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WIRETAP ARRESTS REPORTED RISING

U.S. Aide Tells Bar Group Taps Helped Convict 72

By FRED P. GRAHAM

CHICAGO, Feb. 8 — Attorney General Richard G. Kleindienst told the leaders of the American Bar Association today that the Nixon Administration's use of wiretapping against organized crime had resulted in more than 800 arrests and 72 convictions in the last two years.

He said that more convictions could be expected soon.

Mr. Kleindienst also disclosed that the Justice Department's use of court-approved eavesdropping increased rapidly in 1970. He said that in 1969 and 1970 the department obtained 253 court approvals for eavesdropping, of which 45 were extensions of authorizations that had expired.

State Laws Urged

Mr. Kleindienst's report came shortly before the bar association's house of delegates approved electronic surveillance standards that encourage states to adopt laws similar to the 1968 Federal statute that permits court-approved eavesdropping.

The bar group voted down three proposed amendments by its criminal law section that would have urged states to place tighter restrictions on police wiretapping than are contained in the Federal statute.

At present, 12 states authorize their police to obtain court approval for eavesdropping, but others are expected to enact laws patterned after the model approved today by the A.B.A. The states that have wiretap laws are Arizona, Colorado, Florida, Georgia, Maryland, Massachusetts, Minnesota, New Jersey, New York, Oregon, Rhode Island and Wisconsin.

The adoption of the eavesdropping standards today meant that the A.B.A. has now issued 16 detailed sets of recommendations over the last five years to guide states in upgrading various aspects of their criminal laws.

The A.B.A.'s standards closely parallel the Federal Law, which permits the police to obtain court approval to use listening devices in a wide range of criminal cases. If the procedures are followed the tapped conversations can be used in court.

Samuel Dash, chairman of the bar association's criminal section that sought to water down the surveillance rules, told the group that Mr. Kleindienst's report indicated that the Nixon Administration was using eavesdropping in criminal cases "with restraint." Neither the new standards nor Mr. Kleindienst's report deal with the Justice Department's controversial use of eavesdropping without court approval against radical domestic groups.

Charity or Business?

Mr. Kleindienst said that 163 surveillance orders had been obtained for use against gamblers, 58 for use in narcotics cases, 21 in loan sharking investigations, and the rest in investigations of various crime syndicate operations.

Meanwhile, the bar association has a legal problem of its own.

The Internal Revenue Service is questioning whether the operation of the association's combined mutual insurance program and educational endowment fund satisfies the Federal tax laws.

The dispute is expected to serve as a test case affecting many organizations that combine low-cost insurance coverage for their members with tax-exempt charitable and educational funds. If the bar group loses, all of these plans would probably lose their tax-exempt status, and their millions of dollars of annual charitable contributions could be taxed by the Government.

In the case of the A.B.A., its 25-year-old American Bar Endowment offers bar association members life, medical and disability insurance. Each insured member agrees to donate to the endowment fund any profits from the mutual insurance program that otherwise would be returnable to him as dividend payments.

The endowment has distributed about \$8-million over the years, including \$1.5-million last year. Most of the money goes to the American Bar Foundation, a research organization. Lesser amounts go to the A.B.A.'s Fund for Public Education, which finances various legal education projects.

About two years ago the

I.R.S. notified the endowment fund that it had decided the fund was not a charitable organization but an insurance business. The notice said that the policyholders' dividends should not be deductible as charitable gifts but should be considered as income upon which the policyholders should be taxed.

The Bar endowment fund president, William E. Sutherland, a Washington tax lawyer, filed an appeal to the Commissioner of Internal Revenue, Randolph Thrower. Mr. Sutherland and Mr. Thrower were law partners before Mr. Thrower entered public service.

Richard S. Breiner, administrator of the endowment fund, said today that the I.R.S. appeared to have selected the lawyers' fund as "a test case." He said, "they're trying to set a precedent" to tax the money flowing into many programs of this type.