

Afternoon Session

FEB 26 1958

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THIRD PUBLIC HEARING

JOINT COMMITTEE OF THE LEGISLATURE TO  
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Held:  
Assembly Chamber, State House  
Trenton, New Jersey  
September 26, 1956

MEMBERS OF COMMITTEE

Present: Senator Malcolm S. Forbes, Chairman  
Senator Frank W. Shershin  
Senator Donal C. Fox  
Assemblyman Dominic A. Cundari  
Assemblyman Joseph M. Thuring

Absent:  
Assemblyman Paul M. Salsburg

APPEARANCES:

Russell T. Kerby, Esq., counsel to  
the Committee

Attorney General Grover C. Richman,  
acting as counsel for members  
or former members of New Jersey  
State Police.

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SENATOR FORBES (THE CHAIRMAN): The third public hearing of the New Jersey Legislative Wire Tap Committee will resume. Mr. Stamler, will you come forward, please?

N E L S O N F. S T A M L E R, being duly sworn according to law, testifies as follows:

Q Mr. Stamler, we appreciate your appearance here today to give the Committee such information as will be helpful to it in connection with the whole problem that we are dealing with of wire taps and eavesdropping. Would you, in the interest of expediting things, keep your answers as brief and to the point as possible. Would you give the Committee your occupation, please? A I am a lawyer.

Q During the time that you were a Special Deputy Attorney General assigned to Bergen County, did you ever sign checks payable to Kenneth Ryan? A Well, I was never a Special Deputy Attorney General. I was a Deputy Attorney General assigned to Bergen County. Yes, sir, I did.

Q You signed checks payable to a Kenneth Ryan? A Yes, sir.

Q Can you tell us who Kenneth Ryan was and what part he played in the investigation in Bergen County? A I have no idea.

Q You don't know who he was? A No, sir. I don't know who he was except that he was working for the State Police at the time.

Q Since that time have you learned any more about Mr. Ryan? A Yes, I heard that he had a reputation of

being a wiretapper in New York.

BY MR. KERBY:

Q Who supervised his work in Bergen County, Mr. Stamler, if you know? A No, I don't remember clearly. It all depended upon what division he worked for. I must assume, though, that if he was an investigator, he was supervised by the State Police, not necessarily in Bergen. It could have been out of Bergen.

Q Who would have been his supervisor? What man in the State Police, if you know? A Who would have been? Well, depending on what he did. It could have been Lieutenant Haussling; it could have been the Criminal Investigation Division of Trenton.

Q Do you know whether he did any wiretapping in Bergen County? A I don't know that he did.

Q Do you know what sort of work he was doing in Bergen County? A No, no more than I know about any of the work they were doing, the investigators.

Q In other words, the investigators would not report to you directly? A No, sir, they would not.

Q To whom would they report? A As I recall, the reports were filed in triplicate with the State Police.

Q During your tenure as Deputy Attorney General of Bergen County, did anyone from the telephone company assist you in checking telephone wires, bridging and backstrapping? A Now, I'm not an expert on this bridging and backstrapping, but if you mean did we get assistance from the telephone company in tracing wires, yes, we did.

Q Can you explain the details with respect to this assistance? A As well as I can. Telephones might be placed at No. 1 Broad Street by the phone company and then there would be an extension of that telephone line into No. 3 Broad Street, an illegal extension. The telephone company at our request very often checked those telephones for us and, incidentally, they were very helpful throughout the investigation.

Q Did they find unauthorized attachments? A Yes.

Q Did they find extra wire, bridging? A Yes, I believe they did. That's going back five years now.

Q George Yeandle testified here this morning. Do you know anything about his activity? A No. I've heard a lot about him.

Q Do you know by whom he was employed at that time or prior to that time? A You are talking about 1950?

Q Yes, sir. A No, I do not know.

Q Did you have any conversations with Clendenin Ryan regarding wiretapping? A Yes.

Q Will you give us the details with respect to that? A Well, now, I don't know whether this is privileged or not, Mr. Kerby, but a great deal of the testimony or the conversations I had with Mr. Ryan were before a Grand Jury, but I'll try my best to recollect. He made certain statements that there were wiretaps in the possession of certain individuals.

MR. KERBY: Excuse me a minute.

SENATOR FORBES: You may proceed, Mr. Stamler.

A (Continued) As I recollect, Mr. Ryan made several statements to us that there were wiretaps involving the corruption of public officials in the possession of certain particular individuals, amongst them the United States Attorney's Office, the Division of Internal Revenue - oh, and a number of other agencies. This, as I recollect, was checked out and found not to be so. Mr. Ryan, as I recollect was-- I am talking of Clendenin Ryan. Mr. Ryan, as I recollect, was connected with one of the large telephonic manufacturing companies and had a particular interest in it, but he made statements as to wire tapping in Bergen. I don't remember their probus at all. I don't recollect it.

Q Have you ever discussed the wiretapping situation in Union County with any officials of the State of New Jersey?

A Well, now, Mr. Kerby, I don't like to do this but I, or my law office was retained by the Elizabeth Daily Journal on behalf of one of its employees and where it does not involve a privileged communication I will testify to it, and I want it clearly understood that I am testifying in that manner. Yes, we did.

Q Will you give us the details that you feel you can?

A I will give no details of the conversation because I believe - I am not pleading the Fifth Amendment - but I do believe that it is privileged. I may be wrong but I believe it is.

MR. CUNDARI: I would just like to know, Mr. Stamler, when did you have this conversation with reference to documentary evidence - with the Attorney General, did you say?

MR. STAMLER: No, I said some state officials, I believe.

MR. CUNDARI: Would you mind telling us first with whom did you have a conversation?

MR. STAMLER: With the Attorney General and the Governor.

MR. CUNDARI: Would you mind telling us when?

MR. STAMLER: I would judge it to be the latter part of February, 1955.

MR. CUNDARI: And that was directly concerning the wiretapping affair in Union County?

MR. STAMLER: That was concerning some information which our client, a newspaper, had received. I don't think I should go any further than that.

SENATOR FOX: In other words, Mr. Stamler, your client was present?

MR. STAMLER: Yes, sir.

SENATOR FOX: And you were there as his attorney?

MR. STAMLER: Yes, sir.

SENATOR FOX: And it was in connection with your retention as an attorney, in connection with your duty, that the conversation was held?

MR. STAMLER: Yes, sir.

SENATOR FOX: And as an attorney, you feel that the statements made are privileged?

MR. STAMLER: I believe that the conversation was privileged. I tried to examine the law sometime ago when I was asked to come before the Committee's executive session, and I believe it is privileged. I may be wrong but I believe it is.

BY MR. KERBY:

Q Can you state any other knowledge you have as to wiretapping or eavesdropping in the State of New Jersey?

A Today? I am practicing law.

Q Well, in the immediate past. A Well, we had a number of complaints of people who conceived that their telephones were tapped. I can recall one in Hudson County where they were sure their telephone was being tapped because there was some scratching noises on the telephone. In each case that I can recollect, the Attorney General at the time, and the State Police, thoroughly investigated it. This is not only in Hudson but there was one occasion I recall in Camden, and one in Atlantic, and there may have been others, but I don't remember them. They are a matter of record. I don't have them.

Q Who would have them? A I assume, the State Police.

Q And your recollection was that the report was negative? A I can't recollect ever a case of wiretapping while I was in office.

Q As a man who has had some experience in detecting crime as a Deputy Attorney General, what is your opinion as to wiretapping and eavesdropping in the State of New Jersey, as to whether or not it should be permitted. A Well, I think it's wrong. I think it's vicious, and I believe sincerely that wherein gambling is concerned it is hardly necessary. Where the safety of the country is involved, I think it should be used - no other place.

Q As to eavesdropping-- A I don't care how you do that. If it's for the safety of the country I am for it.

Other than that, I am not.

BY SENATOR FORBES:

Q Mr. Stamler, would you give me again the date that you discussed with the Attorney General and your client the Union County situation as it pertained to wire-tapping?

A I would judge it to be the latter part of February of 1955. I believe that it was in the last week, but I am not sure.

Q Are you certain that it was in February? A Well, now you raise a question. I believe it was because we were retained in the month of February and I was assuming that the conversation took place then. I could almost be positive that it was, but I am not sure. I don't have my records before me. They are available.

SENATOR FORBES: Do any members of the Committee have any further questions?

All right, Mr. Stamler. Thank you very much.

I would like to ask, if I might, the Attorney General if he knows the date or recollects the date on which this conversation took place?

MR. RICHMAN: I don't recall offhand, Senator, but I think it was in the spring of 1955.

SENATOR FORBES: Would there be any records in your office that would show when this visit took place?

MR. RICHMAN: I would doubt it. I think the meeting took place in my office.

SENATOR FORBES: You don't think there is any way of determining the exact date?

MR. RICHMAN: It would be very difficult. I doubt

if there is any record of this particular meeting due to the fact that it was in my office.

SENATOR FORBES: Mr. Attorney General, I would like to ask you if you can comment on what, if Mr. Stamler's recollection of the date is correct, would appear to me to be a discrepancy. I have a letter from you dated March 8 of 1955, in reply to a letter I wrote you of March 4th on the subject of wiretapping. In the course of that letter of March 8, you have a statement in the letter "I have no knowledge of the use of wiretapping by other state law enforcement agencies." Do you see any contradiction between that and the discussions that were held between you and the Governor and Mr. Stamler and his client?

MR. RICHMAN: No, frankly, I don't. It is difficult for me to place the time of that conversation. I can see what you are trying to do, Senator. You are trying--

SENATOR FORBES: I am not trying to do anything except clear up a discrepancy.

MR. RICHMAN: It is very obvious what you are trying to do. You are trying to get the date of this conversation pinned down to some date prior to March 8th and then say, "Well, you wrote a letter and you didn't tell me the truth."

SENATOR FORBES: I am just trying to get the truth. You at no point volunteered to this Committee or to me in reply to a letter any knowledge of a Union County wiretap situation. In this letter you specifically state: "I have no knowledge of the use of wiretapping by other state law enforcement agencies." Now, if two days after the letter you received this knowledge or this information, that's some-

thing else again, but this is a flat statement of no knowledge.

MR. RICHMAN: I would assume I must have gotten the knowledge or the import of the conversation must have been realized by me at some point after the writing of that letter, because I certainly wouldn't have written the letter and made that statement if I had that information in mind at the time of writing that letter.

SENATOR FORBES: And after writing that letter, when you received the full import, or what have you, of the Union County wiretap, did you draw it to my attention as a correction or addenda to this letter?

MR. RICHMAN: I did not.

SENATOR FORBES: Did you at any time draw it to my attention as Chairman of this Wiretap Committee?

MR. RICHMAN: I did not. And I didn't intend to because I intended to have the matter presented to the Union County Grand Jury, which was done.

SENATOR FORBES: And after it was done, did you at any time draw it to the attention of this Committee?

MR. RICHMAN: I did not because I would not draw to the attention of any Committee an act where a Grand Jury had failed to indict. I did not think you should expect me to. You are not a law enforcement body, Senator, no matter what you may think.

SENATOR FORBES: We have never claimed to be. We have simply been seeking information on wiretapping and have had to dig it out the hard way because it was proffered to us, and I have this letter in which you flatly deny knowledge of wiretapping in the instance of Union County.

Now, there may be a conflict of dates.

MR. RICHMAN: Now, just let me reply. You say, "in the instance of Union County." Union County isn't mentioned in that letter.

SENATOR FORBES: Well, you flatly deny any knowledge of wiretapping.

MR. RICHMAN: If that is what that letter says, and I think you are right - I recall it - then, at the time of writing that letter, either I did not have the information or the import of the conversation was not in my mind at that time because the conversation was about many things.

SENATOR FORBES: And if you had had the knowledge at the time you wrote this letter, would you have informed me, in response to that letter? You made a flat denial of any knowledge when you wrote it. If you had the knowledge, would you have answered the letter?

MR. RICHMAN: I would have answered your letter and I would have probably made some reference to some instances. I would not have told you what they were or where they were.

SENATOR FORBES: But you would have covered the point, so to speak, by an acknowledgment of their knowledge?

MR. RICHMAN: You know perfectly well, Senator, when I appeared before your committee in closed session, I told you that there was some evidence of wiretapping - microscopic.

SENATOR FORBES: Microscopic, and that was, as I understand it, in reference to the case that you had referred to the FBI, is that right - not the FBI, but some federal investigatory body or their answering service. What was that?

MR. RICHMAN: I had in mind these instances and I considered it to be microscopic because they had been presented to the grand jury and no bill returned and the matter was closed.

SENATOR FORBES: And you considered that the Union County wiretaps by the Prosecutor, under the existing statutes, were microscopic?

MR. RICHMAN: I still consider them to be microscopic, in view of what happened.

SENATOR FORBES: You mean, microscopic in relation to the amount of wiretapping or microscopic--

MR. RICHMAN: Microscopic from the point of view of any particular public importance.

SENATOR FORBES: Thank you.

Major Arthur T. Keaton. Is Major Keaton in the room?

A R T H U R T. K E A T O N, called as a witness, being duly sworn according to law, testifies as follows:

BY MR. KERBY:

Q Will you state your name and address, please?

A Arthur T. Keaton, 158 Jean Terrace, Trenton.

Q By whom are you and have you been employed?

A I am unemployed right now but I was employed by the New Jersey State Police, State of New Jersey.

Q For how long? A Thirty-three years and seven months.

Q Were you in charge of the detective bureau in 1949 to 1952? A Part of 1949 I was away. I would say I was in charge, practically in charge. I was away

on other assignments and somebody else was always left behind, but I suppose, having the rank of Captain, I was in charge.

Q Did you become executive officer? A Yes, sir.

Q During what year? A I believe it was April of 1952.

Q Have you ever participated in any way in any wire-tapping activities in New Jersey? A Myself? No.

Q Have you ever directed anyone else to make a wire tap? A I don't recall ever directing anybody to make any wire tap.

Q You say you don't recall. Are you certain of that? A Well, as good as my memory can be, yes.

Q Did you ever direct anyone to listen in to a telephone conversation? A No, I don't believe I did.

Q Your answer to one of my earlier questions was "Not myself." What did you mean by that? Was there someone else? A Well, you asked me if I had anything to do with wiretapping in New Jersey and I said, myself, no.

Q Do you know anyone else who has participated in wiretapping?

MR. RICHMAN: Now, Mr. Chairman, apparently this committee--

SENATOR FORBES: Just a minute, Mr. Attorney General. I will have to ask the Committee if your interruptions will be permitted.

MR. RICHMAN: I am representing this witness.

SENATOR FORBES: Well, that's the first time the Committee has been informed of it and the Committee hasn't decided if witnesses/<sup>are</sup> appearing before this Committee with counsel, etc. If you don't mind, I will ask the

Committee before we have your interruptions on behalf of a witness.

(Conference among committee members)

MR. RICHMAN: Let me make my position clear. I am not representing this witness as a lawyer. I am representing him as a former member of the State Police, and the question is being directed to him about his activities while he was a member of that particular force and I am representing him as Attorney General.

SENATOR FORBES: Excuse me. Mr. Keaton, did you request that the Attorney General represent you at the hearing today?

MAJOR KEATON: Yes, I did.

SENATOR FORBES: Fine. Well, you may proceed then, as Attorney for the witness.

MR. RICHMAN: Now, may I have the last question?

MR. KERBY: Do you recall directing anyone else to listen in? I believe that was the question.

MR. RICHMAN: Now, that question is a broad question and would mean that Major Keaton, as I understand it, would have to divulge all his activities over the past 35 years or any activities by any state policeman who listened in with the consent of the subscriber or otherwise to any conversation on the telephone while engaged in detecting crime. I ask this committee to very seriously consider the very obvious harm that it seems to me is now being done to law enforcement generally by subjecting law enforcement agencies, the state police, local police forces, to broad and sweeping inquiries as to their activities in the past. It can do no one any

any good. It is no good to the people of this State and I ask the Committee respectfully to reconsider its position to stick to its job and not to make this investigation of the policemen of the State of New Jersey, and that's just about what you are ready to do.

SENATOR FORBES: Mr. Attorney General, I'm going to have to protest. You have made a series of speeches about this Committee and its activities and its objectives. We have outlined them time and again to you. This Committee is charged by the Legislature - my recollection is by unanimous vote of both houses - to proceed to investigate the area of wiretapping and eavesdropping, with an idea to broadening the statutes. To do it, we have to know to some degree, in a way that does not hurt law enforcement, the extent to which law enforcement uses and depends on these methods and means. It can be done, I think, without speeches by you or by me, and your objections and implications about this committee I think are totally unwarranted. You made the same speech yesterday and I would like to repeat what I said yesterday; namely, that from every area of law enforcement, every law enforcement group that we have talked to, we have received very complete cooperation except when it has come to matters concerning the State Police, where you have piled objection on objection, as you are doing here today. Now, you can state clearly and simply why you think that question would be harmful. The Committee will take your objection under consideration in determining if the witness will be instructed to answer. But I think we both will get further if we eliminate our respective speeches about this Committee and

its objectives and what it is trying to do and what you think it is doing.

MR. RICHMAN: Well, I think, Senator, your speeches are generally longer than mine, so I will plead not guilty to the charge of prolonging the hearing.

SENATOR FORBES: Well, we can do without the personal implications--

MR. RICHMAN: Now, wait a minute. And yours are usually better than mine, too, I'll grant you that.

SENATOR FORBES: Grover, you must be out of your mind to make such complimentary remarks.

MR. RICHMAN: I am not making this as an objection, as such. I am asking this Committee, in the interest of law enforcement, not to enter into a widespread probe of the police of this State, and it doesn't serve any purpose whatsoever. Now, if you want to ignore that, Senator, I can't stop you.

BY MR. KERBY:

Q Do you know of any wiretapping activity of any person in the State of New Jersey? You can answer yes or no.

A Do I know of anybody doing it? Is that what you are after?

Q Do you know of any wiretapping activity in the State of New Jersey that has gone on in the past or in the present.

SENATOR SHERSHIN: Mr. Counsel, why can't we limit that as to some time. I mean, it is rather a question to take over his entire experience as a police officer or a state trooper from the time of his inception.

Could you limit it within five years?

MR. KERBY: Well, my intention was that he answer yes or no.

MR. KEATON: Will you repeat that question?

BY MR. KERBY:

Q Will you state any knowledge which you have of wire-tapping activities by anyone? At any time? A Well, that a broad field - by anyone. I don't remember ever asking anybody to do any wiretapping for me. That's all I can tell you.

SENATOR FORBES: Do you recall directing anyone to make a tap in the State of New Jersey? A I said I don't remember.

BY MR. KERBY:

Have you any knowledge of wiretapping.... A .... People tell me a lot of things, but that doesn't mean they are true. I have heard rumors, sure. That's a natural thing.

Q Did any subordinate ever tell you that he wiretapped or submitted a report that he did? A I don't recall any.

Q Did you ever request that William Paul Kelly make a wiretap? A No, sir, not to my knowledge.

Q Do you know of anyone who ever requested him to make a wiretap? A I don't know of anyone who may have requested Kelly to make a wiretap. Maybe Kelly did it himself, but he certainly did get it on my orders.

Q Do you know whether or not Kelly ever did make a wiretap? A no. I have heard rumors of it, that's all. I never seen him actually doing any of that work. I know he

fooled with machines.

Q Wasn't he a detective under your supervision?

A For a short while, yes.

Q How long? A I couldn't tell you that. I think he was made a Captain sometime in '50 or '51, or sometime in there.

Q Do you know whether any of the following ever participated in wiretapping activities, that is, listening in to conversations to which they were not a party or actually affixing the tap: Eugene A. Haussling?

A Haussling listened in to New York with me on a wiretap.

Q Did that involve a New York-New Jersey telephone conversation? A No, that involved, I believe-- well, it had to do with Jersey but the workings were all out of New York, and people would call up a number over in New York, and of course that would be registered on the machines. They would call in and want to know when things were going to happen, and stuff like that.

Q Did the calls initiate in New Jersey? A Well, some were and some weren't.

Q Did you record those telephone calls? A Well, they were on a tape. That was quite some time back; I don't know what happened.

Q The next individual I would like to name is Annunzio DiGaetano. A I didn't sit on a wire with him, but back in the '30's, a fellow by the name of Finella, a federal agent was killed up in Elizabeth in a brewery, by

by Delmar, and New York City had a wire in for the federal government in a hotel, and I happened to be in town and stopped in. I know Diggie was over there, but I didn't sit in, myself, on it.

Q That is the only instance you know of? A That's all I can recall right now, yes.

Q Where was the tap? A In a hotel in New York City.

Q Mr. Lou Bornman? A I don't know. I never sat--

Q Andrew Zapolsky? A Yes, Zapolsky was with me in New York, on a tap.

Q Ever in New Jersey? A Not with me, no.--

Q Do you know of any activity by-- A -- No, I don't think so; I'm not sure.

Q -- by Mr. Jerry Dollar? A Never run a tap with Jerry Dollar.

Q Never what? A I never run a wire with Jerry Dollar.

Q Do you know whether Mr. Dollar ever participated in a wire tap? A No, I don't.

SENATOR FORBES: Excuse me. As the superior of these men at one point or another, did you receive reports in connection with their investigatory work that made reference to wiretaps or wiretap evidence?

MR. KEATON: That would be hard to say, Senator. There are hundred of reports coming in all the time.

SENATOR FORBES: You don't recollect any?

MR. KEATON: Not in my time that I was in charge of the detective bureau, I don't believe. Could be, but there

are so many reports that come in. I didn't read them all, you know.

BY MR. KERBY:

Q How about Mr. Frank Long? A I never was in on one, no.

Q Mr. Hugo Stockburger? A No, I don't believe so.

Q Do you know whether any reports exist in the State Police files relating to wiretapping? A Well, that, Mr. Kerby, would be a hard thing for me to say. I haven't been near reports--the only reports I remember was in 1951, the Adonis case, and all other cases they had were routine.

Q Have you ever made inspections to see whether or not wiretaps are in existence? A By that, what do you mean?

Q Were you ever instructed by a superior to go out and check to see whether or not someone else had placed a wiretap on a telephone line? A Well, we had some complaints that the Attorney General received, but I didn't go personally on those things.

Q Who did? A I think Detective Fitzsimmons was one, and I think Mr. Dollar investigated a couple of those.  
SENATOR FORBES: Could you tell, Major Keaton-- I don't know whether you were here yesterday or not--

MR. KEATON: I was here for a while. I was over to the doctors getting--

SENATOR FORBES: -- in connection with the so-called Devine case wiretaps, which were testified to and discussed

here yesterday, the Attorney General said that he had you in when Mr. Spindel and Mr. Freed, I think his name was, were having a discussion about New Jersey wiretaps with the Attorney General. The Attorney General said that you were instructed to check out - there was a dispute as to how many instances - the Attorney General recollected too - and you were asked to check out whether or not wiretaps had existed in those instances. In the case of the Devine wiretap, the Attorney General said your report was negative, that there was no tap-- I don't know exactly what the word was, but the report was negative. What checking did you do on the alleged Devine wiretap?

MR. KEATON: Well, the only thing I did on that was to verify some numbers. The story-- I happened to be called in or was down to the Attorney General's Office on another matter and this man, Spindel, I never seen him before, had been in there and, of course-- I believe I was sent for; I'm not too sure, and I can't tell you the date. He had some information and seemed to be anxious to get something on a fellow by the name of Gris who, after the investigation was over, revealed that he was a licensed private detective. He mentioned something about a telephone being tapped around Orange, with the knowledge of the Orange police. He mentioned something about another telephone number. I think it was in the same area. I checked to find out who owned it. He didn't know the man's name but said he was a big broker, the fellow whose wire was tapped. So I checked, I believe, at that time with the telephone company to find out who owned or had the listings. When I got the listings I found out it was in Orange, or up in that area, in Essex

County--

SENATOR FOX: Do you mean West Orange?

MR. KEATON: Well, one of the Oranges there., Senator.

SENATOR FOX: Llewellyn Park? A Llewellyn Park, that's right. So I immediately brought that fact to the Attorney General and/<sup>it was</sup> decided that it would be sent to Prosecutor Webb of the county for further check, and I believe at the time the Attorney General sent a letter. In the meantime, before finishing the talk with Spindel that day, he was very much put out because he couldn't/<sup>find</sup>out about a fellow by the name of Bishop, what he was doing and where he was from, and he wanted me to get a criminal record on him if it was possible, and to find out what police department he worked for in Florida. I told him very frankly I wouldn't give him that information, because he was not a police--

SENATOR SHERSHIN: Excuse me. Concerning whom are you talking? Spindel or--?

MR. KEATON: Spindel. This is all Spindel.

SENATOR SHERSHIN: All right.

MR. KERBY: Is this answering the question? Are you getting into the answer to the question?

MR. KEATON: Well, the Senator asked me about this Spindel matter and I'm telling him about it.

SENATOR FOX: He asked about the Devine matter.

SENATOR FORBES: In other words, your check of the Devine matter consisted of finding out who owned the telephone number?

MR. KEATON: Yes, who was the person, who was the subscriber of those phones.

SENATOR FORBES: And then you turned it over-- or the decision was made--

MR. KEATON: The Attorney General apparently sent the letter--

SENATOR FORBES: Well, you don't know what he did--

MR. KEATON: Well, I know that he did because I saw the reply later on. There was a full investigation.

SENATOR FORBES: But your part in checking it consisted of finding out who owned the telephones and if there was such a party and that/<sup>was</sup>the total extent of the investigation by the State Police. It was turned over to the Prosecutor.

MR. KEATON: I don't know anything about wiretapping. I have heard a lot of talk about it, how you can do this and how you can do the other, but to be honest with you I don't know.

SENATOR FORBES: But in connection with this Devine matter, your part of the investigation, with the report that the Attorney General has testified to as being negative - your part consisted of finding out if there was a Mr. Devine and if those telephone numbers were in his name--

MR. KEATON: I don't know, Senator-- I believe what the Attorney General was saying was that the report itself, the investigation, was negative, and that's what it was, from Prosecutor Webb's office.

SENATOR FORBES: But your part--

MR. KEATON: Mine was just a small item, to get the thing rolling. I made no--

SENATOR FORBES: You made no conclusive report about it being negative?

MR. KEATON: I suggested that it be turned over to Webb, and the Attorney General turned it over to Prosecutor Webb.

BY MR. CUNDARI:

Q Mr. Keaton, did you ever make any other investigations as the result of complaints that were received by the Attorney General, other than the Devine matter? A Well, Senator--

Q Assemblyman. A Why, I had two other investigations that I turned over, and I think Detective Dollar handled both of those. One resulted in the fact that the woman-- it was a party line and she thought her line, as I recall right now, was tapped. It resulted in it being negative.

Q Did you have anything to do with the West New York incident? A I had Mr. Gris in my office, because he is licensed as a private detective by the State of New Jersey, and he emphatically denied any part of that in West New York; in fact, the statement shows he emphatically denied that he ever tapped in New Jersey. I am not in a position to say-

Q Did you investigate for the Attorney General the situation in West New York? A I didn't, no. I believe Fitzsimmons probably did. He handled the investigation for me.

Q And did you make a report to the Attorney General on the investigation in West New York? A Yes.

Q What was that report, sir? A Well, that was

negative so far as they were concerned.

Q Your report to the Attorney General was that it was negative? A As far as Gris. There is a possibility in this thing - if they saw this Briteman, Captain Briteman, or some name like that. I don't know whether or not anybody saw him. It runs in my mind that he was seen and denied it.

SENATOR FORBES: Was it Policrasto?

MR. KEATON: No. I heard his name yesterday. But I never heard that name before.

BY MR. CUNDARI:

Q All right, just hold your thoughts on that. May I ask you this question: While you were in the employ of the New Jersey State Police, did you ever see or do you know whether they had any wiretapping equipment? A I never seen wiretapping as equipment. I have seen other equipment--

Q You have seen what? A Other equipment, eavesdropping--

Q Well, that's my next question. While you were with the New Jersey State Police, did you ever see any eavesdropping equipment?

MR. RICHMAN: Wait a minute, Major.

Now, for the reasons that have already been expressed, I do not propose to have present members of the State Police or former members of the State Police answer questions as to what equipment the State Police has, where, how, or when it is used, because it is not in the public

interest, and I instruct the witness to decline to answer the question.

MR. CUNDARI: All right, Mr. Attorney General the committee will make a decision on that later.

BY MR. CUNDARI:

Q May I ask you this question: Did you ever see any of it in operation?

MR. RICHMAN: Same objection.

Q Another question: Does the State Police, to your knowledge, employ wiretapping or eavesdropping activities?

MR. RICHMAN: Same objection.

Q Let me ask you this question, sir: A couple of times during the course of questioning by Mr. Kerby with reference to some individual, you used this expression: "I never ran a wire with him." What do you mean by that, sir?

A Well, it's wiretapping, isn't it?

Q All right. In other words, you never run a wire with those several individuals that we talked about. Have you ever ran a wire with anyone in the State of New Jersey?

A No, I haven't. I don't know how to tap, so I wouldn't run a wire.

Q You said you didn't sit in on a wire with him.

A He asked if I ever sat in on wires and I said no.

Q Did you ever listen in on wires in the State of New Jersey? A Well, the only listening in I ever did was, we had an extension phone that would ring and we would listen in on that. I had a Lieutenant on one side of me and myself on the other, and if it rang and we wanted to hear something.

MR. KERBY: Did you make any other checks for wire?

Did you make a check in Atlantic City or any other place

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in New Jersey? A No, sir, I didn't.

EUGENE A. HAUSSLING, BEING DULY SWORN  
ACCORDING TO LAW, TESTIFIED AS FOLLOWS:

BY MR. KERBY:

Q WILL YOU STATE YOUR NAME FOR THE RECORD?

A EUGENE A. HAUSSLING.

SENATOR FORBES: BEFORE WE BEGIN THIS TESTIMONY, I WOULD  
LIKE TO POINT OUT SOMETHING THAT PROBABLY YOU WOULD  
LIKE TO KNOW OR THAT ALL THE WITNESSES SHOULD KNOW IN THIS  
CONNECTION: WHEN YOU ARE HERE, AND CAN TESTIFY TO ANYTHING  
TO YOUR KNOWLEDGE, THE OBJECTIONS OF THE ATTORNEY NOTWITH-  
STANDING; IN SHORT, A REFUSAL TO ANSWER QUESTIONS THAT THE  
COMMITTEE AFTER CONSULTATION DEEMS PROPER AND INSISTS ON AN  
ANSWER TO, IT IS YOU WHO TAKES THE RESPONSIBILITY FOR NOT  
ANSWERING AND NOT YOUR COUNSEL, AND I JUST THINK THAT THAT'S A  
FAIR OBSERVATION, IN YOUR OWN INTEREST, TO POINT OUT AND IT  
HAS BEEN SUGGESTED BY THE COMMITTEE THAT IT BE BROUGHT TO YOUR  
ATTENTION.

MR. RICHMAN: I THINK THE WITNESS SHOULD ALSO KNOW,  
TO BE COMPLETELY FAIR, THAT THAT PORTION OF THE STATUTE,  
WHICH MAKES IT YOUR PROVINCE TO DETERMINE WHAT QUESTIONS  
SHOULD BE ANSWERED, IS PRESENTLY UNDER ATTACK AS BEING  
UNCONSTITUTIONAL.

SENATOR FORBES: THAT'S A PERFECTLY FAIR OBSERVATION, BUT  
IT IS PRESENTLY THE LAW OF THE STATE OF NEW JERSEY.

MR. CUNDARI: MR. CHAIRMAN, BEFORE YOU BEGIN QUESTIONING  
THIS WITNESS, MAY YOU DETERMINE WHETHER HE HAS COUNSEL OR NOT?

SENATOR FORBES: DO YOU HAVE COUNSEL, MR. HAUSSLING?

MR. HAUSSLING: I HAVE, SIR.

SENATOR FORBES: AND WHO IS THE COUNSEL?

MR. HAUSSLING: THE ATTORNEY GENERAL.

MR. RICHMAN: ONCE AGAIN, I AM REPRESENTING HIM AS THE ATTORNEY GENERAL. ONLY IN CONNECTION WITH HIS ACTIVITIES AS A FORMER STATE TROOPER AND NOT IN CONNECTION WITH HIS ACTIVITIES IN HIS PRESENT POSITION.

EXAMINATION BY MR. KERBY:

Q LIEUTENANT HAUSSLING, WILL YOU STATE YOUR ADDRESS AND PRESENT AND PAST EMPLOYMENT, PLEASE? A I LIVE AT 321 HARDING ROAD, LITTLE SILVER, NEW JERSEY; PRESENTLY EMPLOYED BY THE WATERFRONT COMMISSION OF NEW YORK HARBOR.

Q YOUR FORMER EMPLOYMENT? A MY FORMER EMPLOYMENT WAS WITH THE NEW JERSEY STATE POLICE.

Q WHERE, NOW? A WITH THE WATERFRONT COMMISSION, NEW YORK HARBOR, HOBOKEN.

Q WERE YOU A DETECTIVE IN THE STATE POLICE? A I WAS.

Q WHAT WAS YOUR JOB IN THE BERGEN COUNTY INVESTIGATION BETWEEN 1951 AND 1954? A IN 1951 I WAS CHIEF INVESTIGATOR FOR THE ATTORNEY GENERAL AND THE BERGEN COUNTY PRO.

Q AND, CONTINUING THROUGH TO 1954? A BUT PRIOR TO THAT, I WAS WITH THE STATE POLICE; I WAS RETIRED FOR REASONS OF LONGEVITY.

Q DID YOU OR ANY OF THE OTHER INVESTIGATORS IN BERGEN COUNTY TAP WIRES OR INTERCEPT TELEPHONE CONVERSATIONS? A WE DID NOT.

Q DID YOU FIND ANY BRIDGE OR EXTRA WIRES IN CONNECTION WITH YOUR GAMBLING INVESTIGATIONS. A DID WE? YES, WE DID.

Q DID YOU EVER DETERMINE WHO INSTALLED THAT EXTRA WIRING? A NO SIR.

Q DID YOU HIRE ANYONE TO CHECK WIRES? A WE DID.

Q WHO WAS THAT? A MR. KENNETH RYAN.

Q EXACTLY WHAT DID HE DO? A HE CHECKED THROUGH; I UNDERSTAND, IT IS CALLED BACKSTRAPPING. THE FIRST TIME I EVER HEARD THAT WAS THIS MORNING; I ALWAYS CALLED IT BRIDGING. HE CHECKED THESE POLES FOR BRIDGING. WE HAD THE UNFORTUNATE EXPERIENCE WHEN WE FIRST ENTERED THE COUNTY. WE WENT IN THERE AND THE COUNTY WAS, AS YOU CAN UNDERSTAND, HOSTILE TOWARDS US, AND WE HAD SEVERAL UNFORTUNATE EXPERIENCES WHERE WE FOUND THAT WIRES WERE RUN TO OTHER LOCATIONS AND WE THOUGHT WE WOULDN'T MAKE THAT MISTAKE THE SECOND OR THIRD TIME, AND THAT WAS THE REASON WE HIRED MR. RYAN TO CHECK THE BRIDGING ON THE PHONE.

Q WHY DID YOU HIRE MR. RYAN? A WELL, TO BE PERFECTLY CANDID WITH YOU, MR. KERBY, WE HAD REASONS TO SUSPECT TELEPHONE MEN AS BEING IN ON THE SETUP, AND ANOTHER THING IT REQUIRED TIME TO CONTACT THE TELEPHONE COMPANY TO GET UP THERE, SEND A MAN TO CHECK. MANY TIMES IT WOULD PROBABLY BE FOR NOTHING, AND IT WAS A QUESTION OF EXPEDIENCY MORE THAN ANYTHING ELSE, I SHOULD THINK.

Q WHY DID YOU HIRE MR. RYAN RATHER THAN ANY OTHER PERSON: A HE WAS AN ACQUAINTANCE OF MINE FOR AT LEAST 20-25 YEARS.

Q DID HE HAVE ANY PARTICULAR EXPERIENCE THAT WOULD MAKE HIM A GOOD MAN *in checking wires*? A He did.

Q WHAT TYPE OF EXPERIENCE? <sup>A</sup> HE WAS A TELEPHONE MAN FOR THE NEW YORK CITY POLICE DEPARTMENT.

Q DID YOU KNOW JUST EXACTLY WHAT MR. RYAN DID WHEN HE CHECKED THE WIRES. A NO SIR, I DO NOT.

Q DO YOU KNOW WHETHER OR NOT HE LISTENED IN? A I DO NOT KNOW, SIR.

Q DO YOU KNOW WHETHER OR NOT HE WOULD HAVE TO LISTEN IN?

A I DO NOT KNOW, SIR.

Q ABOUT HOW OFTEN DID HE CHECK OUT WIRES FOR YOU? A DO YOU MEAN THE NUMBER OF TIMES, MR. KERBY? I WOULD HAVE NO RECOLLECTION.

Q DID MR. RYAN MAKE A REPORT TO YOU AFTER HE CHECKED THE WIRE? A HE DID.

Q WAS THIS REPORT ORAL OR WRITTEN? A ORAL.

Q DID HE EVER MAKE A WRITTEN REPORT? A NO, SIR.

Q DID YOU MAKE THE WRITTEN REPORT? A NO, SIR.

Q THERE WAS NO WRITTEN REPORT WITH RESPECT TO HIS ACTIVITIES? A NO, SIR.

Q WHY WAS THAT? A WHY WAS THAT?

MR. RICHMAN: MR. KERBY, I CAN'T CONCEIVABLY SEE HOW THE METHODS OF PROCEDURE OF RECORDING OF THE STATE POLICE HAVE ANYTHING TO DO WITH WIRE TAPPING, AND YOU ARE DOING JUST EXACTLY WHAT I SUGGESTED, YOU ARE RUNNING AN INVESTIGATION OF THE STATE POLICE AND ITS PAST ACTIVITY, AND YOU HAVE NO RIGHT TO DO IT.

SENATOR FORBES: WE SUSTAIN YOUR OBJECTIONS.

MR. RICHMAN: THANK YOU, SENATOR.

BY MR. KERBY: DO YOU KNOW WHETHER OR NOT MR. RYAN EVER INTERCEPTED A TELEPHONE CONVERSATION IN NEW JERSEY? A NO SIR, I DO NOT.

Q DID YOU EVER LISTEN INTO A TELEPHONE CALL INTENDED FOR SOME OTHER PERSON, WITHOUT THE PERMISSION OF EITHER PARTY?

A YOU MEAN IN NEW JERSEY, MR. KERBY?

Q YES. A NO, SIR.

DID YOU EVER LISTEN INTO IN ANY OTHER STATE WHICH MIGHT INVOLVE A TELEPHONE CALL IN NEW JERSEY? A A NUMBER OF TIMES, MR. KERBY.

Q WHAT CIRCUMSTANCES SURROUND THAT IN THOSE INSTANCES?

MR. RICHMAN: ONCE AGAIN, I MAKE A SIMILAR OBJECTION, THE WITNESS HAD SAID YES HE DID SIT IN ON TELEPHONE CONVERSATIONS IN AREAS OF JURISDICTION OTHER THAN NEW JERSEY. I CAN'T SEE HOW ANYTHING FURTHER WOULD SERVE THE PURPOSE OF THIS COMMITTEE.

MR. FORBES: OBJECTION OVERRULED.

MR. RICHMAN: I THOUGHT I WAS DOING TOO WELL.

BY KERBY:

Q. WILL YOU STATE THE CIRCUMSTANCES SURROUNDING SUCH AN INSTANCE: A WELL, IMMEDIATELY COMES TO MIND THE LINDBERGH CASE. THAT WAS MY INITIATION INTO KNOWLEDGE OF INTERCEPTION, AS YOU CALL IT. FROM TIME TO TIME ON MURDER CASES, ON KIDNAPING OF OUR TROOPERS, AND SEVERAL OF THE BANK JOBS, FROM TIME TO TIME, I SAT ON IN NEW YORK WITH THEIR COOPERATION, WITH PROPER --

Q AND ON <sup>those</sup> CALLS WOULD THEY ON OCCASION BE CALLED NEW YORK TO NEW JERSEY TELEPHONE CALLS? A. I AM TALKING ABOUT NEW YORK, SIR, NOT NEW JERSEY.

Q WELL, WOULD TELEPHONE CALLS PASS BETWEEN THE STATES OF NEW YORK AND NEW JERSEY? A IT IS POSSIBLE.

Q ABOUT HOW OFTEN WOULD YOU DO THAT? A I COULDN'T REPLY. HOW OFTEN I SAT ON WIRES, YOU MEAN?

Q YES, SIR. A ROUGHLY, WELL NOW YOU ARE TALKING ABOUT THE NUMBER OF INVESTIGATIONS, OR THE DAYS AND NIGHTS AND SUNDAYS THAT WE SAT THERE. WHICH HAVE YOU REFERENCE TO?

Q The investigation. A How many investigations?

Q How many did you investigate? A I would say, roughly, ten or fifteen.

Q Did you ever authorize, direct, or request a New Jersey wire tap for telephone message interception? A No, sir.

Q Did you ever listen in to a strictly New Jersey conversation? A No, sir.

Q Do you know whether any of the following have tapped wires or listened in to telephone calls from someone else?

SENATOR FORBES: Excuse me. Before that question, Lieutenant, did you ever in the course of your duties with the State Police, receive reports from State Police that had to do with evidence or disposition of a case in which wire tapping played a part?

MR. HAUSSLING: Perhaps on these New York instances I am talking of. Outside of that--

SENATOR FORBES: No, on--

MR. HAUSSLING: I'll be honest and candid with you, Mr. Senator, we never recorded as a telephonic interception. It was information received, emphasis on the New York.

SENATOR FORBES: Well, do you recall receiving any reports at any time from subordinates, oral or written reports, that were predicated on wiretap evidence within the State of New Jersey?

MR. HAUSSLING: No, sir, I cannot recall specifically.

BY MR. KERBY:

Q Following up my questions, do you know of any wire tapping activities, either of fixing a tap or listening in by any of the following: William Paul Kelly? A No, sir.

Q Andrew Zupolsky? A No, sir.

Q Arthur T. Keaton? A No, sir.

Q Frank Bauman? A No, sir.

Q Anunzio DiGaetano? A No, sir.

Q Gerald Dollar? A No, sir.

Q Edmund Looker? A No, sir.

Q Hugo Stockburger? A No, sir.

Q Did you ever direct, request or authorize any of these men to tap a wire? A No, sir.

Q Or to listen in? A You are referring always to New Jersey? Am I correct in that assumption?

Q Yes. A No, sir.

BY MR. CUNDARI:

Just for the purpose of the record, I would like to ask this witness the same questions that were asked of Mr. Keaton which were objected to by the Attorney General. If the Attorney General is going to object to them categorically, perhaps we could get it on the record, and then the Committee could decide whether or not the witness will have to answer at another date.

SENATOR FORBES: You had better ask the questions.

BY MR. CUNDARI:

Q Does the New Jersey State Police to your knowledge employ wiretapping or eavesdropping activities?

MR. RICHMAN: I make the same objection.

I think it is unnecessary to restate it. I am directing the witness not to answer the question.

MR. CUNDARI: All right, that's all. The other questions

are all along the same line.

SENATOR FORBES: There being no further questions, thank you very much, Lieutenant.

MR. HAUSSLING: Senator, may I impose upon the Committee: I have here a very interesting article appearing in the Mines Magazine, The Chief, the International Police Chief's Association, bearing on the subject matter which you have here before you, and it would be very interesting. It is a very eloquent article. It might be helpful to submit it to the Committee for study and get the law enforcement agency side of the matter. I have it right here.

SENATOR FORBES: It would be both appreciated and very helpful. I might say, Lieutenant, that one reason for all these questions is to attempt to get the law enforcement side of the whole matter of wiretapping and eavesdropping because, as was explained yesterday, if we are to enact intelligent statutes we have got to know both sides of the question and there is no priori assumption in the questions directed to the area of wiretapping or eavesdropping among law enforcement officers, per se, that a great crime has been committed. In terms of wiretapping, there is a statute. But what we are trying to elucidate is information, and that's why witnesses are privileged here in the testimony they give, that will enable us to do a sensible job in a field that now, in the opinion of many, needs further study and legislation.

MR. HAUSSLING: I appreciate it very much, sir.

SENATOR FORBES: There is no reflection intended.

MR. HAUSSLING: It is a very eloquent article.

SENATOR FORBES: It will be entered into the record and copies made available to the members of the Committee. Thanks very much, Lieutenant. We can make copies from this.

MR. HAUSSLING: Perhaps I can get them.

SENATOR FORBES: Well, if you have more.

MR. CUNDARI: Why not send one to each member of the Committee.

MR. HAUSSLING: Fine.

SENATOR SHERSHIN: Assemblyman Cundari, did you direct all the questions you wanted to ask this witness? I heard only one.

MR. CUNDARI: Well, I put on the record the fact that the same series of questions that were directed to Mr. Keaton are--

SENATOR FORBES: Well, why don't you put the questions to the witness. You've got one more minute. Put the questions to the witness just so that it's a matter of record.

BY MR. CUNDARI:

Q Mr. Haussling, did the New Jersey State Police, while you were in their employ, have any wiretapping equipment?

MR. RICHMAN: Same objection.

Q Did the New Jersey State Police have any eavesdropping equipment while you were in their employ?

MR. RICHMAN: Same objection.

SENATOR FORBES: Do you want it noted on the record, Mr. Haussling, that you refuse to answer on the advice of counsel?

THE WITNESS: I have, sir.

Q Did you ever see any of the wiretapping or eavesdropping equipment in operation?

MR. RICHMAN: Same objection.

MR. CUNDARI: Now, wait a minute. I didn't say by the State Police.

Q Did you ever see any wiretapping or eavesdropping equipment in operation? I think you can answer that question-- in operation in the State of New Jersey.

MR. RICHMAN: I think he has already answered that question two or three times.

Q Do you answer that question in the negative?

A Yes, sir.

SENATOR SHERSHIN: Lieutenant, I would like to have this on the record: Do you recommend that wiretapping and eavesdropping equipment be a means for aiding the police in their work?

MR. HAUSSLING: Senator, in my humble opinion, I believe it is a necessity today.

SENATOR SHERSHIN: I see that this article is not your article but it is written by someone from California. Do you concur in the opinions and views expressed in this article?

MR. HAUSSLING: One hundred per cent, sir.

SENATOR FORBES: That's all. Thank you very much. Would Edmund E. Looker please take the stand?

E D M U N D E. L O O K E R, being duly sworn according to law, testifies as follows:

SENATOR FORBES: We would appreciate it if the previous witnesses, Major Keaton and Lieutenant Haussling, would remain under the power of the same subpoena until the Committee makes a disposition or comes to some conclusion about the questions to which there has been objection to answering.

MR. RICHMAN: Do you mean by that, Senator, that you want them to remain today or simply want to extend--

SENATOR FORBES: Today.

EXAMINATION BY MR. KERBY:

Q Mr. Looker, would you state your address and your present employment and past employment? A Edmund E. Looker, 133 Lake Avenue, Boonton, New Jersey, formerly of the New Jersey State Police, and now with the Morris County Prosecutor's Office as an investigator.

SENATOR FORBES: Do you have counsel here today?

MR. LOOKER: No, sir, but I would appreciate one.

BY MR. KERBY:

Q And your present position? A I am with the Morris County Prosecutor's Office as an investigator.

Q When were you a detective working with the New Jersey State Police out of the Trenton Office? A I was a detective in the Trenton Office in 1947 through '50.

Q Mr. Looker, have you ever participated in wire-tapping in the State of New Jersey? A Yes, I have.

Q Tell us about that? A I listened in on a wire tap in the State of New Jersey with Detective DiGaetano.

Q And that was during your stay as a detective between 1947 and 1950? A Yes, sir.

Q At whose direction was this? A That, I can't say definitely, at whose direction it was, but all the orders emanated from either the Captain or the Lieutenant.

Q Who was the Captain at the time? A Captain Keaton.

Q Who was the Lieutenant at the time? A Lieut. Haussling. I may not pronounce it correctly.

SENATOR FOX: Is that the gentleman who proceeded you on the stand?

MR. LOOKER: Yes, sir.

Q Did you physically set up the wire tap?

A No, sir.

Q Who did? A Detective Kelly.

Q Is that William Paul Kelly? A Yes, sir.

Q Do you know where he is now? A No, sir.

MR. RICHMAN: I think the record should also note that Captain DiGaetano is dead.

Q Did you see Mr. Kelly put up the tap? A Yes, sir.

Q What sort of equipment did he use? A Wires, mainly, and a head set.

Q Do you know what information he had to start with?

A I don't know exactly what you mean by that question.

Q Did the order to Mr. Kelly give him the telephone number to tap, if you know? A I can't answer that.

Q Can you tell us of any other instance in which you participated in a wire tap? A I participated in another wire tap in New York City.

SENATOR SHERSHIN: Do you mind fixing the time?

MR. LOOKER: It was during those years of '47 to '50, when I was connected with the Detective Bureau at Trenton, New Jersey.

BY MR. KERBY:

Q When you listened in to these conversations, did you make reports? A Yes, sir.

Q In writing? A Yes, sir.

Q To whom did you submit them? A To Captain Keaton. All reports were submitted to Captain Keaton.

Q Did the reports specifically refer to a wire tap?

A No, sir, they didn't specifically refer to the wire tap; it was a report on your activities for that period.

Q Would it state that you listened in to a conversation?

A It would state the conversation to the best of your knowledge that you could take the conversation down. If you are listening to two people converse over the telephone, it is difficult, unless you take shorthand, to catch it word for word.

SENATOR FORBES: Well, when you submitted this report, Lieutenant, would it have any reference to the framework in which the recollection of the conversation was set forth? Would it say, "listening on such and such a date," or is there any reference to the source of the information that you were submitting on the report?

MR. LOOKER: On the report there is a subject matter and the subject matter would be the person who is suspected.

BY MR. KERBY:

Q You mean, the defendant, or the person suspected of a crime? A The person suspected, that you are

getting the information from, who is talking over the wire; his name would be the subject of the report.

Q Do you know whether any other reports were made by other detectives, to the same end, referring to wire-tapping or to conversations, listening in? A Everyone makes a report out. You make a report out on everything you do in the State Police.

Q Do you know whether or not there were any others which referred specifically to -- Do you know of your

own personal knowledge of other reports that were made concerning wire taps? A No, I can't vouch for anyone else but myself. I know that Detective DiGaetano made reports out the same as I did. Everyone makes a report out when they have any investigation at all.

Q Did he make a report or reports about other conversations that he had listened in to? A Yes, I know he did. He told me he did.

Q Then he did listen in to other conversations besides the one he worked in with you? A Not to my knowledge. That's the only one--

Q But he told you he did? A I don't know about that. MR. RICHMAN: He didn't testify to that.

Q I thought he did. A No, sir.

Q Do you know whether or not William Paul Kelly participated in any other wiretapping activities? A No, sir, I do not.

Q When he set up this particular wire tap, did he seem to know what he was doing? A I don't know too much about wiretapping, whether he knew-- whether he was adept at it or not, I couldn't say because that's the first and only time I ever saw it done.

Q Was he in charge of communications? A No, sir, he was a detective at that time.

Q Did he have any technical command or duty with respect to electrical wiretapping equipment, recording equipment? A Not to my knowledge.

Q Did any of your other detectives ever tell you that Mr. Kelly was the man who fixed the wire taps?

A I can't answer that.

MR. CUNDARI: Do you mean you can't answer or you don't want to answer?

MR. LOOKER: No, I wouldn't say I don't want to answer. It would only be hearsay, what I would have to answer. I am trying to state facts and I don't want to put anything in the record that is hearsay.

BY MR. CUNDARI:

Q Mr. Looker, you said you had information that the wiretapping in this particular instance was set up by the order of Mr. Keaton, down through Mr. Haussling, etc.

Where did you acquire that information? A Well, all orders come from your superior officers. They emanate from your superior officers.

Q And the reports were then given to your superior officers? A Yes, sir.

Q And you assume, in the normal course of events, that those reports went to the superior officers and then, one way or another, through the right channels to the Attorney General's Office? A I don't know where the reports go after they go to my superior officers.

MR. RICHMAN: For your information, Mr. Assemblyman, they do not come to my office.

MR. CUNDARI: They did not come to your office?

MR. RICHMAN: They do not come to the Attorney General.

Q Well, may I ask a series of questions of you, please, Mr. Looker? Other than the instance you referred

to, do you know of any other activity by the New Jersey State Police with reference to wiretapping?

MR. RICHMAN: Now--

MR. CUNDARI: Now, before you interrupt, Mr. Attorney General--

Q You said you had no counsel, is that right?

A That's right, sir.

Q You have no counsel? A I have no counsel.

MR. RICHMAN: Mr. Chairman, may I state that, although I am not as Attorney General representing this witness, I remind the witness that he is a former member of the New Jersey State Police, that he--

SENATOR FORBES: I think the Attorney General is out of order on that, I think-- I think the witness knows his own status.

MR. RICHMAN: And he is obliged to keep confidential all of those matters, even though he may no longer be an active member of the New Jersey State Police.

BY MR. CUNDARI:

Q I repeat the question: Have you any knowledge of the New Jersey State Police, other than the matter to which you testified, engaging in wiretapping in New Jersey?

SENATOR FORBES: We would like you to be frank and helpful to this Committee, Lieutenant Looker, because this Committee is depending on the cooperation of people such as yourself and others who are here as witnesses, to get answers that will help us formulate legislation, and we would appreciate it if you can be helpful.

MR. LOOKER: Well, as I stated before, I would like representation by counsel.

SENATOR FORBES: Nothing you say here today can be held against you in any court. It is privileged testimony and the reason for the privilege is that it is about the only way that a Committee such as this can get information that would be useful to it.

SENATOR SHERSHIN: Mr. Chairman, I do say this, that I think the Committee ought to consider it. The witness says that he would like to have counsel and, if that is his position, I as a lawyer on this committee feel that he ought to be entitled to counsel.

SENATOR FORBES: Well, he certainly is fully entitled to counsel. If he would like it, I don't know where we would provide one; I hesitate to--

MR. CUNDARI: I suggest the Attorney General be his counsel.

SENATOR FORBES: Well, I don't--

SENATOR SHERSHIN: Well, Assemblyman, you can't suggest counsel. It is the free and independent choice of the witness to select anyone he wants.

SENATOR FORBES: Well, let me put it this way, Frank. Lieutenant, your testimony here can't get you into any trouble in terms of breaking any law. You are here to be helpful and the only trouble you would get into is if you committed perjury before this Committee. You are certainly entitled to counsel but I don't think that in answering these questions to the best of your ability, in a way that will be helpful to the Committee, you are doing anything that requires counsel. Now, I am not one

so maybe I am off base. But is it your feeling that you don't want to continue your testimony until you have counsel?

- MR. LOOKER: Yes.

SENATOR FORBES: I mean, I am trying to be fair about it.

MR. LOOKER: I would like to discuss this with the Attorney General before I go any further with it as to answering the rest of these questions truthfully.

SENATOR FORBES: Well, you certainly will have that opportunity. Do you want to discuss it--

SENATOR SHERSHIN: Why not give the opportunity to the witness to discuss this matter with the Attorney General. We can recess--

SENATOR FORBES: Well, I don't think we need a recess; we can wait. You can have a consultation and then if you want to resume right away or have a longer consultation, that is your privilege.

MR. RICHMAN: I don't want to be accused, now, Senator, of influencing the witness.

SENATOR FORBES: You have never been accused of anything, Grover, except it's stricken.

MR. RICHMAN: For the purpose of clarity, may we have your last question, Mr. Assemblyman?

MR. CUNDARI: My last question was: Did the New Jersey State Police, while you were employed with them, other than the case about which you have testified, employ any wiretapping equipment?

MR. RICHMAN: In other words, did they have any wiretapping equipment?

MR. CUNDARI: Did they utilize it?

MR. RICHMAN: Have? Or use it?

(Witness confers with the Attorney General)

MR. CUNDARI: (Addressing witness) Are you prepared now to answer questions?

MR. LOOKER: On the advice of counsel, I deem it plausible not to answer the question you have asked that I already heard previously.

SENATOR FORBES: Lieutenant Looker, will you give the evidence that you gave or discussed in the closed hearing, the things that you heard and understood as an active member of the state police, when you were a lieutenant and down here in detective work; your knowledge by conversation or otherwise of who did what wiretapping in the State Police Department?

MR. RICHMAN: That, of course, Senator, will fall into the same category as the questions already asked. The same reasoning would apply, Lieutenant, as to the matters that we just discussed. This has an additional objection that it apparently is all hearsay anyway.

SENATOR FORBES: Well, the Committee has found very often with so-called hearsay leads by people in a position to give first-hand acquaintance with the people who are passing on the testimony that it provides leads and proves valuable in documenting data which is useful to the Committee.

MR. RICHMAN: That of course has been the subject of great discussion all over--

SENATOR FORBES: We are not in a court room, you know.

MR. RICHMAN: -- as to whether or not legislative committees shouldn't have some rules.

SENATOR FORBES: Well, now, that's another whole area for which I am sure you would be glad to provide many suggestions, but that's not the subject of discussion here. We are operating under the age-old rules that have been on the books for some years.

Lieutenant, would you answer the question, or are you going to be guided by advice of counsel?

MR. LOOKER: Well, I agree with counsel in that respect that it is hearsay evidence that I gave you in a closed hearing and it's not fact. It is only hearsay.

BY MR. KERBY:

Q Was wiretapping ever used on any tax cases?

MR. RICHMAN: May we have that again?

Q Was wiretapping ever used on any tax cases?

A Tax cases?

Q Yes, t-a-x.

SENATOR FORBES: Either federal or state.

MR. RICHMAN: You mean, income tax cases?

Q State tax cases. Can you answer that yes or not?

A Only by hearsay. I can't state it as a fact.

SENATOR FORBES: Can you tell us the hearsay?

MR. RICHMAN: Now, I think that the

witness has properly stated his own convictions that he should not give hearsay evidence, that he does not know the facts. He has told you, Senator, that he does not know the facts. Do you want rumors?

BY MR. KERBY:

Q In your testimony at the closed hearing, in answer to a question, "Was it ever used on tax cases?" --

MR. RICHMAN: Now, I object to the counsel reading what was said in the closed hearing and by indirection giving to the public matters that he cannot get by direction.

SENATOR FORBES: Well, the Committee determines at what point the data in the closed hearing becomes relevant.

MR. RICHMAN: Now, this is purely in the interest of fairness, Senator.

SENATOR FORBES: And in the interest of fairness and the responsibilities of the Committee, I think we have to make that decision. Do you want to take that up--

MR. CUNDARI: Well, can we be more specific? You say tax cases. Let's talk about something which has to do with taxes-- alcohol taxes, for instance. Did you ever use wiretapping in connection with alcohol tax cases?

MR. LOOKER: I never used wiretapping only in the case that I stated previously.

MR. CUNDARI: Did you ever see it used in connection with an alcoholic tax case?

MR. LOOKER: No, sir.

MR. CUNDARI: Did you ever hear of it being used in connection with a cigarette tax case?

MR. RICHMAN: Now, I caution the witness that the question is framed to elicit hearsay.

BY SENATOR FOX:

Q Now, Mr. Looker, I think you indicated or stated that you have listened in on two occasions, is that correct, sir? A Yes, sir.

Q And that was during the period of 1947 and 1950, is that correct, sir? A That is correct.

Q And those are the only two occasions that you listened in, is that correct, sir? A That is correct.

Q And in connection with the directions that were issued to you, is it a fact that you do not know whether it was either Major Keaton or Captain Keaton or Lieutenant Haussling that gave you those directions? A That is correct.

Q You do not know? Is that correct, sir? A That is correct.

Q Now, the first case that you mentioned listening in to was in connection with the raising of fighting bulldogs, is that correct? A Yes, sir.

Q And that was in the State of New Jersey; is that correct? A Yes, sir.

Q And the second occasion that you listened in was in

the District Attorney's Office in New York City; is that correct? Or in conjunction with the District Attorney's Office of New York City? A In conjunction with, yes, sir.

Q All right. Now, I would like to ask: In accordance with your testimony, the only other gentleman who you know who listened in to, as you say, a conversation was Captain DiGaetano, is that right? A That is right.

Q You do not know how many times he listened in; is that correct? A Not the exact number, no.

Q And you do not know under whose direction he was listening in, is that correct? A Not definitely. We all receive orders from our superiors. Now, who gave him his orders, I couldn't say, but he listened in at the same time I did.

Q Now, I think you mentioned Captain Haussling's name in connection with listening in. That was by rumor also, was it not? A I don't know definitely, no.

Q You do not know definitely? A It was rumor is right.

Q Now, is it or is it not a fact, with respect to Detective Dollar, whatever his office may have been - with respect to him listening in or attaching wire equipment, that was by rumor also? A That's right.

Q Am I correct then in stating that you cannot pin point which or any of these men who it was who issued any directions to you? A That is correct. I can't remember.

Q Am I correct, sir, that in connection with the

wiretapping or eavesdropping by mechanical means with respect to these men that you did not report this to any of your superiors? A Will you kindly repeat that? I didn't get that.

Q I direct this question: Is it not a fact, in connection with eavesdropping or wiretapping by mechanical means, that you did not ever report this to any of your superior? A I don't get the full meaning of that

question. If I could understand it more thoroughly, I could answer it. It's rather befuddled.

Q All right. I think you stated before that it was either one of these men, you do not know which, that ordered you or gave an order to you in connection with listening in or participating in wiretapping or eavesdropping by mechanical means. Is that right? A That is correct.

Q And it would be one of the men that you have mentioned. Is that correct? A That is correct.

Q Now in connection with either one of these men, is it a fact that you did not report this to your superiors? Do you understand that? A My superiors were one of the ones who gave the orders; either one of the two gave the orders to listen.

Q Well, did you make a report to them? A You make a report every time you make an investigation, and that was an investigation.

Q Well, I direct your attention to a question propounded to you on the date of September 20, 1956: Did you ever report this to any of your superiors? And your answer, no, sir. Is that correct or isn't it? A You make a

report on every investigation, and that is definitely incorrect. If I answered it that way, I must have misunderstood the question.

Q Well, I think that perhaps I can say this: You may have been confused before. In other words, what you were telling us before was that in connection with your activities as a state trooper, with respect to any criminal investigation you make general reports with respect to all of your activities; is that correct? A That is correct.

SENATOR FOX: That's all I have.

BY SENATOR SHERSHIN: Mr. Looker, when did you retire from the state police? A September 1, 1956.

Q For what reason? A Disability, ill health.

Q You are not under treatment now, are you?

A Occasionally, yes, sir.

Q For the same condition? A Yes, sir.

BY MR. CUNDARI:

Q Mr. Looker, may I ask you if you have ever heard of any wiretapping activity by the State Police for gambling purposes?

MR. RICHMAN: Now, that again, may I caution the witness, falls within the category of hearsay.

Q All right. Well, let me frame the question in a different way: Do you know of any wiretapping equipment by the state police for gambling purposes? A Will you repeat that, please?

Q My first question to you, which was objected to by

counsel was similar to a statement made by you in a closed hearing: Did you ever hear whether it was used for gambling cases? Your counsel told you not to answer the question. I changed or reframed the question and now I ask you: Did you ever know whether wiretapping was employed by the State Police for gaming purposes? A Other than what I have stated, no.

Q Did you ever know whether it was used for tax cases? A Only by hearsay.

Q Well, I didn't ask you if you heard. I ask you if you know. A No.

SENATOR FORBES: What is your definition of hearsay?

MR. LOOKER: What has been told to me.

SENATOR FOX: A lot of lawyers have trouble explaining that.

SENATOR FORBES: I mean, do you have in mind that if a Lieutenant told you that he had done a certain type of wire tapping that you can't say you know it was done? Is that what you mean when you say it was hearsay?

MR. LOOKER: No, sir. I mean rumors - rumors that you hear from other people about people doing something.

BY MR. CUNDARI:

Q All right. Then I refer to a question asked: Was it ever used in any tax cases? where your answer was, "I believe it was." Was that answer in response to what you thought was hearsay or rumors, or was it a fact?

A Hearsay. Rumors.

Q And the next question you were asked: What about tax cases? And you said, "I believe it was used in tax cases, alcoholic<sup>tax</sup>/cases and cigarette tax cases." Do you

want to change your statement now from a question of belief or a question of knowledge? Would you say you know it was used?

A No, I can't state definitely it was used.

Q When you said you believed it was used, was that because of hearsay again? A Yes, rumors or hearsay.

Q What would you add to this question: What was the most frequent use of wiretapping by the State Police, on what kind of cases? A I only know by hearsay again.

Q Was it used for murders, in investigation of murder cases? A As I said, I only know by rumors or hearsay.

MR. CUNDARI: All right, thank you.

SENATOR FORBES: If there are no further questions of the witness, thank you very much.

The committee will have a five-minute recess.

(R E C E S S)

SENATOR FORBES: We would like to call back Major Keaton, please.

A R T H U R T. K E A T O N, having been previously sworn, testifies as follows:

EXAMINATION BY SENATOR FORBES:

Q Major, the committee would like to direct to you the previous questions by Mr. Cundari. Mr. Cundari, will you put the questions to the witness, one at a time?

BY MR. CUNDARI:

Q Mr. Keaton, while you were in the employ of the State Police, did the New Jersey State Police have any wire equipment? Wiretap equipment?

MR. RICHMAN: Now, to that, Major, I make the same objection. However, I would call the committee's attention to the fact that late yesterday afternoon I had thought that it had been more or less agreed by the members of the committee that we would attack this problem on an informal basis so that you could get the kind of legislation that you want and that will be beneficial. But if you are going to pursue this course, then apparently you are not willing to do that on an informal basis and I had thought that the only objective of the Committee was to get sound legislation - and that's my interest too, and I do not want it publicly thought that I would not cooperate in that fashion. I extend that offer to the committee to cooperate in every way on an informal basis and I think that the pursuit of this inquiry along these lines is definitely not in the public interest.

SENATOR FORBES: I would just like to say, Mr. Attorney General, that this question the Committee considers pertinent and as part of the public record. We will take these questions one by one.

MR. RICHMAN: You understand, of course, that the matter to which you are referring is under attack as being unconstitutional.

SENATOR FORBES: Excuse me?

MR. RICHMAN: Under attack as being unconstitutional.

SENATOR FORBES: Well, regardless, the statute is on the books and the committee will operate under it.

BY MR. CUNDARI:

Q Will the witness now answer the question, please?

MR. RICHMAN: I suggest to the witness that he decline to answer it.

THE WITNESS: I decline on advice of counsel.

MR. KERBY: I recommend that we take a vote of the whole committee right now as to whether or not the committee has determined that this question is relevant and pertinent to our inquiry.

SENATOR FORBES: I vote yes.

MR. THURING: My vote is in the affirmative. I feel that the witness should answer.

SENATOR SHERSHIN: Affirmative.

SENATOR FOX: Affirmative - yes or no.

MR. CUNDARI: Affirmative.

MR. KERBY: Let the record show that the committee voted unanimously on this question.

Now, will you direct the question once more?

BY MR. CUNDARI:

Q I will direct the question again, Mr. Witness: While you were in the employ of the New Jersey State Police, did they have any wiretap equipment?

MR. RICHMAN: Perhaps the question could be clearer. I mean, it is extremely broad in its present form.

MR. CUNDARI: That is the question.

MR. RICHMAN: Do you mean that the Committee is not willing to make the

question clearer?

MR. CUNDARI: Well, I think the next series of questions will be as clear as this and I think will be sufficient for the purpose we want.

SENATOR FOX: Let's clarify it this way: During the period of time that you served in the State Police as an officer or in any capacity, to your knowledge did the State Police Department have wiretapping equipment?

MR. RICHMAN: Wouldn't it be fairer, Senator, to ask the witness whether or not the State Police had any equipment which might be adapted for wire tapping purposes?

BY MR. CUNDARI:

Q I'll ask that question: Did the State Police have any equipment that may be adaptable for wire tap purposes?

MR. RICHMAN: You may answer that yes or no .

A Well, they had machines. I don't know whether they can adapt them or not.

MR. RICHMAN: Well, answer the question if you can.

A Well, they have machines but I don't know whether they are for wiretapping or what they are.

Q Did they have any equipment that they did adapt for wiretap purposes? A Not to my knowledge, no.

Q Your answer is that they had no equipment--

A Not to my knowledge.

Q -- which they had adapted for wiretap purposes?

MR. RICHMAN: That is not his answer.

Q -- which they did adapt for wiretap purposes?

A Not to my knowledge, sir.

Q Did the New Jersey State Police, while you were in their employ have any equipment which could be used for eavesdropping purposes?

MR. RICHMAN: Now, Mr. Assemblyman, would you mind using the language "which might be adapted for eavesdropping purposes"?

MR. CUNDARI: No, I think the question is, "that could be adapted."

MR. RICHMAN: Which might be--

MR. CUNDARI: Which could be used for eavesdropping purposes.

MR. RICHMAN: Which could or might be used for eavesdropping purposes.

Q All right. Could, might, or is used, or was used in your case, because you are no longer an employee?

MR. RICHMAN: Well, now, for eavesdropping purposes?

MR. CUNDARI: That's right.

MR. RICHMAN: Well, now it's a three-fold question.

MR. CUNDARI: Well, you asked me to make it three-fold. Let's go back--

MR. RICHMAN: No, I didn't.

MR. CUNDARI: Let's go back to the original question then:

Q Did you, while in the employ of the New Jersey State Police, know whether they had any eavesdropping equipment?

MR. RICHMAN: Well, I thought you had

amended the question, Mr. Assemblyman.

MR. CUNDARI: Well, I did but you said it became a two-fold or three-fold question. So now I am asking a very simple question.

MR. RICHMAN: I thought we had agreed on the form of the question, which would be: Did they have any equipment which could be adapted for eavesdropping purposes?

MR. CUNDARI: I think the Committee feels that the question is a fair one.

MR. RICHMAN: Well, what's the question now?

MR. CUNDARI: The question is: Did he while in the employ of the New Jersey State Police have any knowledge of the New Jersey State Police having eavesdropping equipment.

MR. RICHMAN: Well, if the witness can answer that, he can. I would assume he could only say--

MR. CUNDARI: All right, let's not assume what the witness could say--

MR. RICHMAN: --that it might or could be used for it.

MR. CUNDARI: If he can answer it, you have given consent as counsel.

MR. RICHMAN: Well, I would assume that he is entitled to some assistance.

A Well, they have machines. Tape recorders, is that what you want?

Q Tape recorders and machines. Yes, that's what I want. The answer is yes.

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BY SENATOR FOX: What other eavesdropping equipment?

MR. KEATON: Well, microphones. Is that what you are talking about? Microphones? They have mikes with the machines.

Q Major Keaton, during your tenure with the State Police, did you have any equipment, or did they have any equipment to your knowledge that was adaptable to eavesdropping? That's the first question. A Well, I guess-

Q Yes or no. A I guess that <sup>the</sup> machines would be adaptable.

Q All right. Now, the second question: Do they have, to your knowledge, any mechanical equipment that is used or is adaptable for eavesdropping? A Yes, I believe that there is some.

BY MR. CUNDARI:

Q The next question: Did you ever see any of it in operation. By "it" I mean wiretapping equipment or eavesdropping equipment.

MR. RICHMAN: Now, I object to that on the fundamental basis that now you are going into the area of how, when, and why.

MR. CUNDARI: I am not asking how, when or why. I am asking if he ever saw it in operation. I will not ask the question of how, when or why.

MR. RICHMAN: That necessarily goes into that same question. You are asking if he ever saw it in operation. To answer that question, he would have to say, if he has seen it in operation, under what circumstances it was

operated and that answers the question of how, when and why.

MR. CUNDARI: All right, will the witness answer the question?

SENATOR FORBES: The Committee will take a vote on whether or not that question is relevant. I call for a vote on whether or not that question is relevant.

MR. THURING: May I have the question?

MR. CUNDARI: The question is: Did you ever see any wiretapping or eavesdropping equipment in operation by the State Police?

MR. THURING: My vote is that the witness should be directed to answer.

SENATOR SHERSHIN: I vote that he be directed to answer it.

SENATOR FOX: Yes.

MR. CUNDARI: I vote likewise.

SENATOR FORBES: Yes.

MR. RICHMAN: Yes or no.

A Yes.

Q You have seen it in operation? A Not wire-tapping, but the machines, I am talking about - eavesdropping.

Q Let's clarify it. You have never seen wiretapping apparatus in operation by the State Police? A I haven't seen any.

Q You haven't seen-- A I have seen machines that you can convert. They tell you about it.

Q For wiretapping purposes? A Well, for getting information over the phone.

Q But you have seen in operation eavesdropping equipment by the State Police. Is that correct? A Well, yes.

Q The answer is yes? A Yes.

Q Thank you. Then my next question is unnecessary. I was going to ask you: Does the State Police to your knowledge-- All right.

SENATOR FORBES: Thank you very much.

Would Lieutenant Haussling come forward, please?

EUGENE HAUSSLING, having been previously sworn, testifies as follows:

BY MR. CUNDARI:

Q Mr. Haussling, may I repeat to you the same questions I directed before, where counsel advised you not to answer? Did you, while you were in the employ of the New Jersey State Police, have any knowledge that they had any wiretapping equipment.

Mr. RICHMAN: Answer that yes or no.

A No.

Q To your knowledge, did they have any eavesdropping equipment?

MR. RICHMAN: Yes or no.

A The State Police - no.

Q Is it true, therefore, that you never saw any eavesdropping or wiretapping operations by the State Police in New Jersey? A I have, sir.

Q You have seen it in operation in the State of

New Jersey. Was it put in operation by the State Police?

A Yes, sir.

Q Your original question was that they had no wire-tapping equipment.

MR. RICHMAN: That is a double-barreled question, Mr. Assemblyman. You are not on wiretapping. You are on eavesdropping now, as I understood it.

SENATOR FORBES: All right. Thank you very much.

MR. RICHMAN: Now, let's clarify that. The answer to this last question related solely to devices that could be adaptable for--

SENATOR FORBES: He doesn't mean the last question. The answer to the one before.

MR. CUNDARI: The last question was, have you ever seen it in operation and he said yes.

MR. RICHMAN: Well, the one he answered was in reference only to eavesdropping devices.

MR. HAUSSLING: May I clarify that? Recording, I am only talking about. Not telephonic recording either, Senator.

SENATOR FORBES: All right. And by recording you indicate eavesdropping, is that right?

MR. HAUSSLING: That is correct.

SENATOR FORBES: Thank you ever much.

Would Lieutenant Dollar please come to the stand?

GERALD C. DOLLAR, being duly sworn according to law, testifies as follows:

MR. RICHMAN: Before we start with this witness, Mr. Chairman, I would like to clarify one point. You made reference earlier to a letter that I had written to you dated March 8, 1955--

SENATOR FORBES: That's right.

MR. RICHMAN: -- and some inquiry to me as to why I had not reported those activities in Union County to the Committee. That is correct, I believe, sir.

SENATOR FORBES: That's right.

MR. RICHMAN: According to my recollection, this committee was not created until February 7, 1956.

SENATOR FORBES: This committee was not what?

MR. RICHMAN: Not created until February 7, 1956, by which time all of those matters had been presented to the Union County Grand Jury and disposed of, so there would be no purpose in my reporting them to you then.

SENATOR FORBES: That wasn't the point--

MR. RICHMAN: You created the inference, Senator, that the committee was in existence at the time of the writing of

that letter, which is not a fact.

SENATOR FORBES: Just to clarify the point, I said that I had sent you a letter asking if you knew of any wiretapping in the State of New Jersey, among other questions. Your reply was, on March 8 of 1955, "I have no knowledge of the use of wiretapping by other state law enforcement agencies." The testimony of Mr. Stamler was that he and his client had discussed it with you and the Governor in February of 1955.

MR. RICHMAN: And I have told you that I am not sure of that date or whether or not I understood the import.

SENATOR FORBES: Well, that was the question.

MR. RICHMAN: But you raised the further inference that I was under a duty at that time to report that information to your Committee. The Committee was not alive at that time. I could not have reported it to your Committee.

SENATOR FORBES: Well, if I drew that inference, I withdraw it. Having sent me--

MR. RICHMAN: All right. That's all I want to know.

SENATOR FORBES: But I would like to clarify. What I was trying to say was that, having sent me a letter disclaiming any knowledge of wiretapping by other state law enforcement agencies, if you did have knowledge at the time, you might have

provided it and if it occurred to you a week after you wrote this letter, the import of testimony or the discussion that you had had, you might have clarified that then. You leave the distinct impression in the letter of March 8th to me that you know of no use of wire-tapping by other state law enforcement agencies and--

MR. RICHMAN: That must have been so at the time.

SENATOR FORBES: -- either at the time you did know or later you knew.

MR. RICHMAN: That must have been so at the time. I think you are laboring the point. I simply wanted to get you straightened out, Senator, that your Committee didn't come into existence until February 7, 1956.

SENATOR FORBES: I am well aware of when the Committee came into existence.

SENATOR SHERSHIN: Mr. Chairman, I wonder if we may proceed. I think the point is well cleared up and we should not take the time of the Committee to argue one way or the other. Let's get on with the business.

MR. RICHMAN: I am heartily in favor of that.

BY MR. KERBY:

Q Mr. Dollar, will you state your name, address and occupation?           A     Detective, First Class. Gerald C.

Dollar, assigned to the criminal investigation section of the New Jersey State Police, Department of Law and Public Safety. I reside at Newell Road, in Cranbury, New Jersey.

Q Do you know of any wiretapping in the State of New Jersey?           A     No, sir, I do not.

Q Have you ever listened in to a telephone conversation not intended for you? A I believe, in answer to that question in the executive session, Mr. Kerby, I made the statement that I had upon occasion by using an extension.

Q Have you ever recorded conversations in those instances? A Yes, sir.

Q Does the State Police have recording machines at the present time?

MR. RICHMAN: You can answer that, yes or no,

A Yes.

Q And each recording machine has a microphone?

A I beg your pardon, sir?

Q And does each recording machine have a microphone?

A Yes, sir, they do.

Q Is there any other equipment along with it adaptable to eavesdropping or wiretapping?

MR. RICHMAN: Well, now, let's make it one or the other, Mr. Kerby.

Q Let's start with wiretapping - any other equipment adaptable to wiretapping, along with the recording machines and microphones which the State Police owns? A The question as I understand it now is whether or not the equipment owned by the State Police has equipment adaptable to wiretapping?

Q Yes. A The answer is yes.

Q Is there equipment adaptable for eavesdropping also?

A Yes, sir.

SENATOR FORBES: At this point I would like to ask a question that was asked in executive session: How many men, the number, not the names, in the State Police Department would, in the course of their work, be authorized to use eavesdropping equipment?

MR. RICHMAN: May I suggest to you, Senator, that that question be directed to the Superintendent of the State Police, who would be the proper person to answer it?

SENATOR FORBES: Right.

BY MR. KERBY:

Q The eavesdropping devices, or the equipment adaptable to eavesdropping, are used without the knowledge of the party; is that not so? A Not entirely, Mr. Kerby.

Q But there are occasions when it might. Is that the answer? A Yes, sir.

Q How many times within the past year has it been used?

MR. RICHMAN: I object to that on the fundamental ground that now you are going into the details of performance.

Q Can any of the detectives in the State Police use this equipment?

MR. RICHMAN: I think that, again, should properly be directed to the Superintendent. It is a matter of authority and this witness is not in a position to answer that.

Q Do you secure anyone's permission before you use the eavesdropping equipment? A Not necessarily, Mr. Kerby.

Q Sometimes, do you? A I can't recall having obtained permission from anybody. A job comes up fast, you grab the equipment and you use it.

BY SENATOR FORBES:

Q In general terms, generally, not the number of times that this eavesdropping equipment is used, but is it in general use; I mean, is it used frequently?

MR. RICHMAN: Now, I object to that on the same basis. I mean, that is a characterization that could be subject to any number of conclusions.

SENATOR FORBES: Well, I'll give you the background or the purpose of the question: If it is very rarely used and only in certain types of questions, that would have a relation to the statute that might be written pertaining to it. If it is in general and frequent and widespread use in all manner of investigations, that would have a bearing and it would help guide the committee.

MR. RICHMAN: Well, I can see how it might help guide the committee. It is rather remote but there is a possibility that it might.

SENATOR FORBES: Well, if it is only occasionally used, it would--

MR. RICHMAN: I do not think it is the public interest that it be publicly known whether or not a police agency uses eavesdropping equipment generally, rarely, frequently or infrequently. I think that is the business of the police.

SENATOR FORBES: Well, it's the business of the committee. I'll repeat the question.

Q Is the eavesdropping equipment in general and frequent use by the State Police? Yes or no.

MR. RICHMAN: I would suggest to the witness that that question not be answered.

A The witness declines to answer on advice of counsel.

MR. KERBY: I will call for a vote as to whether that question is pertinent and relevant to our inquiry.

SENATOR FOX: Limiting the answer to yes or no.

MR. THURING: First, I would like to clarify in my own mind that there is nothing in the question which directs to this particular witness as to confining it within his own knowledge.

SENATOR FORBES: I will reframe it. To your own knowledge. Maybe I should put it: in your own experience as it affects you personally, do you have occasion frequently, often, to use equipment, to use eavesdropping equipment?

MR. RICHMAN: Now, I again appeal to the Committee that this is a vague, indefinite question that is subject to any number of interpretations or conclusions and can serve very little, if any, purpose, and it is simply leading us into that field which I hope you will not get into. I will say to the witness - you can answer it yes, no, or am unable to answer the question.

SENATOR FORBES: Will you answer the question yes or no: Do you frequently use eavesdropping equipment in the course of your investigations?

MR. DOLLAR: No, Senator.

SENATOR FORBES: To your knowledge, does the State Police use it frequently?

MR. DOLLAR: I would have no way of knowing that, sir.

SENATOR FORBES: Thank you, Lieutenant.

Will Colonel Rutter come forward, please?

J O S E P H T. R U T T E R, being duly sworn as a witness, testifies as follows:

THE WITNESS: My name is Joseph T. Rutter and I resign at 906 Ramapo Avenue, Pompton Lakes.

BY SENATOR FORBES:

Q And your occupation? A An employee of the State of New Jersey.

Q And what is your official capacity with the State, please? A Superintendent of the State Police.

Q Colonel, I would like to ask you this question:

Do you consider that eavesdropping equipment possessed by the State Police is used frequently in their investigations?

A Eavesdropping equipment?

MR. RICHMAN: Colonel, before you answer that question: The interpretation of the word "frequently" is vague. You may, of course, put your own interpretation on the word frequently. You have no way of knowing what the Senator means by frequently.

A I do not know, sir.

Q Let me put the question this way: To your knowledge, do the State Police concerned with investigatory work use eavesdropping equipment daily, weekly, several times a week? Is it in frequent, constant use in the normal understanding of the word? A I don't know, sir.

Q Do you get any reports as to the number of times?

A I didn't say it was used.

Q Is this eavesdropping equipment used by the State Police? A I don't know, sir.

Q You don't know? A Yes, sir, I do not know.

Q As Colonel or Superintendent of the State Police, wouldn't you know if it was used? What were you before you became Superintendent of the State Police?

A Captain of Operations.

Q Do you have any knowledge of eavesdropping equipment in use by the State Police? A No, sir.

Q Do you have any knowledge of wiretapping by the New Jersey State Police-- A (Inaudible)

Q Is this the first time you had knowledge of the

fact as testified to by Lieutenant Dollar?

A In the closed hearing.

Q That is the first knowledge that this eavesdropping equipment was used by the State Police? A Yes, sir.

MR. CUNDARI: You have heard testimony by other members of the State Police as to the fact that they do have wire-tapping and eavesdropping equipment in the State of New Jersey and it has been put in operation. Where do the reports of such an operation go to?

MR. RICHMAN: I think that question is not accurate. You mention the statement that wiretapping has been put in use. I don't recall any such statement.

MR. RUTTER: I didn't hear any testimony that we did have wiretapping or eavesdropping equipment in the State Police. I thought I heard it said they had some equipment that was adaptable to eavesdropping.

MR. CUNDARI: The testimony will show today that either Mr. Keaton or Mr. Haussling said they did have eavesdropping equipment, not just adaptable to eavesdropping but they did have eavesdropping equipment and, as a matter of fact, they were also using eavesdropping equipment.

MR. RUTTER: May I ask if in the same testimony did they said the equipment was the property of the New Jersey State Police?

MR. CUNDARI: I believe Mr. Keaton said

yes.

SENATOR SHERSHIN: I believe in fairness to the witness, we should not make comparisons of testimony.

BY MR. CUNDARI:

Q I ask you, as Superintendent of the State Police, that if there was activity in wiretapping by the State Police, would the reports come to your office? A No, sir.

Q Where would the reports go? A If there were any reports they would be filed in the criminal investigation section.

Q And what would be done with it. A It would be kept in the file.

Q The report would be kept on file? A Yes, sir.

Q My question to you at the present time is if there were any-- A I am not admitting to any.

Q You say you are not admitting to any. But if there were any such information it would be deposited in an area over which you have jurisdiction and it would go just that far and no further; is that correct, sir? A Yes, sir.

SENATOR FORBES: I asked before who would be authorized to use eavesdropping equipment; I asked for the number and directed that observation to you as Colonel and it was agreed that you would see if you could find an answer for the Committee. Did you get that answer?

MR. RUTTER: I must qualify my answer, sir, this way: that I know that we do have wire and tape recorders which are the property of the New Jersey State Police. However,

we use those for many purposes. One would be in the course of instruction on public speaking in our Academy, and many other purposes. Now, that type of equipment without question-- I do not have any technical knowledge along that line but I would suppose you could use that type of equipment for eavesdropping.

BY SENATOR FORBES:

Q Does the Department own any so-called Minifones and other eavesdropping devices? A Similar devices to that which you describe.

Q In other words, other than the kind of recordings that would be used at the school for training officers. I mean, we are not trying to split hairs or put you on the spot, but stuff adaptable to investigatory purposes; that isn't walking around with a suitcase and turning it on-- A Similar devices.

Q Right. That answers the question. How many people in the State Police have use or would have occasion to use such equipment in their investigations; in other words, are authorized - that is probably not the right word, but the number that would be apt to be using such equipment in the course of their own activities? A We do have 110 detectives in the New Jersey State Police, 37 of which are stationed at Trenton.

Q Well, the answer then would be that-- would it be 37 or 100 might in the course of their duty have occasion to use such equipment? A If they use it - I do not know whether they use it.

SENATOR FORBES: Thank you. Well, this wraps up the testimony insofar as it concerns the State Police, and I would just like to make it clear again, on behalf of this Committee, that the point and objective of this questioning has been to provide guidance to the committee so that in recommending legislation, we keep in mind the areas in which it is useful and essential for the solving of crime. There is no intent, in attempting to protect the area of civil rights, in legislating on the subject, to unduly hamper or impede or reflect on the operation of law enforcement agencies, and that is the purpose and objective behind the testimony that has been sought here today to be put in the record.

MR. RICHMAN: Well, I appreciate your remarks, Mr. Chairman, and from the nature of the questioning and the limitations that you have obviously imposed on the questioning today, I think that it has been fair. I think it has been a long, hard struggle, Mr. Chairman, to come to this point but we finally have reached it, and I am very happy about the whole situation.

SENATOR FORBES: Well, I appreciate the Attorney General's remarks and I am sorry it took so long to get permission to get the questions answered. Thank you very much.

MR. RICHMAN: I mean it took a long time, Senator, to get you around--

SENATOR FORBES: Now, let's not have any extraneous personal observations.

MR. RUTTER: Gentlemen, am I excused? I am right in the middle here, you know.

SENATOR FORBES: You are excused, Colonel. Thank you.

Is Mr. William Eager of Newark here, please?

W I L L I A M E A G E R, J R., being duly sworn  
according to law, testifies as follows:

BY MR. KERBY:

Q Will you state your name, address and occupation,  
Mr. Eager? A William A. Eager, Jr., 93 Underwood  
Street, Newark, New Jersey.

BY SENATOR FORBES:

Q What is your occupation? A Superintendent,  
Police Telegraph Signal System.

Q In Newark? A In Newark.

Q Have you ever participated in wiretapping? A Yes,  
sir.

Q Who directed the taps? A Commissioner Cass.

Q What information would you get from the wiretaps  
and what would you do with it? A I wouldn't get no  
information. I was just instrumental in doing the tapping.

Q In getting your directions from Mr. Cass, what  
would you be instructed to do? A Well, it was all  
according to the type. At times he would want a listening  
post and I was instructed to go out and see where I could  
locate a listening post, which I would do and inform him  
to the effect of where I could locate this post. He in turn  
would make arrangements for this listening post and I in turn  
would run wires in there--

Q What do you mean "make arrangements"? A Arrange-  
ments for his men to sit in and listen on wire tapping.

Q How many times a year would you or your men tap?

A As many as 20 times over a long period of years.

Q When was the first time? A When I first came in the business, I would say, in 1922.

Q Did you make reports of these taps? A Never.

Q Up until how long did you get orders to set up taps? You have mentioned that over a period of many years.

A I would say up until some time in possibly '50.

Q Sometime in 1950? A I think so. I wouldn't know the date the last time we received an order to do a wiretap job.

Q But you estimate it was in 1950? A Somewhere around that time, yes.

Q Who listened in after you set up the taps?

A Well, I would imagine the detective.

Q Who else did wiretapping for the Newark Police?

A Nobody that I know of.

Q How would you get the pair and cable numbers?

A To get the pair and the cable numbers, I would call the repair service of the telephone company.

Q And did they ask who you were? A No, they did not.

Q They would just give them to you? A That is correct.

Q And you needed no identity? A I had no identity over the phone, no.

SENATOR SHERSHIN: Did they know you were a police officer calling?

THE WITNESS: They did not. I don't believe--

I wouldn't know.

SENATOR SHERSHIN: Did you tell them you were a telephone man?

THE WITNESS: No, sir.

Q What wiretapping equipment do the Newark Police have now? A Well, to the best of my knowledge, they had one set - a black set for recording, plus a homemade recorder that I have, plus two test sets, telephone test sets, and two listening- what we call watch case receivers with condensers that we can tap in on a line and listen on.

Q Why did you cease tapping? A Well, the only thing I can say is that we just didn't get an order. I didn't get an order to tap

Q Since- roughly? A Well, roughly, I would say somewhere around 1950.

SENATOR FORBES: Thank you; I have no more questions.

BY MR. KERBY:

Q Well, when you received the order from Mr. Cass, what information would you get? A He would give me-- at times it was possible that I only got a telephone number. In most instances, I would get the name, address, and the telephone number.

Q And then what would you do? A Well, I would get the pairs.

Q As you previously described? A That is correct.

Q And you would personally affix the tap? A I would --; no, not specifically. In most instances I would have a man who would work with me to affix the tap. I would supervise possibly out in the field, and at times I have--

years ago naturally, as a lineman, I would affix the tap.

Q Did any of the following help you affix taps:

Jack O'Donnell? A The only thing I can say is that he is retired many years. I would say yes.

Q Howard Prass? A Yes.

Q James Smith? A Yes.

Q Edward Lawson? A Yes.

Q Joe Grover? A Yes.

MR. KERBY: That's all.

SENATOR FORBES: Thank you very much.

Is Walt Warren here, please?

W A L T E R W A R R E N, being duly sworn according to law, testifies as follows:

THE WITNESS: Walter Warren, Port Norris,  
New Jersey.

BY SENATOR FORBES:

Q And your occupation, Mr. Warren? A I drive a truck.

Q Will you tell the committee how in February of 1956 you intercepted telephone conversations through your radio?

A I've got a small portable radio that would pick up telephone conversations sometimes. That's about all I can tell you.

Q Did you tell anybody about these interceptions and what they contained? A I told some people who told me they were from the telephone company, and I told them what I had heard.

Q You never told anybody else before that the conversations you were picking up? A I told the man that

I heard talking that I heard him talking.

Q Over what period of time did you intercept these messages? A As long as the radio played which may be three or four years, it would pick them up, at different times-- sometimes it would and sometimes it wouldn't.

Q How did you happen to tell the telephone company about it? A They asked me.

Q What led them to ask you about these conversations? A I don't know. They must have heard about it. I had asked the radio repair man around.

Q Did you tell anybody else about these conversations from time to time, what was said in them? A I told them that I had heard conversations, telephone conversations, yes.

Q And the contents of the conversations you never discussed with anybody? A I don't think so.

Q Can you still do it? A No, sir.

MR. RICHMAN: You won't have to legislate against that one then, Senator. The machine broke.

SENATOR FORBES: Well, thank you very much, Mr. Warren. Are there any questions?

MR. WARREN: You mean I can go home now?

SENATOR FORBES: Yes.

Is Mr. E. C. Mutzer here?

E D W A R D M U T Z E R, being duly sworn according to law, testifies as follows:

THE WITNESS: My name is Edward Mutzer, and I live at 428 Brooks Street, Audubon, New Jersey.

BY SENATOR FORBES:

Q And what is your occupation, Mr. Mutzer?

A I am employed by the New Jersey Bell Telephone Company.

Q Could you explain to the committee what led to your investigation of the incident Mr. Warren just described over a three or four year period when by radio he could and was intercepting telephone messages? Could you tell about the specific circumstance that led to your investigation or the telephone company's investigation of that case and how that's possible?

A Well, my portion of it is only to explain to the man who found it the technical reasons of why it could be done. How Mr. Warren got into it, as far as the telephone investigation, I don't know that. I just accompanied my-- my superior asked me to accompany a Mr. Drier to Port Norris to explain why it was possible.

Q And would you explain to this committee if it's possible; I mean, how and why it was possible for this to go on?

A Well, let's say it's a remote case - a series of things led up to it. For instance, the particular radio that he had was unique inasmuch as it tuned those frequencies that we use on our carrier system in Port Norris. It just so happened that his having that particular portable in close proximity to our plant, that such a thing was possible.

Q Is it still possible? Can that happen? Can somebody deliberately do that?

A Oh, yes, yes.

BY MR. KERBY:

Q Are telephone messages very frequently transmitted by radio? A This isn't by radio. This is by wire carrier, this particular case.

Q But it can be intercepted by radio? A Yes, if you have that-- the federal communications allots certain frequencies. That particular frequency is for navigational aid. It is very unlikely for anybody to have a radio for any home use whatsoever for such a thing. You would only find them in airplanes or CAA stations or something like that.

SENATOR FORBES: But it was possible and it is possible for somebody who knows what they are doing to tune in, you might say, on telephone messages?

THE WITNESS: Under extreme circumstances, yes. You would actually have to get your set in close proximity or run a third wire or something like that. I would say that the radio was not made to do that. But it is possible.

SENATOR FORBES: Well, thank you very much.

Mr. John Collins.

J O H N C O L L I N S, being duly sworn according to law, testifies as follows:

BY SENATOR FORBES:

Q Do you want to give your name and address?

A I am John M. Collins, I reside at 254 Pennsylvania Avenue, in Freeport, New York; I am an investigator on the staff of the Joint Legislative Committee conducting these hearings.

Q Mr. Collins, would you explain to the committee the material you are about to read into the record which has a Mr. X because of a pending court case, as I understand it.

A I have here a memorandum dated September 19, 1956, entitled "The Case of Mr. X." Mr. X is married and lives with his wife in the State of New Jersey. They have

three children, ages 14, 8 and 6. Mr. X for some time had heard rumors that his wife was unfaithful to him and was having an affair with another man. To verify this suspicion, he decided to place a wiretap on his own telephone, to intercept and record telephone conversations coming in through his telephone. One day, when Mrs. X was not at home, Mr. X placed a magnetic pickup inside the telephone bell box and ran a pair of wires from the bell box to a room in the cellar. Another pair of wires was attached to the switch hook mounting screw and also run to the cellar. In the cellar Mr. X installed a tape recorder in a small room which he kept locked. Thereafter, all telephone calls coming into his telephone were intercepted and recorded. Mr. X learned from the recorded conversation that his wife was being unfaithful to him and was having an affair with another man. Mrs. X became suspicious of the locked closet and hired a locksmith to open the closet. When the closet was opened, the wires were visible but the recording machine had been removed. Mrs. X reported the situation to the local police department, which called the New Jersey Telephone Company. The telephone company sent a repair man- rather a repair foreman to Mr. X's house, who removed the magnetic pickup and the wires. The telephone company left the magnetic pickup and the wires on the premises but later telephoned Mr. X and informed him that if the equipment was again found attached to the telephone, his telephone service would be subject to disconnection. Marital difficulties continued between Mr. and Mrs. X. Mrs. X accused Mr. X of recording her private telephone conversations. Mr. X did not deny this, though Mr. X never stated to Mrs. X that

he had the recordings.

Mrs. X sued Mr. X for divorce, based on other grounds of extreme cruelty. The case is now awaiting to be heard by the Superior Court of New Jersey.

SENATOR FORBES: Thank you very much, Mr. Collins.

Sergeant Frank Sullivan, please?

F R A N K E. S U L L I V A N, being duly sworn according to law, testifies as follows:

THE WITNESS: Frank E. Sullivan, 229 North Texas Avenue, Atlantic City.

BY SENATOR FORBES:

Q And your occupation? A Sergeant, Atlantic City Police Department.

Q Did you ever record the conversations on the telephone of Pearl Faulcon in Atlantic City? A Yes, sir, I did.

Q Could you give us the details of this case and also how the recording was made? A In August 1951, I went to the apartment of Miss Faulcon at her request - the request was made indirectly, not directly to me; it was made to the Sheriff and he sent me there - to record an expected telephone conversation. I set up a wire recorder with a sensitive coil which could be held close to the telephone. When the telephone calls came in - two in fact - they were recorded on wire, one after the other.

Q Was a beep device attached to this phone at the time the recordings were being made? A No, sir, it was not.

BY MR. KERBY:

Q Was someone indicted after this call? A Yes, sir, someone was, as the result of the--

Q Who was that? A A member of the Atlantic City Police Department.

Q Was that Mr. Francis Gribbin? A Yes, sir.

Q And for what, in general, was the indictment - in general terms? A Extortion. That was the idea of the telephone recording originally.

Q Do you know whether or not the recording was offered in evidence in connection with the trial of the indictment? A Yes, sir, it was.

Q Now, do you know whether or not the defendant's, that is, Officer Gribbin's, attorney objected to the introduction of the recording? A He did object.

Q Do you know whether or not it was admitted in evidence? A It was admitted.

SENATOR FORBES: We would like to read into the record the opinion. I think it is generally thought that wire tap evidence is not admissible into the courts in New Jersey. Would you read the section of the Judge's opinion which permits the introduction of this wire tap evidence?

MR. KERBY: I would like to say that the committee has been in touch with Judge Leon Leonard and asked him to be present to tell in his own words how he passed on this evidential point. Unfortunately, he was not able to be present, but he did give the Committee permission to read

into the record his opinion as rendered at the trial, and I will read his opinion at this time:

(Reading)

"THE COURT: It seems to me that the offer of evidence in this case is controlled entirely by the New Jersey statute which counsel for the State and the defense admit there is no construction in the State of New Jersey by any decided cases. I cannot conceive, in view of the statute, that the Federal Communications Act would be applicable to intrastate messages. A reading of the New Jersey statute in my mind does not make this conversation a violation thereof. There were no cuts, breaks, taps or connections by the testimony, according to the testimony. It was just held up against the receiver. And, also, in addition to that the statute provides a telephone belonging to any other person, and this telephone for the purpose of the statute, in my opinion, belonged to Pearl Faulcon, one of the parties to the conversation. The fact that the physical title was in the telephone company does not, or the statute, that is, in my opinion, does not mean to imply that the telephone belongs to the telephone company. When it says, 'belonging to any other person,' I take that to mean the subscriber and not the actual owner of the physical instruction.

"Now, in the next section it said, 'Read, take copy, make use of, disclose, publish, or testify concerning any message, communication, or report intended for another, and passing over any such telegraph or telephone line--' and so forth. This telephone con-

versation was intended for Pearl Faulcon, the witness who testified about it. The witness said that she herself held the recorder and recorded the conversation. If you take the statute to apply to a situation where two people are holding a conversation and a third party attempts to record it, why, the statute in that instance would make that a violation of the law. I do not think it applies as between the parties.

"I will, therefore, overrule the objection and allow the evidence to be admitted, the recording to be played, subject to a proffer of the recording, the playing of it, before the Court without the jury, so that we can determine the actual legal evidential value of any part of the conversation.

"MR. PERSKI:" (The defendant's attorney) "If I understand your Honor's ruling, is it that this statute is not meant to protect one who sends a telephone communication?

"THE COURT: It says, 'intended for any other person.' This conversation was intended for Pearl Faulcon and she recorded it.

"MR. PERSKIE: How about that portion of the conversation by Pearl Faulcon intended for the party on the other end of the wire, your Honor, and that was intended for another and this part that I am referring to will be picked up in the recording.

"THE COURT: I have ruled on that."

SENATOR FORBES: Thank you very much, Mr. Sullivan.

MR. RICHMAN: Mr. Chairman, in connection with that Faulcon recording, don't you think the record should show that the Officer Gribbin who was indicted eventually pled guilty to the offense?

SENATOR FORBES: Yes, fine. The record should show that.

Mr. Fred Warlich?

F R E D E R I C K J. W A R L I C H, being duly sworn according to law, testifies as follows:

THE WITNESS: My name is Frederick J. Warlich, surname W-a-r-l-i-c-h, and I am a member or a Patrolman in the Atlantic City Police Department and have been so employed for the past ten years. I reside at 1521 North Michigan Avenue, Atlantic City, New Jersey.

BY SENATOR FORBES:

Q Did you record a conversation between yourself and Jacob Goldie, without Goldie's knowledge, during the month of October 1951, and could you-- A Yes, sir, I did.

Q Would you state the details? A At this time, together with several other policemen in the Atlantic City Police Department, I was conducting an investigation and making arrest of numerous gamblers and racketeers in Atlantic City. As an aftermath of these arrests, a couple of police officers were arrested on alleged extortion charges and subsequently indicted. In an effort to obtain evidence to try to clear these officers of these charges,

I installed a recording device in the trunk of my car, a Webster wire recorder. Using an inverter to transfer the current from the alternating current to direct battery current, I ran a microphone from the trunk of my car up under the dashboard of the car and installed a switch to open and close the current under the seat of the driver's side of the car. I made approximately half a dozen recordings and also recorded the two persons who had accused these officers of the charges. The one recording was brought before one of the officer's trials, Francis Gribbin's trial, but was found to be distorted and not of any evidential value. The second recording that I obtained in the car was introduced at the trial for the second police officer and was determined to be evidential and played before the jury and I think to a great effect helped result in acquittal.

Q Did you ever record any conversations you had with a Leo Schnitzer without his knowledge? A Yes. The Schnitzer recording was the second recording that I had made. That was on October 18, 1951.

Q Could you tell us the details of that recording? A On that recording, I advised Mr. Gribbin to take another police officer in my car and endeavor to get this Leo Schnitzer in the car and question him about his accusations, my theory being that Schnitzer, if he was lying, would not lie directly to the officer's face. And I also instructed him, within about 30 seconds before Schnitzer entered the car, to put the switch on and give the machine time to warm up, which was done. And that is

the recording that was introduced in court.

Q Could you give any other information, or any information, about wire tapping, etc., that you had heard about or know about that would be helpful to this committee to know? A No, the only information that I could give you is what have personally done myself. Other things were just hearsay, less than hearsay - even practically less than rumors - and wouldn't be of any benefit to this committee at all, in my humble opinion.

SENATOR FORBES: Well, thank you very much. We appreciate it.

Mr. Charles Framhurst?

C H A R L E S F R A M H U R S T, being duly sworn according to law, testifies as follows:

THE WITNESS: Charles Framhurst, 2609 Fairlawn Avenue, Fairlawn, New Jersey, investigator in the criminal investigation section of the Attorney General's Office.

BY SENATOR FORBES:

Q At the request of the Attorney General of New Jersey, did you make an investigation concerning the unauthorized recording of speech in the City of Newark? A I did, sir.

Q Will you tell us what you know about that situation? A I received information from the Attorney General to ascertain if there was an unauthorized or any recording, or what was transpiring at a place at 50 Branford Place in Newark, New Jersey, operated by one Arnold Press. I went to the premises and I found it to be a musical store,

having two studios in the rear of it. I went in to Mr. Press and I asked him if he would record a conversation for me. For the purposes of the investigation, I identified myself as a Mr. Anderson and I stated that I was interested in getting some steady quotes on dye stuff. Mr. Press told me that he would make a record of the conversation. He told me the fee would be ten dollars, but he told me that that would be a ten-dollar fee if I let him record the conversation onto a master spool which he would retain. I asked him what he would charge if he would record it on a separate spool that I could take out. He told me that would be an extra fee. I then observed, when we went into this one studio, Mr. Press had a Bell and Howe tape recorder. Under the Bell and Howe tape recorder, he had something that is similar to a flat induction coil which the telephone was laid on. There were no wires from the telephone to this coil. Mr. Press asked me for the number and, in order to have the record, I gave him the number of the firm and I asked him if he would be good enough to dial information, as I wanted to establish that there was a bona fide firm that I was speaking to. He dialed information for me and, as this was going on, the Bell and Howe recording was set so that Mr. Press and I could observe or listen to the conversation, my conversation and the conversation of the other party. He got the number of the firm for me and then he dialed it. When he got the firm, he put me on and I asked for a gentleman in the firm and I asked if they had certain stocks on hand and I asked what the prices would be of these stocks. The gentleman replied to me, giving me such information as he

had and, upon the completion of that, I then received the small spool of tape from Mr. Press. I gave him the ten dollar fee for what he considered his services and the additional two dollar fee because of the fact that I asked for an individual record. I brought that back and rendered a report on the activities that were going on there to the Attorney General.

Q Did he tell you that others used his facilities?

A Mr. Press, in his conversation with me, told me that his facilities were frequently used by representatives of labor, business, and various lawyers and people who had legal problems.

Q For the purposes of making recordings? A For the purposes of making recordings.

Q Did he tell you that the recording of telephone calls was widespread then, was widely used? A He referred to his actions on it.

Q As being widely used. Was there a beep tone in his recording? A No, sir, there was no beep tone.

SENATOR FORBES: Thank you very much. I might point out that this particular instance was referred to the Committee by the Attorney General.

MR. RICHMAN: I would like the record to show that I referred this matter to the United States Attorney who in turn referred it to the Department of Justice, who felt that there was no action that should be taken by the United States Government under federal laws and regulations.

SENATOR FORBES: And did you determine that under the

New Jersey statute there should not be any?

MR. RICHMAN: I think that was our determination - it is our determination, yes, under the New Jersey statute.

SENATOR FORBES: All right. Thank you very much, Mr. Framhurst.

The Committee will now conclude its hearing. Other people who are here under subpoena can consider those subpoenas continued until November 21st. And with that, this day's hearing is concluded.

(HEARING CONCLUDED)

