

WXPost AUG 10 1975

# Some Wiretapping Defended by Kelley

By John P. MacKenzie  
Washington Post Staff Writer

MONTREAL, Aug. 9—FBI Director Clarence M. Kelley asked American Bar Association leaders today to support his plea for continued use of wiretapping without warrants in the foreign intelligence field.

The rights of individuals must not be allowed "to transcend the safety and security of others," Kelley said. "We must be willing to surrender a small measure of our liberties to preserve the great bulk of them."

Admitting past law enforcement abuses that had "an aura of illegality and unconscionable behavior," Kelley said that after purging past practices, more emphasis should now be placed on national security capabilities with less stress on "an obsession for restraints" on intelligence agencies.

Kelley spoke to 700 members of the American Judicature Society and the National Conference of Bar Presidents who are meeting here in connection with the ABA's 98th annual convention.

"The FBI has made mistakes," Kelley said, but added that he has imposed disciplinary control after "a flood of revelations" and charges of mail openings, promiscuous wiretaps, burglaries "and a general disregard for individual rights."

"It is not an ungovernable group of people," he said, but an organization of conscientious agents who "must have a certain amount of latitude" in gathering foreign intelligence and counterintelligence data.

The Supreme Court ruled in

1972 that national security wiretaps not connected with foreign intelligence may not be conducted without a court order. The court did not rule on whether warrants would be required for eavesdropping in connection with a threat from a hostile foreign power.

Urging Congress and the courts not to impose further restrictions, Kelley said rules governing criminal investigations "cannot be transferred in toto and applied to our national security efforts. If an individual's rights are violated by a law enforcement officer, remedies are available. But there is no appeal, there is no such remedy, for a terrorist's bomb."

Counter intelligence agents need more leeway because they deal with matters outside the "life experience and knowledge" of the average person, Kelley said. Similar arguments were made before the high court ruled out taps without warrants in the domestic subversion field.

Kelley did not say FBI agents would be unable to obtain wiretap warrants from federal judges, but he took issue with those who argue that "we should cease and desist from any and all activities of this sort."

"They say we should present ourselves as sterling examples of people who know no limits in the recognition of human rights," the director said. "I agree that this is commendable philosophy, but what if (foreign nations) ignore our noble gesture? What if one of their top priorities is the destruction of our democracy?"