

September 12, 1971

Dear Rep. Hawks

In response to our telephone conversation on Thursday, here is an outline of the Lenox murder case and the facts concerning the refusal of Attorney General Phil Canale to accept jurisdiction of the case.

Enclosed also are clippings of stories I wrote concerning the ruling of Circuit Judge W.W. Brown of Holly Springs, Miss., in which he cited Tennessee statutes clearly giving Tennessee and specifically, Shelby County, jurisdiction in these type of cases.

I personally believe there are two legitimate questions raised by the attorney general's actions that are within the legislative mandate of your committee on government operations:

- 1) when elected legislators such as yourself go to Nashville to pass statutes that will not only clarify the law for law enforcement agencies--the attorney general's office as well as the sheriff's office--but will enable them to more effectively protect the citizens of their constituency, is it proper for a local official, such as Mr. Canale, to pick and choose the laws he wants to follow, and disregard those laws and statutes that duly elected legislators worked long and hard to pass?
- 2) How safe, how secure, can the citizens of Shelby County feel if they know they can be abducted by gunpoint at the front door of their homes in Shelby County, whisked across the Tennessee-Mississippi line only a few miles to our south, and be murdered, ~~if~~ especially if they know that one of the chief elected law enforcers of the county, Atty. Gen. Phil Canale, will not only shun jurisdiction to try their tormentors, ~~but~~ will resort to obscure case law stating only legal presumptions, and avoid enforcement of legally passed statutes by the State Legislature?

**HISTORY:** On March 10, 1970, George T. Lenox, Memphis financier and Collierville resident, left his home on Holmes Road near Byhalia Road at about 6 a.m. His daughter, Miss Martha Lenox is believed to have been the last person to have seen him alive as he drove his gold and black Cadillac down the long driveway to Holmes Road. She saw his car come to a stop and that there were some men and another vehicle parked outside the front wall of the home near the open driveway.

About 9:30 a.m., the same date, Lenox's body was found about three miles away from his home, on Byhalia Road about 1.8 mile south of the Tennessee-Mississippi line. He had been shot either two or three times in the head. The Cadillac ~~was~~ faced South.

A Mississippi resident, J.W. Hale, who commutes to Memphis for work every day, said he passed the spot where two gold and black Cadillac were parked to the side of the road. This was between 6:15 and 6:30 a.m. on March 10. A man was outside of the Cadillac, but Hale could not see him because he was leaning over looking into

Later, Hale said the car he was traveling in as a passenger proceeded north on Byhalia and turned west onto Holmes, a Black and Gold Cadillac sped by heading west. The Cadillac forced the other car off the road, Hale said.

In September, 1970, an Oklahoma ex-convict--one reputed to be linked with the so called "Dixie Mafia" was arrested in Monroe La. after a shoot-out with two Louisiana law enforcement officers. He wounded both officers but was apprehended after a chase and held in the Monroe, La., jail. While in custody, he confessed to the slaying of Lenox, naming George Sammons of Memphis and a Nolan Ray "Fats" Williamson of Greenville, Miss., as the payoff men. They promised him \$40,000 for the ~~hit~~ hit, but they only paid him \$15,000. This was the reason he was confessing, the man said.

His name--Bobby Joe Fabian.

In September, there had already been an announcement by the Attorney General's office that the case was a "Mississippi case." Yet, Inspector Dan Jones of the Shelby County Sheriff's office went to Monroe and talked to Fabian. He elicited a confession--one that would be repudiated(see enclosed clipping which tells about Fabian's version of confession was obtained.).

Although Rex A. Minstead, chief ~~investigator~~ investigator for the Mississippi Highway Patrol, was with Jones at the Monroe interrogation, he did not obtain a confession from Fabian for Mississippi authorities. Instead, he waited until the following January to visit Angola State Prison in Louisiana and obtain a statement from Fabian. During this interim, Fabian was convicted of assault with intent to commit murder on law enforcement officers and drew a life sentence in the Louisiana penitentiary.

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Meanwhile, Phil Canale--advised by a former assistant attorney general, James Beasley, who had by then been ~~appointed~~ elected a criminal district court judge--ruled that Tennessee did not have jurisdiction of the case. He cited a case that Beasley had dug up that stated that in a homicide case ~~jurisdiction is presumed to be in the county where the crime is presumed to have occurred~~ the crime is presumed to have occurred at the site where the body was found.

Russell X. Thompson, a fellow legislator and veteran criminal attorney, said his research of the law shows there are statutes that give any Tennessee county jurisdiction over a crime that was commenced in said county, but was consummated in another county. He also cited a statute which pinned jurisdiction down in homicide cases. This statute said that the county in which the fatal blow or stroke is administered has jurisdiction over prosecuting the homicide although the victim may have died in another county.

Thompson's legal research tended to be corroborated by the rulings by Judge Brown, who, on September 2, 1971, at a pre-trial hearing in Holly Springs, cited the very same legal authority cited by Thompson and said Tennessee had ~~jurisdiction~~ jurisdiction.

As the enclosed clipping will explain why Brown ruled the way he did as far as saying why Mississippi did not have current jurisdiction although the state has the same statutes, it might be wise to point out some problems faced by Mississippi authorities. (more)



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Both Mississippi and Tennessee statutes which give jurisdiction to the county in which crimes are commenced, but which are consummated in another county, also work in ~~reverse~~ reverse. In other words, crimes commenced in one county but ~~consummated~~ consummated in a second county, can also be tried in the second county.

But Judge Brown pointed out that under Mississippi case law, ~~jurisdiction is determined by the venue--the geographical site where the crime occurred as contrasted with the inherent authority of a proper tribunal within that geographical area--must be proved, and not presumed.~~

At the pre-trial hearing, there was no proof that the crime was consummated in Mississippi, Judge Brown said. That is, there was no evidence that Lenox died in Mississippi.

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name* Dr. Jerry T. Francisco, Shelby County Medical Examiner gave his professional opinion that Lenox died in Mississippi inst. Tennessee. He gave as the basis of his opinion that his autopsy (which was conducted some two days after Lenox body was found) showed that at least ~~at~~ two of the three possible bullet wounds in the head were fired at least a minimum of six minutes to one hour apart.

Upon an inept cross examination by Fabian's defense attorney, it was never clarified how this indicated time or geographical site where Lenox died. Judge Brown later would brilliantly dissect Francisco's reasoning.

Francisco, who never went to the scene of the slaying, said he observed some photographs taken by law enforcement office of Lenox's head inside the car when the body was found. Francisco said the last bullet wound was fired from about the left temple and that it exited from the right side of Lenox's head. The bullet was found encased in the hood of the car.

One of the photographs showed Lenox's head at rest looking out of the right front seat window. The bullet hole in the right side of his head formed a perfect alignment with the hole in the car ~~formed~~ formed by the exiting bullet.

Francisco concluded that this last shot must have been fired from a stationary position. Why? Francisco said the laws of physics would have thrown Lenox's head away from the right window if the car was moving when the shot was fired. The motion of the car, the motion of the bullet entering the head, would have created counter-motion in front of Lenox, throwing him back to the center of the seat and away from the right window. There could not have been a perfect alignment of the bullet hole in Lenox's head and the hole

As Judge Brown pointed out in his opinion that Dr. Francisco did not prove Lenox died in Mississippi, assuming that ~~the~~ every word of his testimony was true.

Judge Brown pointed out that Lenox's car was less than two miles south of the Tennessee-Mississippi line. Traveling at 30 miles per hour, the car would have reached the final stopping place at less than four minutes. The possibility the car traveled at much higher speed cannot be dismissed considering Hale's testimony that later ~~the~~ one of the Gold and Black Cadillac was traveling at much higher speeds. ~~That~~

Judge Brown said a reasonable man could easily conclude that the killer would not wait six minutes to one hour on the site where the body was to be left in order to fire on last shot to insure his victim's death.

Then, Judge Brown read a portion from Fabian's confession which stated that the first shot was fired near a curve in the road near the Holmes-Byhalia intersection. Judge Brown, as well as several veteran law enforcement officers with the Shelby County Sheriff's Office, will say that if Fabian's statement is true, the first shot was clearly fired in Tennessee.

Since Judge Brown's ruling, Atty. Gen. Canale will not comment on any implications of Judge Brown's decision, either to the press or other officials such as Shelby County Sheriff Roy Nixon, who, I believe, has pursued the Lenox investigation with commendable diligence. ~~has~~

Thus, I think these questions should be placed to Canale. I think he owes an explanation to the lawmakers of the state as well as the constituency he represents. He has refused to answer these questions to this reporter. They are:

- (1) How well did Canale's staff research the Tennessee law on the question of jurisdiction and venue? Did they research the question with the objective of trying to objectively solve a question of law, or were they politically motivated, such as wanting to find a way of having the attorney general avoid a tough case? Did they know of the statutes cited by Judge Brown, a Mississippi jurist? Or do they contend that Brown mis-quoted Tennessee law?
- (2) Did the decision not to prosecute stem from an oblivious disregard for the statutory law, and arise from total reliance upon one obscure case which stated a mere presumption?
- (3) Isn't it true that legal presumptions are ~~not~~ rebuttable?
- (+) Isn't it a fundamental principle of jurisprudence that statutory law supercedes common law and ambiguous case holdings?

(more)



- (5) How long did it take the staff to research the law on jurisdiction before a decision was made and communicated to law enforcement authorities, both in Shelby County and Mississippi?
- (6) Was there a breakdown in communications between Canale's staff and the Shelby County Sheriff's office, which continued to investigate the slaying at least six months after Lenox's slaying? Even to the extent of sending Insp. Jones to Monroe, La., in September, 1970.
- (7) Had Jones been informed of Canale's decision when he interrogated Fabian in Louisiana? If so, why did he take control of the interrogation instead of Rex Armistead, the Mississippi Highway Patrol's chief investigator? (Louisiana and Mississippi investigators said it was strictly Jones' show at the Monroe interrogation. I do not believe Jones did anything improper, but it would be hard to believe that he would so assert himself if he knew that Tennessee would not be trying Fabian.)
- (8) Had Mississippi authorities--including Mr. Armistead--been informed of Canale's decision at the September interrogation? If so, why did Armistead take a passive role and ~~xxxxxxx~~ defer to Jones's taking control of the investigation at that point?
- (9) If Canale's staff had already made the decision that Shelby County did not have jurisdiction before the September interrogation, did they re-consider the jurisdiction question when Jones returned with Fabian's confession? Did, in fact, the attorney general ever obtain a copy of Fabian's confession and study the content? Were they familiar with Fabian's statement that the first shot was fired near a curve in the road near the Bynalia-Holmes intersection (a point which convinced Judge Brown that the first shot was fired in Tennessee)?
- (10) Assuming the answers to (6) is "yes;" (7) "No," and "8" "No," then the legitimate question arises: What are the communicative procedures between the Attorney General's office and the Shelby County Sheriff's office?

Two subsidiary questions that might fall within the scope of your committee's inquiry concerns itself with the ~~autonomous~~ autonomy of the Shelby County Medical Examiner's office. Is he a free agent? Does the decision-making machinery within the examiner's office operate on a purely medical basis, free of politically expedients and pressure from either the sheriff's office or the attorney general's office? Why was Francisco so willing to lay his professional opinion on the line on such thin, insubstantial medical data if he was not somehow influenced by the political exigencies affecting the attorney general's office? As you know, the medical examiner is only accountable to the Shelby County Court, and not Canale. But is Canale's power as attorney general so pervasive that he can control Francisco through the court? If so, this may be another reason why our county government should be restructured. (more)

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Second: should the sheriff's office have more budgetary authority? I know for a fact that both Sheriff Nixon and his ~~predecessor~~ predecessor, Bill Morris, were willing to pull out all the plugs in the Lenox's investigation. However, Beasley--before he ascended to the bench--ruled as county attorney that the county government should not authorize ~~the sheriff's office~~ the sheriff's office any funds whatsoever to send investigators outside the county to investigate the case. Beasley said Shelby County funds should not be expended to help another county--especially a Mississippi county--solve a case it had sole jurisdiction over. Now, even Mississippi prosecutors will admit the existence of a thing called "concurrent jurisdiction." But not Mr. Beasley, or Mr. Canale.

Third: Could the attorney general's reluctance to prosecute the Lenox case stem from a reluctance to try his possible slayers. I do not believe it would be an illegitimate course for the committee to pursue to determine if there is any kind of relationship between Canale and associates of Lenox, especially those who have benefitted by Lenox's death. Also, who is George Sammons and does he have any connection with Canale? I know for a fact that the sheriff's office believed that Sammons was a valid suspect in the slaying, based on evidence independent of Fabian's confession.

As a reporter, I will be glad to ~~assist~~ assist your committee in any way. I believe that Talmadge Littlejohn, prosecutor for the third judicial district, State of Mississippi, would be an invaluable witness. He once told me by telephone that he believed that the Shelby County Attorney General's had shamefully shunned their responsibilities in the case. This was via a telephone conversation from Memphis to New Albany, Miss., at 7:30 a.m. I quoted Mr. Littlejohn in the paper, and he repudiated the statement publicly. He told me in private later that he believed I had violated his confidence, but I assured him that if he had prefaced such a statement with a request to keep such a confidential I would have warned him that as a reporter I owed a duty to the public to report the facts and not protect any private relationship for the sake of political convenience. Although the feeling is probably not mutual, I respect Littlejohn and feel he has really been put upon by the Tennessee authorities.

Respectfully,

Wayne Chastain Jr.

