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The Eavesdroppers, by Samuel Dash

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THE EAVESDROPPERS. By Samuel Dash, Robert Knowlton, and Richard Schwartz. New Brunswick, N. J.: Rutgers University Press. 1959. Pp. 484. \$6.50.

A book by a prosecutor about methods of crime detection is apt to display bias in favor of the legality of the use of such methods; a book by a defense attorney is equally liable to be slanted in the other direction; and one who has had neither experience may well lack the insight to make any significant evaluation at all. Hence, this balanced and dispassionate volume by a well-known former district attorney of Philadelphia who has turned defense attorney is particularly valuable because the author has been able to bring both aspects of his experience to bear to evaluate the desirability of wiretapping and other aspects of eavesdropping in an electronic age. The timeliness of such an evaluation is obvious.

The book is divided into three parts, the first dealing with the practice of wiretapping and related acts, the second with the tools by which such surveillance is undertaken, and the third with the law which governs the practice. Of these parts, the first is the largest and by far the best.

Mr. Dash, author of the first part, has surveyed jurisdictions where wiretapping is permitted, where it is forbidden, and where the law is silent. His conclusion is the same; law enforcement agencies find wiretapping a useful and often necessary means of investigation and are prone to use it regardless of what the law says. The material adduced, consisting principally of the results of selected interviews and several legislative hearings, confirms the widespread public impression that police, and often private persons as well, use wiretapping to a very con-

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siderable extent. Unfortunately, reliable figures are either not available or not made public; and Mr. Dash rightly points out how the tendency to conceal the existence or extent of wiretapping has greatly hindered his investigation. Nonetheless, his evidence is of material significance in evaluating wiretapping and related practices.

The only criticism of the first part that this reviewer has is a tendency in parts to repeat or to stray from the main field of inquiry. Thus, pages 59 through 62, and 125 to 128 are devoted to police corruption in general. However interesting this may be, it detracts from the continuity of the main discussion.

Part three, a survey of the law in respect to wiretapping by Professor Knowlton of Rutgers Law School, is a useful and up-to-date compendium of pertinent case and statutory material. While some of the material duplicates that in Part One, a practice which should have been avoided, nevertheless this section serves a need and is a welcome supplement to the first part.

The second part, however, constitutes a highly technical discussion of the tools of wiretapping and other instruments of electronic surveillance by an electrical engineering professor which is out of place in a book of this kind. This discussion, a sort of how-to-do-it or do-it-yourself for prospective wiretappers, is not readily understandable to the average layman, and is not necessary to an understanding of either of the other two parts. Such a discussion should either have been condensed to ten pages of the most simplified remarks or eliminated entirely. As it stands, the only effect is to baffle the non-scientific reader.

As informative as Mr. Dash's collection of examples is, there is lacking an evaluation of the competing policy bases which would permit or forbid wiretapping in particular instances. Mr. Dash makes plain that electronic eavesdropping has resulted in the solution of countless crimes which otherwise would never have been solved. Yet throughout his section, which dominates the book, one gets an undercurrent of feeling that he believes wiretapping is an unjustified intrusion into the privacy of the individual. Even the title suggests that Mr. Dash believes there is something "sneaky" about interception of private communications in the investigation of crime; that it isn't quite "cricket" to do so.

The investigation of crime is not a game played between police and criminals. There are no rules that police should have to follow; there is no such thing as "punching below the belt." Mr. Dash, one feels, sometimes professes to see a distinction between the investigation of major crimes, such as murder and kidnapping, and the investigation of such *mala prohibita* as gambling and vice. But the latter can demoralize a city

and pave the way for major crimes, and hence there is no reason to make a distinction in the gradation of the crime as far as techniques of investigation are concerned. If we pass criminal laws, we should mean to have them enforced vigorously; otherwise, let us impose civil penalties so that all persons can at least know that we do not consider their violation to be so detrimental to society as to require criminal sanctions.

True, there is nothing more annoying, if not down right outrageous, than the unjustified intrusion into the privacy of the individual's communication to another, and such intrusion can only be justified under the safeguards traditionally associated with search and seizure. But while giving us example after example of how such safeguards have failed to stop unjustified wiretapping, Mr. Dash offers no suggestions for increasing the effectiveness of the deterrents against unlawful wiretapping. Perhaps the traditional criminal sanctions ought to be replaced by civil liability, which could be enforced by aggrieved persons who would then not be dependent upon the prosecutor's office to make the sanctions a reality. Here again, Mr. Dash's personal conclusions would have been of interest.

In sum, this survey of the law and practices of wiretapping is a welcome one indeed, and the material adduced by Mr. Dash should, and no doubt will, play a significant role in future discussion of the proper balance to be struck between the privacy of the individual on the one hand, and the needs of law enforcement agencies on the other. All persons who sponsored and were connected with the project have made a public contribution by so doing.

ALFRED AVINS†

PENSION FUNDS AND ECONOMIC POWER. By Paul P. Harbrecht. Twentieth Century Fund. 1959. Pp. 328. \$5.00.

Father Harbrecht's book on employee benefit funds is the second of its particular kind to appear within the past decade, but it is by no means a mere supplement to Dearing's earlier work.¹ Rather, a definitive treatment in its own right, it parallels Dearing in that social and economic aspects of pension fund growth are accorded extensive analysis. In style

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1. DEARING, *INDUSTRIAL PENSIONS* (1954).