiskey he collected without argument the following day.

Outside the FBI, wiretapping on the Federal level is a somewhat disorganized business. No other government agency seems to have any set formula

or any set method of operation. The Central Intelligence Agency, the Office of Naval Intelligence, and Army G-2 (Intelligence) all "do quite a bit of tapping," according to Kenneth Ryan, a professional tapper who practiced his trade with ONI's "ferret" squad during the war and who has also worked with other Federal agencies. "But mostly," Ryan says, "they tap on their own personnel or on each other."

A wartime official in one Federal investigative agency recalls requesting the Washington telephone company to put a tap on someone he had under surveillance. A week later the company's liaison man showed up with a sealed envelope of transcribed conversations. Through a strange bit of confusion, however, these turned out to be not the desired monitoring but transcriptions, made for another investigative agency, of telephone conversations between the official himself and members of his staff.

THE CIA has also offered support for Ryan's statement. Within the agency, employees' telephones have been monitored for loose talk. And there is evidence that home phones of new employees are also tapped. Recently, when such an employee was about to be sent overseas, he looked out his kitchen window one morning to see a man tracing his "drop wires" into the terminal box on a nearby telephone pole. Since he had not planned to tell anyone his overseas destination anyway, the employee was merely amused.

The Office of Naval Intelligence is also busy monitoring the lines of Navy personnel, although its total wiretapping activities are probably somewhat diminished since the days when the ONI used to lend its investigative facilities to the State Department. In those days, with a staff including men like Kenneth Ryan, ONI reportedly even found time to tap the phones of Drew Pearson when the columnist began printing items unfavorable to the Navy. Pearson is said to have rewarded ONI's efforts to learn his sources with a wide variety of false leads.

Army G-2 is perhaps the most frank about its wiretapping practices. It admits it would tap "without hesitation in any case where the national security was involved." A spokesman points out that Secretary of the Army Frank Pace has publicly stated his opposition to wiretapping. "But," he adds, "Frank has never sent any directive on the subject to G-2, and I hope he never will." The spokesman further admits that G-2 has monitored all Pentagon lines from time to time, and will continue to do so. "The only way to prevent wiretapping leaks," he says, "is not to say anything over the telephone. These smart boys think they're talking in code, but a child could break it after three conversations."

Over in the Treasury Department, tapping is vehemently denied by all investigative branches, although most officials will admit that Treasury once led the Federal field in wiretapping. In the days when Henry Morgenthau served as Secretary, the Department taught wiretapping at its schools, and its Alcohol Tax Unit maintained a highly efficient laboratory where wiretap-detection devices were developed. Morgenthau believed wholeheartedly in wiretapping: "We do not propose to be sissies," he once said. But his own concern with the practice apparently backfired. In his last years as Secretary at least one Treasury expert had a full-time assignment checking for taps on Morganthau's office line and on his home phones in Washington and New York.

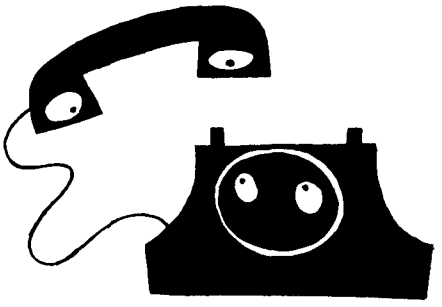
Despite present Treasury denials of wiretapping, alcohol-tax agents still work in their electronics laboratory. Dwight Avis, head of the ATU, is still known to his associates as a top expert. Sometimes the temptation to tap must be almost too much for the frustrated agent stymied on a tough assignment.

Regular Federal agencies have also been known to tap the phones of employees. In 1933, Department of the Interior officials used extension phones to intercept conversations—a form of tapping that was halted abruptly when Harold Ickes, then Secretary, learned of it some eight months later. In 1946, when Fiorello La Guardia took over the directorship of UNRRA, the former Mayor of New York hired professional wiretappers to check on a report that bribes were being taken in letting contracts. La Guardia fired underlings revealed to be guilty; but first he called them in, played back the incriminating conversations, and in his inimitable style told the culprits exactly what he thought of them.

Congressional Committees

From time to time, various Congressional committees, not to be left behind, also have found it expedient to listen in on telephone lines. The House District Committee once used Washington police to tap phones in the Hamilton Hotel during an investigation of milk bootlegging in the District of Columbia. The Kefauver Committee used wiretap information inadmissible in Federal court in its crime investigation. Most recently, the House's King subcommittee investigating tax scandals hired a wiretapper named William Mellin, who worked for the committee in December, 1951, as a "technical investigator." Mellin has never claimed any vocation but wiretapping.

THUS the pattern of Federal wiretapping emerges. As many of the details are missing as the agencies involved have been able to conceal. But enough has been uncovered to trace a general structure. It is a disjointed structure and not pleasant to look at—especially since it reveals men nervously defying a law they are supposed to be enforcing.



VI. Cops and Robbers, Doxies and Dicers

WHEN POLICE arrested the young margarine heir Minot F. ("Mickey") Jelke and his associates last summer on charges of maintaining a vice ring, the New York Vice Squad could hardly credit its triumph to the kind of hard, plodding investigative work that is generally the mark of a good police force. After receiving a tip, police merely installed a tap on the playboy's apartment telephone, and in comparative ease recorded calls until they had enough evidence to move in and make arrests.

The approach was not new. In each recent year, New York police have used wiretapping in some three hundred criminal investigations. One in 1948 led to the conviction, on charges of "loitering for the purpose of committing an act of prostitution," of one Nancy Fletcher Choremi. This case provoked the New York County Criminal Courts Bar Association into an inquiry on private and official tapping practices. The Association's report urged an FCC investigation, which never materialized.

The tapping in all these cases was specifically authorized under a New York State statute which permits police wiretapping, subject only to the necessity of obtaining a court order. The technical legal question—whether state laws authorizing wiretapping are Constitutional—has just been settled by the Supreme Court: Wiretap evidence is admissible in state courts.

STATE LAW or no state law, local police in every major city in the United States are today tapping telephone lines—from Boston to Los Angeles, from Chicago to Miami. While Federal agents professedly tap only in the most serious crimes, local enforcement agencies seem to do their tapping mainly in the fields of gambling and prostitution, where incriminating evidence is recorded side by side with the conversations of many who may hardly be considered as criminals, where publication of the recordings can thus subject the innocent to extreme embarrassment, and where secrecy can open the way for corrupt police to blackmail the guilty.

State and local police can afford to wink at the Federal statute against wiretapping, in view of the U.S. Department of Justice's well-known reluctance to prosecute even private wiretappers. But there is another reason why police have carried tapping so much further than Federal agents. Kenneth Ryan, a tapper with the New York police for twenty-one years, has said of his trade: "It's just a time-saver; that's all it is." In Detroit, Inspector Clayton Nowlin of the Vice Squad agrees: "A lot of policemen are lazy," he says. "You can get the information you need if you just go out and develop it. But some of the boys would rather sit in an easy chair with the earphones on."

Denials and Euphemisms

Laziness must be the answer, for local police are well aware of the extralegal and unethical nature of wiretapping. When questioned, local enforcement officials will try, almost universally, to deny the practice. A reporter who called the New York County District Attorney's office recently was given a grudging admission of wiretapping only after he mentioned the presence on the D.A.'s staff of a