SCHOOL OF LAW
CASE WESTERN RESERVE UNIVERSITY

Case Western Reserve Law Review

Volume 10 | Issue 1

1959

Masthead

Volume 10 Issue 1 (1959)

WESTERN RESERVE LAW REVIEW

Member of the National Conference of Law Reviews
Published for THE FRANKLIN THOMAS BACKUS SCHOOL OF LAW
by THE PRESS OF WESTERN RESERVE UNIVERSITY, Cleveland 6, Ohio

NOTES

Wire-tapping—America's Notorious Three-party Line

> This is our hair-splitting machine . . . Some of us are able to split the splinter of a split hair again into 999,999 parts. The champion receives as a special prize a wreath fashioned out of the hairs he has split.[1]

INSTEAD OF a satire on legal conceptualism, Von Jhering might well have been writing a suitable prologue to the present struggle in the federal courts concerning the admissibility of evidence obtained as a result of wire-tapping.[2] In this struggle which has spanned a quarter of a century, the central figure is section 605 of the Communications Act of 1934,[3] and its interpretation.

1. Von Jhering, *In the Heaven of Legal Concepts*, in COHEN & COHEN, READINGS IN JURISPRUDENCE AND LEGAL PHILOSOPHY 678, 682 (1953).

2. On December 9, 1957, two wire-tapping decisions were made by the Supreme Court: Benanti v. United States, 355 U.S. 96, and Rathbun v. United States, 355 U.S. 107. The former was a unanimous decision, the latter contained the dissent of two Justices, in which many of the distinctions in the interpretation of the terms of § 605 are pointed out.

3. 48 Stat. 1103 (1934), 47 U.S.C. § 605 (1952).