

Morning Session

F O U R T H P U B L I C H E A R I N G

N.J. Legislature JOINT COMMITTEE (OF THE LEGISLATURE) TO INQUIRE INTO AND INVESTIGATE WIRE TAPPING AND THE UNAUTHORIZED RECORDING OF SPEECH GENERALLY BY MECHANICAL OR ELECTRONIC DEVICES OR ANY OTHER APPARATUS - CREATED PURSUANT TO SENATE CONCURRENT RESOLUTION NO. 4 (1956)

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Held:
Assembly Chamber, State House
Trenton, New Jersey
November 21, 1956

MEMBERS OF COMMITTEE

Present:

Senator Malcolm S. Forbes, Chairman
Senator Donal C. Fox
Assemblyman Dominic A. Cundari
Assemblyman Joseph M. Thuring

Absent:

Senator Frank W. Shershin
Assemblyman Paul M. Salsburg

APPEARANCES:

Russell T. Kerby, Jr., Esq., counsel to
the committee

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SENATOR MALCOLM S. FORBES, (CHAIRMAN): THE FOURTH OPEN HEARING OF THE NEW JERSEY LEGISLATIVE WIRE TAPPING INVESTIGATING COMMITTEE WILL GET UNDER WAY NOW. THIS HEARING IS TO PRIMARILY DEVELOP AND PROVIDE A FORUM FOR SOME OF THE GROUPS CONCERNED WITH WIRE TAPPING WHO HAVE WHAT YOU MIGHT CALL A PHILOSOPHICAL APPROACH TO THE PROBLEM. THE PREVIOUS HEARINGS HAVE DEALT WITH THE SPECIFICS OF ESTABLISHING THAT THERE WAS, IN THE STATE OF NEW JERSEY, INSTANCES OF WIRE TAPPING AND A CONFLICT IN THE INTERPRETATION OF EXISTING STATUTES. HAVING DEVELOPED THAT BACKGROUND, TODAY'S HEARING WILL, AS I SAY, BE DEVOTED TO AN EXPRESSION OF VIEWS BY RESPONSIBLE GROUPS AND PEOPLE IN THE STATE HERE WHO HAVE OPINIONS AS TO WHAT PROVISIONS, IF ANY, SHOULD BE MADE IN THE EXISTING STATUTES.

I WOULD LIKE TO CALL FIRST ON MR. SAM BROWN FROM THE NEW JERSEY REGION OF THE AMERICAN JEWISH CONGRESS. FROM THE TIME THE HEARINGS GOT UNDER WAY AND THE INVESTIGATION HERE WAS MADE, THEY HAVE REQUESTED TO BE HEARD SO THAT THEY COULD EXPRESS THEIR VIEWS ON THE SUBJECT. MR. BROWN IS THE EXECUTIVE DIRECTOR.

MR. SAM BROWN: SENATOR FORBES, WE WISH TO THANK YOU AND YOUR COMMITTEE FOR GIVING US THIS OPPORTUNITY OF APPEARING THIS MORNING. WITH YOUR PERMISSION I WOULD LIKE TO READ THE STATEMENT OF OUR AGENCY ON THIS PARTICULAR SUBJECT.

THE AMERICAN JEWISH CONGRESS IS AN ASSOCIATION OF AMERICAN JEWS COMMITTED TO THE INDIVISIBLE PURPOSE OF DEFENDING AND EXTENDING AMERICAN DEMOCRACY AND PRESERVING THE VALUES OF OUR JEWISH HERITAGE.

We have always been opposed to totalitarianism. Jews know, only too well what totalitarian tyranny means. We have tasted deep of its debasement and dehumanization. Together with all Americans who prize freedom, we have affirmed and reaffirmed our readiness to make personal and collective sacrifices to safeguard our democracy and because we prize democracy we have insisted that the security of the citizens of our state and of our country is not enhanced or enlarged when our government itself resorts to measures that violate those essential liberties whose preservation is our basic purpose. Therefore, we are especially sensitive to legislation that infringes upon basic liberties and is justified in the name of security or in the name of protection from crime.

We are grateful that your Committee has undertaken to explore the subject of wiretapping in both its lawful and its unlawful aspects. It is the well considered and long established view of the American Jewish Congress that all persons, including Federal and state officials, should be prohibited from engaging in wiretapping; further, that wiretap evidence should be inadmissible in court and, finally, that criminal penalties should be imposed when wiretapping is committed. We believe that wiretapping violates the right to privacy, one of the basic rights essential to a free society. Political or police surveillance of private conversations is a distinguishing characteristic of totalitarianism. It is abhorrent to any democratic society.

We had every reason to believe that this view was embodied in the laws of our state. Section 2A:146-1 of the New Jersey Statutes provides as follows:

"Any person who wilfully and maliciously

- a) Cuts, breaks, taps or makes any connection with a telegraph or telephone line, wire, cable or instrument belonging to any other person; or
- b) Reads, takes copies, makes use of, discloses, publishes or testifies concerning a message, conversation or report intended for any other person or passing over any such telegraph or telephone line, wire or cable in this state; or
- c) Uses any apparatus unlawfully to do any of such acts --

is guilty of a misdemeanor."

Surely, these clear provisions make wiretapping a crime and bar the use in court of wiretap evidence.

However, it now appears that some law enforcement officers in this state, regarding themselves as a law unto themselves, have decided that this positive prohibition has loopholes not apparent to the naked eye. As this Committee has found in these hearings, wiretapping exists in New Jersey despite the sweeping terms of Section 2A:146-1.

We earnestly submit that this Committee should take whatever steps are necessary to halt these illegal practices. It may be that a statement by this Committee or a resolution by the Legislature that Section 2A:146-1 means what it says would be sufficient. If not, the Section should be amended to make clear that ^{the} prohibition is unequivocal. In no case should the Legislature yield to those who believe, however sincerely, that wiretapping can be safely legalized on a limited basis.

Because wiretapping is an obvious infringement of our basic liberties, its continued use can be justified only if there is an unanswerable demonstration that the practice yields results clearly

decisive for our national security and for protection from crime.

No such demonstration has been made. On the contrary, what has been demonstrated is the wastefulness, inefficiency and lack of effectiveness of legalized wiretapping.

To intercept a single remark of a suspect that might possibly be of relevance requires that policemen listen to hundreds of intimate personal, business and professional confidences and conversations of innocent persons. Disclosures of police assigned to tap wires reveal that thousands of fruitless but costly hours are spent on wiretapping by law enforcement personnel whose services are extravagantly expended by prosecution officials willing and eager to use any device, however expensive to the public or detrimental to our civil liberties, in order to gain a conviction. Such taps infrequently result in useful evidence. They do give rise to such abuses as blackmail and extortion, but they are in the main unproductive of evidence that can be used to convict criminals.

It is often argued, as a matter of fact, that wiretapping really operates to prevent an effective use of resources for crime detection. As Mr. Justice Frankfurter stated in On Lee v. United States, 343 U.S. 747, 761, wiretapping ". . . makes for lazy and not alert law enforcement. It puts a premium on force and fraud, not on imagination and enterprise and professional training... These short cuts in the detection and prosecution of crime are as self-defeating as they are immoral."

The former counsel to the New York City Anti-Crime Committee, William J. Keating, testified at hearings held by a Subcommittee of the House Judiciary Committee that the value of legal wiretapping has been "greatly exaggerated." He said that as an Assistant District Attorney he had used wiretaps for years and "never got one scrap of evidence or information that was of value . . ."

The use of wiretapping is, however, inherently dangerous because of its susceptibility to gross abuse. These abuses shock the conscience and raise the question whether in the balance it pays to permit a practice that is so ineffective in detecting crime and so effective in promoting it.

The suggestion that New Jersey police should be allowed to tap wires is refuted, we believe, by the testimony given before this Committee showing the abuses to which the practice leads. Since the Committee is already familiar with the picture in this state, we shall not rehearse it again. However, we do believe it desirable to review the experience in the neighboring state of New York which has permitted police wiretapping under a system of judicial supervision. That experience shows that limited police wiretapping is neither possible nor desirable.

In 1942, the New York State Legislature enacted Section 813 (a) of the New York State Code of Criminal Procedure, which established a procedure whereby telephone and telegraph communications could be intercepted upon obtaining an ex parte court order. Fourteen years later, revelations concerning the abuses of this system and the illusory nature of its judicial controls have made it clear that legalized wiretapping in New York State has been a sordid failure. More dishonesty and criminal activity have been bred than have been prevented. So glaring, as a matter of fact, have the abuses been that one legal writer has described legal wiretapping in New York as "a shining example of what a legalized system should not be." Westin, The Wire-Tapping Problem, 52 Columbia Law Review 2, 196 (1952). This same writer characterized the New York State wiretapping program as affected by "corruption, blackmail, misuse of warrant procedures, failure to prevent unauthorized wiretapping and loss of general confidence in the security of the telephone as a medium of communication."

A thorough investigation into police wiretapping was conducted by the Kings County (New York) Grand Jury in 1950. Their presentment condemned the "loose, irregular and careless" methods used by Brooklyn police and concluded that such wiretapping abuses supply fertile ground for police bribery and corruption. Assistant District Attorney Helfand described the practice as "a club to blackmail" and he charged that police officers sold information without the suspicion of their superiors in the police department. In some cases, police officials are known to sell valuable wiretap information that facilitates private and illegal wiretapping.

Unscrupulous police officials are known to use information obtained by wiretapping for extortion and blackmail. A police officer on a tap may obtain information extraneous to criminal activity for which he procured the tap, but valuable for purposes of victimization. Law enforcement officials are known to use wiretapping for the purpose of determining whether or not they are getting their proper "payoff" from criminals. Since these taps are authorized in conjunction with actual criminal activity, there is no way to check the purposes for which the taps are obtained.

Taps are also used for political purposes. It is by now well known that not too long ago a tap was placed on the telephone of a prominent Democratic political leader, Mr. Carmine De Sapio. The ostensible reason for the tap was that Mr. De Sapio was involved in a homicide case, a claim seemingly drummed up only to give legal color to an otherwise illegal tap for purposes as to which one can only speculate.

These abuses arise naturally from the nature of the New York procedure. It is common knowledge in New York that sophisticated law enforcement officials steer clear of judges known to be strict about granting wiretap orders and prefer to submit their applications to the

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more lenient members of the judiciary. But in any case, it is difficult for a judge acting in good faith to determine whether a particular application is reasonable or not. A writer for the New York Times Magazine Section, Robert G. Whalen, has pointed out that judges are busy men who "have little time for protracted discussion of whether or not an officer's suspicion is 'reasonable'. The requested order usually is insured."

New York Special Sessions Justice Frank Oliver testified in 1948 at hearings before the New York County Civil and Criminal Courts Bar Association as follows: "A man's home is not his castle in New York. It is just an uncovered garbage can for the police to pick over. . . . The mere mention of a warrant breaks judicial ribs with laughter. If you want to see a policeman roll on the floor, just mention the search and seizure provisions of the Constitution."

The limitations of judicial supervision are illustrated by the fact that in certain cases wiretaps authorized on different telephones and in different investigations were nevertheless sanctioned by the courts all under the heading of one case. Assistant District Attorney Helfand, in his 1950 testimony, asserted that the authority to tap telephones was often obtained on false affidavits, that "dishonest statements" were used by policemen to obtain warrants, and that applications for wiretapping warrants were often made without any information to support the requests. Said Helfand, "Without facts and without any information, members of the (police) department supported their applications with such statements as a matter of convenience and as an expedient to obtain an order."

These are but some of the major problems. Add the fact that wire-tap recordings can be and have been altered in a fashion that defies detection. Sentences, single words, and even parts of words can be excised. Yet, when an altered recording is replayed, it carries all

the conviction of a direct genuine reproduction of the speaker's original words.

These abuses, serious as they are, occur during the course of otherwise legal activity. They arise as inevitable concomitants of legalized wiretapping and are virtually impossible to control. Police officers borrow wiretap equipment from a squad in the Bureau of Criminal Information at New York City Police Headquarters. There is no check on whether they use equipment properly or not. Unscrupulous police officers can operate with abandon. The telephone company acquiesces with almost indiscreet readiness to a police officer's request for the information he needs to make a tap. The average building superintendent does not know enough to ask to see a court order authorizing the tap. All these conspire to make taps by a policeman ludicrously easy. Thus no matter how conscientiously the procedure for legalized wiretapping is administered, this type of fraudulent and illegal wiretapping is almost impossible to detect and control. The fact that a procedure exists whereby taps may be legally used gives rise to the evil of illegal taps.

In sum, abuses of the gravest sort are the necessary and natural results of giving wiretapping legal sanction. As long as wiretapping is legalized, preventions of illegal interceptions is difficult or impossible. Experience teaches us that the police are reluctant to make arrests for a practice they are themselves committing. Only a total ban on wiretapping bespeaks the public condemnation of the practice with enough vigor to make its actual elimination feasible.

Our Constitutional fathers found it necessary to provide in the Fourth Amendment an express prohibition of unwarranted searches and seizures. Wiretapping is of a piece with the practices with which they were familiar and which they found it wise to condemn. But while searches and seizures can be surrounded by appropriate safeguards to

limit their harmful effects, wiretapping is inherently beyond such limitation. A court order can guard against seizure of innocent material, but no words a judge puts in an order authorizing a wiretap can prevent interception and recording of all the conversations on the intercepted line. This distinction was well stated in a recent decision by New York State Supreme Court Justice Hofstadter (In the Matter of an Application for an Order Permitting the Interception of Telephone Communications of Anonymous, decided January 10, 1955), when he said:

A telephone interception is a far more devastating measure than any search warrant. A search warrant is confined to a definite place and to specific items, or, at least, to items of a stated class or description. Those in possession of the searched premises know the search is going on and, when the officer has completed his search, whether successfully or not, he departs. Not so in the case of a telephone interception. The interception order is obtained ex parte, and the person whose line is to be tapped is, of course, in ignorance of the fact. The tap is maintained continuously, day and night. Everything said over the line is heard, however foreign to the stated objective of the law-enforcement officers. The most intimate conversations, personal, social, professional, business, or even confidential, of an unlimited number of persons may be laid bare. In effect, the line of everyone who is called from or makes a call to the tapped line at any time is being tapped during the maintenance of the tap. When a line in a public telephone booth is tapped, as had on occasion been done, the conversations of people having no relation of any kind to the operator of the place in which the booth is situated or the person whose line is tapped are overheard. It is a little wonder that Justice Brandeis was moved to say in the Olmstead case:

"As a means of espionage, writs of assistance and general warrants are but puny instruments of tyranny and oppression when compared with wiretapping" (277 U.S., 438, 476).
(Emphasis added)

Justice Hofstadter's opinion is a thorough treatment of the wiretapping problem by one who has been in daily contact with it. We are supplying this Committee with copies of his opinion and suggest that it be inserted in the record in full, if that has not already been done.

Justice Hofstadter rightly stated, "A tapped wire is the greatest invasion of privacy possible. However rationalized, its authorized

use has its roots in the amoral doctrine that the end justifies the means." The invasion of privacy by wiretapping is one of those practices that must be opposed "because they encourage the kind of society that is obnoxious to free men." Walder v. United States, 347 U.S. 62, 65 (1954). In the words of an editorial in the Wall Street Journal of November 19, 1953, "It could create an atmosphere in which people would be afraid to talk on the telephone about anything."

Only by making plain an absolute prohibition of all wiretapping can we halt the invasion of the privacy that has long been regarded as a precious right of citizens in a democracy. The right assures to our citizens a feeling of security in their private affairs that is denied to the unfortunate subjects of totalitarian regimes.

SENATOR FORBES: THANK YOU VERY MUCH, MR. BROWN. DO ANY MEMBERS OF THE COMMITTEE HAVE ANY QUESTIONS FOR MR. BROWN. MR. BROWN, WE APPRECIATE YOUR TESTIMONY, AND IF YOU HAVE A COPY OF YOUR STATEMENT PLEASE LEAVE IT WITH US.

HAS DISTRICT ATTORNEY HOGAN ARRIVED YET? THE COMMITTEE HAS INVITED, AT THE SUGGESTION OF SOME OF ITS MEMBERS AND THE ATTORNEY GENERAL, THE DISTRICT ATTORNEY OF PHILADELPHIA, MR. VICTOR H. BLANC, IF HE WOULD BE GOOD ENOUGH TO COME BEFORE THE COMMITTEE AND EXPRESS SOME OF HIS VIEWS ON THE PROBLEM, AND WE APPRECIATE HIS BEING WITH US TODAY. I WOULD NOW LIKE TO ASK MR. BLANC IF HE WILL GIVE US THE BENEFIT OF HIS VIEWS.

MR. VICTOR H. BLANC: SENATOR FORBES, MEMBERS OF THE COMMITTEE, FOR YEARS I HAVE BEEN A STRICT CIVIL LIBERTERIAN, WAS ONE OF THE ORGANIZERS OF THE AMERICAN CIVIL LIBERTIES UNION CHAPTER IN THE CITY OF PHILADELPHIA. I, LIKEWISE, FOR MANY YEARS WAS CHAIRMAN OF THE COMMITTEE ON LAW AND SOCIAL ACTION OF THE AMERICAN JEWISH CONGRESS CHAPTER IN PHILADELPHIA. I HAVE BEEN FIGHTING FOR CIVIL LIBERTIES FOR MANY YEARS. I WAS ELECTED DISTRICT ATTORNEY OF PHILADELPHIA, AND TOOK OFFICE ON JANUARY 1 OF THIS YEAR. I, THEREFORE, KNOW BOTH SIDES OF THIS QUESTION; I KNOW THE PURELY ACADEMIC CIVIL LIBERTY SIDE OF IT; I KNOW TOO, THE SIDE WHICH HAS TO DO WITH LAW ENFORCEMENT BOTH FROM THE STANDPOINT OF PROSECUTING THOSE ACCUSED OF CRIME, AND THE SIDE OF PREVENTION OF CRIME IN THE FIRST INSTANCE.

NOW, I AGREE WITH JUSTICE HOLMES WHEN HE SAID THAT WIRE TAPPING IS DIRTY BUSINESS, BUT THOSE WHOM WE HAVE APPREHENDED THROUGH THE USE OF WIRE TAPPING ARE ENGAGED IN A FAR DIRTIER

BUSINESS. WE HAVE USED WIRE TAPPING IN PHILADELPHIA, AND AS YOU MAY KNOW THERE ARE NO RESTRICTIONS UPON THE USE OF THE WIRE TAP IN THE STATE OF PENNSYLVANIA. THAT, HOWEVER, IS A MATTER WHICH CRIES OUT FOR CHANGE, AND I SHALL INDICATE IN A MOMENT WHAT I PROPOSE TO DO ABOUT THAT. BUT, I THINK THIS COMMITTEE OUGHT TO KNOW SOME OF THE IMPORTANT CASES THAT HAVE BEEN BROKEN IN PHILADELPHIA, BOTH FROM THE DETECTION OF CRIME AND IN THE CRIME PREVENTION FIELD, IN THE SHORT ELEVEN MONTHS THAT I HAVE BEEN DISTRICT ATTORNEY IN PHILADELPHIA.

FIRST OF ALL, IN THE TERRIFICALLY SUCCESSFUL NARCOTIC RAIDS THAT WE HAVE HAD. THERE WERE THREE SUCH RAIDS MADE LAST YEAR, WHEN RICHARDSON DILWORTH, NOW THE MAYOR OF PHILADELPHIA, WAS THE DISTRICT ATTORNEY. HE WAS SUCCEEDED BY SAMUEL DASH - WHO BY THE WAY IS NOW ENGAGED IN AN OBJECTIVE STUDY OF WIRE TAPPING ALL OVER THE UNITED STATES ON BEHALF OF THE AMERICAN BAR ASSOCIATION ON A GRANT FROM THE FUND FOR THE REPUBLIC, I THINK. IN THOSE NARCOTIC RAIDS, AFTER EACH ONE OF THEM, AND THEY HAD THEIR BASIS AND THEIR START IN THE USE OF WIRE TAPPING, THE CRIME RATE IN PHILADELPHIA TOOK A COMPLETE TOBOGGAN. EVERY TIME WE HAVE BEEN ABLE TO WITHDRAW THE SUPPLY, THE CRIMES OF VIOLENCE OF THOSE WHO WERE SEEKING MONEY WITH WHICH TO BUY NARCOTICS, THOSE CRIMES TOOK A TOBOGGAN. THEN, FROM THE DETECTION OF CRIME POINT OF VIEW, THE RECENT VICE PROBES THAT WE HAVE BEEN CONDUCTING IN PHILADELPHIA, HAD THEIR ORIGIN AND WE GOT THE INFORMATION THROUGH THE USE OF THE WIRE TAP. FOR EXAMPLE, ONE COUPLE WHO HAD BEEN ENGAGED IN THE MOST DESPICABLE, SADISTICALLY DEPRAVED ORGIES OF MANY PEOPLE IN

MONTGOMERY COUNTY, PENNSYLVANIA, HAVE BEEN DOING THAT FOR OVER TWO AND A HALF YEARS; PERFECTLY HORRIBLE ORGIES THAT WERE CONDUCTED AROUND THEIR SWIMMING POOL THERE. THE PROBE STARTED IN PHILADELPHIA THROUGH THE REPORT OF A MOTHER CONCERNING HER FIFTEEN-YEAR OLD DAUGHTER WHO HAD RELATED CERTAIN UNNATURAL PERFORMANCES WITH THE HEAD OF A MODEL AGENCY IN PHILADELPHIA. WE TAPPED THE WIRES OF THAT MODEL AGENCY, AND FOR A PERIOD OF THREE AND ONE HALF MONTHS WE WERE OBTAINING INFORMATION CONCERNING THE VICE RING THAT WAS EXTANT IN PHILADELPHIA AND THE WHOLE DELAWARE VALLEY AREA. IT RAN INTO NEW JERSEY, NEW YORK AND INTO MANY COUNTIES IN THE PHILADELPHIA AREA, AND THE EVIDENCE THAT WE GOT MADE IT POSSIBLE FOR US THEN TO GO OUT AND GET DIRECT EVIDENCE OF THESE VILE VIOLATIONS OF THE LAW. WE NEVER WOULD HAVE BEEN ABLE TO RAID THESE ORGIES IF IT HAD NOT BEEN THAT WE HAD OBTAINED INFORMATION AS TO WHERE THEY WERE BEING HELD. IN ADDITION, WE WERE ABLE TO GET INFORMATION CONCERNING PORNOGRAPHIC FILMS OF THE WORST ORDER. THERE IS A DIFFERENCE BETWEEN FREEDOM OF PRESS AND LICENSE; AND THE KIND OF MATERIAL AND PICTURES WHICH WE PICKED UP THROUGH SEARCH & SEIZURE WARRANTS IN LOCALITIES, THE LOCATION OF WHICH WE LEARNED THROUGH WIRE TAPPING, WILL, I KNOW, IN A VERY SHORT TIME HELP US TO BREAK THE BILLION DOLLAR INDUSTRY IN PORNOGRAPHIC PICTURES AND LITERATURE THROUGHOUT THE UNITED STATES. WE ARE WORKING IN CLOSE COOPERATION WITH OTHER LAW ENFORCEMENT AGENCIES, AND WE WERE ABLE TO GIVE TO LAW ENFORCEMENT AGENCIES IN OTHER COUNTIES AND OTHER STATES, INFORMATION WHICH HAS HELPED THEM IN BREAKING UP THE TENTACLES OF THIS VICE RING

IN THEIR LOCALITIES.

ON THE CRIME PREVENTION SIDE, WE HAD INFORMATION THAT CERTAIN EX-CONVICTS IN PHILADELPHIA, MEN WITH LONG PRISON RECORDS WERE ATTEMPTING TO INFILTRATE THE LABOR MOVEMENT IN PHILADELPHIA, AND WE PUT TAPS ON THE WIRES OF THESE HOODLUMS. STRONG-ARM MEN WHO WOULDN'T HESITATE TO KILL TO GET THEIR ENDS. FROM THOSE CONVERSATIONS THAT WE MONITORED WE LEARNED OF THE ATTEMPT OF ONE OF THESE HOODLUMS TO BREAK THE NECK OF ONE LABOR LEADER WHO WAS OPPOSED TO THEIR INFILTRATING INTO THE RESTAURANT BUSINESS IN PHILADELPHIA, AND OF HIS ATTEMPT ALSO TO BREAK EVERY BONE IN THE BODY OF STILL ANOTHER WHO WAS THWARTING THEIR EFFORTS THERE.

NOW, WE LEARNED FROM THIS WIRE TAP THAT THEY WERE INTERESTED, NOT ONLY IN THIS PHILADELPHIA UNION, (THIS RESTAURANT UNION), BUT THEY WERE PLANNING TO INFILTRATE EVERY LABOR UNION IN PHILADELPHIA AND TO TAKE CONTROL. WE LEARNED, OF COURSE, THROUGH THAT, THE SOURCE OF THEIR GETTING A CHARTER FROM THE INTERNATIONAL WAITERS & RESTAURANTS UNION, HAVING ITS HEAD-QUARTERS IN CINCINNATI; AND WE WERE FIGHTING TO HAVE THE CHARTER OF THAT LOCAL 410 LIFTED, AND I MAY SAY THAT IT WAS THE RESULT OF THE ATTACK MADE ON THE DISTRICT ATTORNEY'S OFFICE BY TWO VERY EMINENT ORGANIZATIONS IN PHILADELPHIA, ONE THE CIVIL RIGHTS COMMITTEE OF THE BAR ASSOCIATION, AND THE OTHER THE LOCAL A.C.L.U. CHAPTER, OF WHICH I AM A MEMBER, A FOUNDER, (I AM STILL A MEMBER OF ITS BOARD OF DIRECTORS,) THAT THE PRESIDENT OF THAT UNION SAID TO ME "I DON'T HAVE TO WORRY ABOUT YOU, THE GOODY-GOODS IN PHILADELPHIA ARE TAKING CARE OF YOU, AND WE ARE NOT DOING A THING ABOUT IT." BUT, WE WERE

SUCCESSFUL IN THWARTING THEIR EFFORTS TO INFILTRATE OTHER UNIONS IN PHILADELPHIA, BECAUSE WHAT WE HAD DISCOVERED ALERTED ALL OF THE UNIONS IN PHILADELPHIA TO THE PLANS THAT THESE HOODLUMS, RACKETEERS WITH LONG PRISON RECORDS, WERE ABOUT TO DO; AND WE KNOW THAT WE HAVE THWARTED THAT. THERE ARE OTHER CASES THAT I COULD MENTION TO YOU WHERE WIRE TAP EVIDENCE THAT WE GOT GAVE US THE MEANS WITH WHICH TO GET DIRECT EVIDENCE. NOW, THAT DOESN'T MEAN THAT WE USE THE TAPES NECESSARILY IN COURT, ALTHOUGH THEY ARE IN PENNSYLVANIA, ADMISSIBLE TODAY AND HAVE BEEN SO USED. THEY ARE USED AS A MEANS OF GETTING INFORMATION SO THAT WE CAN THEN OBTAIN DIRECT EVIDENCE TO BE TESTIFIED TO BY THE POLICE OFFICERS IN THE TRIAL OF THE CASES.

NOW, I HAVE HEARD SAID, AND IT WAS SAID IN THIS STATEMENT THAT WAS JUST READ, THAT THE TAPPING OF WIRES IS AN INVASION OF PRIVACY. OF COURSE IT IS AN INVASION OF PRIVACY, BUT THE RIGHT TO PRIVACY IS NOT AN ABSOLUTE RIGHT; THE SEARCH AND SEIZURE WARRANT TO RAID ONE'S CASTLE (ONE'S HOME) IS CERTAINLY AN INVASION OF PRIVACY IN THAT INSTANCE. BUT I FEEL THAT THIS PROMISCUOUS WIRE TAPPING THAT GOES ON IN PENNSYLVANIA TODAY MUST BE STOPPED, AND I PROPOSE TO HAVE A BILL INTRODUCED INTO THE LEGISLATURE AT ITS NEXT SESSION, BEGINNING JANUARY OF NEXT YEAR, A BILL THAT WILL MAKE WIRE TAPPING A VERY SERIOUS CRIME, NOT JUST A MISDEMEANOR, BUT TO PUT HEAVY PENALTIES, PRISON SENTENCES, ON THE TAPPING OF WIRES BY ANYONE BUT THREE LAW-ENFORCEMENT AGENCIES, TO WIT: THE ATTORNEY GENERAL OF THE STATE, THE DISTRICT ATTORNEY OF ANY COUNTY, OR THE CHIEF OF POLICE OF ANY CITY. AND THAT THEY SHALL HAVE

THE RIGHT SO TO DO ONLY AFTER THEY HAVE SUBMITTED TO A JUDGE OF THE QUARTER-SESSIONS COURT, OR CRIMINAL COURT, FIRST, THE PHONE TO BE TAPPED, AND A STATEMENT AS TO WHAT IS EXPECTED BY THAT LAW ENFORCEMENT AGENCY TO BE OBTAINED BY THE WIRE TAP. AND THAT IT BE DONE ONLY IF THE COURT SO AUTHORIZES IT, AND THAT ANY USE OF THE TESTIMONY SO OBTAINED, OR THE DISCLOSURE OF THE MATERIAL SO OBTAINED, SHOULD BE DONE ONLY BY ORDER OF THE COURT. NOW, IN THAT WAY WE WILL STOP MUCH OF THE WIRE-TAPPING THAT IS GOING ON. I KNOW, OF MY OWN KNOWLEDGE, OF THE ABUSES THAT CAN ATTEND ORDINARY POLICEMEN TAPPING WIRES. IN 1951 I WAS APPOINTED AS A SPECIAL ASSISTANT DISTRICT ATTORNEY TO INVESTIGATE THE POLICE DEPARTMENT OF PHILADELPHIA IN CONNECTION WITH SOME OF THE BRIBERY THAT WAS GOING ON AT THAT TIME, ALL OF WHICH LED TO A CHANGE IN ADMINISTRATION BECAUSE OF OUR DISCLOSURE OF WHAT THE THEN PARTY IN POWER WAS DOING; AND, WE FOUND THAT INSTEAD OF TAPPING THE WIRES OF KNOWN HOODS AND GANGSTERS AND BURGLARS, WHERE THEY WERE TRYING TO INVESTIGATE BURGLARIES, THE WIRES OF THE GAMBLERS IN TOWN WERE BEING TAPPED AND USED FOR SHAKE-DOWN PURPOSES - NO QUESTION OF THAT AT ALL. AND, ALTHOUGH THERE MAY BE EVILS OF THAT SORT, NEVER-THE-LESS THAT SHOULD NOT BE A DETERRENT TO GIVE TO LAW ENFORCEMENT OFFICERS TODAY A WEAPON WHICH IS REQUIRED TO THWART THE ACTIVITIES OF THE SYNDICATED CRIME RINGS THROUGHOUT THE COUNTRY. THESE RINGS USE THE TELEPHONE TO A GREAT EXTENT IN THE MOVEMENT OF NARCOTICS, IN THE PLANNING FOR BANK ROBBERIES AND FOR OTHER NEFARIOUS PURPOSES, AND IT IS AN INSTRUMENT WHICH TODAY IS REQUIRED IN THE CHANGED SOCIETY UNDER WHICH WE LIVE. AND, AS I SAY I SHALL RECOMMEND

AND SHALL ARGUE BEFORE THE SENATE COMMITTEE WHEN THE BILL IS INTRODUCED THERE, COME NEXT JANUARY, TO TRY TO PUT SAFEGUARDS AROUND IT. I DO BELIEVE THAT A BILL CAN BE FRAMED WHICH WILL PUT COMPLETE SAFEGUARDS AROUND THE USE OF THIS HIGHLY TECHNICAL AND VERY EFFECTIVE MEANS OF CRIME PREVENTION AND CRIME DETECTION.

NOW THERE MAY BE THAT YOUR COUNCIL HAS SOME QUESTIONS THAT YOU'D LIKE TO PUT TO ME, I SHOULD BE VERY HAPPY TO ANSWER THOSE IF YOU SO DESIRE, SIR.

SENATOR FORBES: MR. BLANC, YOU HAVE REFERRED TO WIRE TAPPING, WHAT ARE YOUR VIEWS ABOUT HOW YOU DIFFERENTIATE BETWEEN WIRE TAPPING IN THE TECHNICAL SENSE AND EAVESDROPPING EQUIPMENT? DO YOU CONSIDER EAVESDROPPING EQUIPMENT IN THE SAME CATEGORY?

MR. BLANC: IT IS IN THE SAME CATEGORY - THE EQUIPMENT TODAY YOU DON'T ACTUALLY HAVE TO TAP THE WIRE, SOME OF THE NEW ELECTRONIC EQUIPMENT IS OF SUCH A NATURE THAT YOU CAN USE IT FOR LISTENING IN ON CONVERSATION WITHOUT ACTUALLY TAPPING, AND WE WOULD INCLUDE THAT UNDER THE BAN, VERY DEFINITELY, UNDER THE SAME BAN THAT WE WOULD INCLUDE TAPPING OF WIRES.

SENATOR FORBES: WELL, YOU SEE, HERE IN NEW JERSEY EAVESDROPPING EQUIPMENT AS SUCH IS NOT DEFINED AND ITS USE IS NOT REGULATED.

MR. BLANC: WELL, I REALIZE BOTH SIDES OF THIS QUESTION VERY DEFINITELY. I REALIZE HOW IMPORTANT IT IS TO PROTECT THE CIVIL RIGHTS AND CIVIL LIBERTIES OF ALL PEOPLE. AT THE SAME TIME I REALIZE HOW IMPORTANT AN ARM OF LAW ENFORCEMENT IT CAN BE; AND WE CAN, AND WE ARE NOW DRAFTING A BILL AND I THINK THAT WE WILL BE ABLE TO PUT THOSE SAFEGUARDS AROUND IT WHICH WILL

PROTECT INNOCENT PERSONS AND YET ENABLE US TO GET THE REAL
CULPRITS.

SENATOR FORBES: Now, I HAVE SOME QUESTIONS HERE,
BEFORE THE COMMITTEE ASKS ITS QUESTIONS, THAT WERE SUBMITTED
BY THE COUNTY PROSECUTORS' ASSOCIATION WHO, ALONG WITH THE
ATTORNEY GENERAL ASKED IF THE COMMITTEE WOULD RECEIVE YOUR
VIEWS. I'LL READ THE QUESTIONS OVER BECAUSE I THINK THAT
YOU HAVE ALREADY ANSWERED SOME OF THEM....

MR. BLANC: MAY I INTERRUPT, JUST TO SAY ONE OTHER
POINT, SIR; I THINK YOU SHOULD KNOW THAT THE NATIONAL ASSOC-
IATION OF COUNTY AND PROSECUTING ATTORNEYS, AS WELL AS THE
INTERNATIONAL CHIEFS OF POLICE ASSOCIATION, AT THEIR ANNUAL
MEETINGS HELD IN AUGUST AND SEPTEMBER OF THIS YEAR, ADOPTED
RESOLUTIONS WHICH LOOKED TO A STUDY OF THE SUBJECT FOR THE
PURPOSE OF ADVOCATING UNIFORM STATE LEGISLATION CONCERNING
THIS WIRE TAPPING. THEY APPROVED OF WIRE TAPPING IN PRIN-
CIPLE, BUT ALL OF US RECOGNIZE THE NEED FOR PROPER SAFEGUARDS.
NOW, SIR, I AM READY FOR YOUR QUESTIONS.

SENATOR FORBES: THE FIRST QUESTION THEY HAD WAS: DETAIL
YOUR EXPERIENCE WITH LEGAL WIRE TAPPING IN CONNECTION WITH
LAW ENFORCEMENT, WHICH I THINK YOU HAVE PROBABLY DONE UNLESS
YOU WANT TO AMPLIFY ON THEM, SPECIFYING THE PARTICULAR TYPES
OF CASES WHERE YOU FOUND IT USEFUL AND THE EXTENT TO WHICH
YOU EMPLOYED THE TECHNIQUE IN EACH CASE. I THINK YOU HAVE
COVERED THAT.

MR. BLANC: I THINK I HAVE COVERED THAT COMPLETELY,
SIR.

SENATOR FORBES: SECONDLY, TO WHAT EXTENT DO JUDGES REQUIRE JUSTIFICATION FOR THE GRANTING OF A WIRE TAP ORDER, AND TO WHAT EXTENT DO THEY SUPERVISE THE ACTIVITY ONCE THE ORDER HAS BEEN GRANTED?

MR. BLANC: NONE WHATSOEVER IN PENNSYLVANIA; THEY ARE ABSOLUTELY FREE AND UNRESTRICTED AND WE KNOW THAT IT IS BEING USED TODAY BY PRIVATE DETECTIVES TO GET DIVORCE EVIDENCE; BEING USED FOR BLACKMAIL PURPOSES; BEING USED FOR MANY OTHER PURPOSES WHICH ARE NOT PROPER, AND THAT'S THE SORT OF THING WE WANT TO PUT A STOP TO AND WILL PUT A STOP TO.

SENATOR FORBES: THIRD, WHAT PERSONAL KNOWLEDGE DO YOU HAVE OF ABUSES ON THE PART OF LAW ENFORCEMENT OFFICERS ?

MR. BLANC: WELL, THE PERSONAL KNOWLEDGE OF WHAT I HAVE DESCRIBED IN THE 1951 GRAND JURY PROBE THAT WE FOUND OUT ABOVE, BUT I KNOW OF NO ABUSES AT THE PRESENT TIME ON THE PART OF OUR POLICE DEPARTMENT WHO HAVE WIRE TAPPING EQUIPMENT, JUST AS WE HAVE IN THE DISTRICT ATTORNEY'S OFFICE, AND I HAVE HAD NO EVIDENCE OF ANY KIND OF BLACKMAIL ON THE PART OF THE POLICE; WE'VE HAD NO EVIDENCE IN THESE ELEVEN MONTHS OF ANY VIOLATION OF CONFIDENCES OR OTHERWISE, ON THE PART OF THE POLICE IN THE USE OF THEIR WIRE TAPPING.

SENATOR FORBES: WHAT RECOMMENDATIONS DO YOU HAVE FOR THE EMPLOYMENT OF ELECTRONIC EAVESDROPPING DEVICES OTHER THAN WIRE TAPPING EQUIPMENT?

MR. BLANC: I THINK WE'VE COVERED THAT, SIR.

SENATOR FORBES: TO WHAT EXTENT DO YOU BELIEVE THESE DEVICES HAVE BEEN USEFUL TO YOU IN THE ENFORCEMENT OF THE LAW?

MR. BLANC: THROUGH THE USE OF THE WIRE TAP WE HAVE BEEN ABLE TO DO SOME VERY EFFECTIVE WORK. ANOTHER PHASE OF OUR WORK WHERE IT HAS BEEN VERY EFFECTIVE, HAS BEEN IN CONNECTION WITH THE BREAKING UP OF BUSINESS FRAUDS. WE'VE USED IT TO GET INFORMATION AS TO CERTAIN ASPECTS OF THEIR WORK, AND THEN HAVE BEEN ABLE TO GET THE DIRECT TESTIMONY; AND WE HAVE BEEN VERY SUCCESSFUL IN THAT FIELD DURING THIS CURRENT YEAR. WE ARE SAVING MILLIONS OF DOLLARS TO THE LOW INCOME GROUP IN PHILADELPHIA, BY THE BUSINESS FRAUDS WE HAVE UNEARTHED THROUGH THE USE OF WIRE TAPPING, AND WHICH WE HAVE BROKEN UP AND PROSECUTIONS THAT WE HAVE BEEN ABLE TO MAKE UNDER IT.

SENATOR FORBES: IN THAT CONNECTION IS THAT BECAUSE YOU RECORDED TELEPHONE OFFERS ?

MR. BLANC: WE WERE ABLE TO GET THE DIRECT KIND OF PITCH THAT WAS MADE BY USE OF TELEPHONE ON CERTAIN PEOPLE THAT THEY WERE TRYING TO SELL THESE DEVICES TO, AND IN THAT WAY WE WERE ABLE TO FIND OUT WHO IT WAS THAT THEY WERE DEALING WITH, AND WE WERE ABLE TO GO DIRECTLY TO THOSE PEOPLE AND GET THEM AS WITNESSES AGAINST THE COMPANY.

SENATOR FORBES: DO YOU THINK YOU WOULD HAVE BEEN ABLE TO DO THAT WITHOUT WIRE TAPPING?

MR. BLANC: I DON'T SEE HOW. I DON'T THINK WE COULD POSSIBLY HAVE GOTTEN IT, BECAUSE WE WOULD HAVE HAD NO MEANS OF KNOWING TO WHOM THEY HAD SOLD AND TO WHOM THEY WERE MAKING OFFERS OF SALE. WE WERE ABLE TO GET THAT BY TAPPING THE WIRE OF THE COMPANY ITSELF. WHAT THEY DID, OF COURSE, IT WAS LIKE THE OLD GYP STOCKBROKER PITCH; THEY WOULD USE TELEPHONES TO

MAKE SALES AND TO GET PROSPECTS, CALLING UP PEOPLE PROMISCUOUSLY ALL OVER THE CITY. AND IN TAPPING THEIR WIRES WE KNEW WHO THEY CALLED, AND WERE ABLE TO VERY EFFECTIVELY THWART THAT KIND OF ACTIVITY; AND YOU KNOW HOW MANY WIDOWS AND ORPHANS WERE SIMPLY RUINED BY THE USE OF THE TELEPHONE - COMING IN FROM OUT OF THE COUNTRY, AS WELL AS ACROSS STATE LINES, IN THE SALE OF SECURITIES BEFORE THE SEC CAME IN. WELL, THESE GYPS NOW INSTEAD OF SELLING STOCK ARE SELLING ALL SORTS OF EQUIPMENT ON A FAKE BASIS AND WE ARE ABLE TO THWART THAT VERY EFFECTIVELY THROUGH THE USE OF THE WIRE TAP.

SENATOR FORBES: MY NEXT QUESTION FROM THE PROSECUTOR; FROM A PRACTICAL POINT OF VIEW IS THERE ANY DISTINCTION WHICH SHOULD BE APPLIED BETWEEN REGULATION OF THE USE OF WIRE TAPPING EQUIPMENT AND THE USE OF OTHER ELECTRONIC EAVESDROPPING EQUIPMENT?

MR. BLANC: I DON'T THINK SO, I THINK THEY ALL FALL IN THE SAME CATEGORY.

SENATOR FORBES: AND THE FINAL QUESTION; ASSUMING THAT YOUR OFFICE WAS DEPRIVED OF THE RIGHT TO EMPLOY WIRE TAP TECHNIQUE, WHAT, IF ANY, EFFECT WOULD THIS HAVE ON THE OPERATIONAL EFFICIENCY OF YOUR OFFICE AND THAT OF OTHER LAW ENFORCEMENT AGENCIES SUBJECT TO YOUR SUPERVISION AND CONTROL ?

MR. BLANC: WELL, I THINK THAT WE WOULD BE HINDERED VERY, VERY GREATLY. ONE THING IS TRUE; IT MIGHT BE, AS HAS BEEN SUGGESTED, THAT BY EFFICIENT DETECTIVE WORK YOU WOULD GET THE INFORMATION EVENTUALLY; BUT BY THE USE OF THE WIRE TAP, THE APPREHENSION OF THOSE ENGAGED IN CRIMINAL ACTIVITY IS VERY

VERY SPEEDY. YOU TAKE IN THESE BUSINESS FRAUDS, IF WE WERE TO HAVE TO DO IT WITHOUT THE USE OF THE WIRE TAP, MANY, MANY HUNDREDS OF PEOPLE WOULD BE MILKED AND WOULD BE FLEEDED DURING THIS MUCH LONGER PERIOD - DURING THE NORMAL DETECTIVE PROCEDURE. WE MUST HAVE, SINCE THE PHONE IS BEING USED BY GYPS AND THIEVES AND CROOKS TO CARRY ON THEIR BUSINESS, WE MUST HAVE THE RIGHT TO INVAD E THOSE TELEPHONE CALLS IN ORDER TO PROTECT THE GREATEST NUMBER. WE TALK ABOUT THIS INVASION OF PRIVACY; AFTER ALL WE MUST REALIZE THAT SOMETIMES AN INNOCENT PERSON MAY HAVE HIS TOES STEPPED ON, JUST AS A PERSON IN A BIG MOB WHERE THERE IS A RIOT GOING ON AND THE POLICE COME IN WITH THEIR HORSES, THEY ARE BOUND TO STEP ON THE FOOT OF SOME PERSON WHO IS NOT ENGAGED IN THE RIOT ITSELF. THE QUESTION THERE IS ONE IN WHICH WE MUST PROTECT THE GREATEST NUMBER OF PEOPLE. THE INVASION OF PRIVACY ON SOME INDIVIDUAL IS IMPORTANT TO HIM, OF COURSE, BUT OUR JOB IS TO PROTECT THE VAST MAJORITY OF PEOPLE OF THE COMMUNITY.

SENATOR FORBES: DOES THE COMMITTEE HAVE SOME QUESTIONS FOR MR. BLANC? HERE IS ASSEMBLYMAN CUNDARI.

MR. BLANC: VERY GOOD, SIR.

ASSEMBLYMAN DOMINIC A. CUNDARI: MR. DISTRICT ATTORNEY, I LISTENED WITH INTEREST TO YOUR MANY FINE REASONS FOR WIRE TAPPING, AND MY PRIMARY QUESTION WAS GOING TO BE DIRECT IN THE LINE OF WHETHER YOU KNOW OF ANY ABUSES OF THE USE OF WIRE TAPPING, AND YOU ANSWERED THAT IN REFERENCE TO THE GRAND JURY INVESTIGATION - WAS THAT 1951 ?

MR. BLANC: YES, 1951.

MR. CUNDARI: AND YOU SAY YOU TOOK OFFICE ELEVEN MONTHS

AGO?

MR. BLANC: THAT'S RIGHT.

MR. CUNDARI: AND THERE HAVE BEEN NO ABUSES IN THE PERIOD OF TIME THAT YOU HAVE BEEN IN OFFICE.

MR. BLANC: I KNOW THERE HAVE BEEN NO ABUSES IN THAT PERIOD AND I KNOW THERE WERE NO ABUSES DURING THE PERIOD THAT MR. DASH WAS THE DISTRICT ATTORNEY.

MR. CUNDARI: BUT THERE WAS IN 1951?

MR. BLANC: YES.

MR. CUNDARI: ALL RIGHT. LET ME ASK YOU THIS, SIR, YOU SAID, IF I REMEMBER CORRECTLY, THAT THE PROMISCUOUS USE OF WIRE TAPPING SHOULD BE STOPPED.

MR. BLANC: RIGHT.

MR. CUNDARI: THAT HEAVY PENALTIES SHOULD BE IMPOSED UPON ANYONE UTILIZING THIS EXCEPT A DISTRICT ATTORNEY OF ANY COUNTY, OR IN THE CASE OF NEW JERSEY A PROSECUTOR OF ANY COUNTY, ATTORNEY GENERAL OF THE STATE, OR A CHIEF OF POLICE OF ANY CITY PROVIDED THEY GET AN ORDER FROM A COURT. WOULD YOU INCLUDE ANOTHER SAFEGUARD THERE AS TO THE TYPE OF CRIME, OR WOULD YOU LET THAT ORDER BE ON ANY PARTICULAR CRIME, SUBJECT TO THE JUDGE GIVING YOU THE POWER ?

MR. BLANC: I THINK THAT WOULD BE SUBJECT TO THE JUDGE GIVING THE POWER, WE LEAVE THAT TO HIM.

MR. CUNDARI: THE SAFEGUARD WOULD NOT BE AS TO WHAT TYPE OF CRIME?

MR. BLANC: NO, IT WOULD NOT. I DID NOT HAVE THAT IN MIND. THERE ARE SOME MISDEMEANORS WHICH ARE PRETTY SERIOUS, JUST AS FELONIES ARE, AND I WOULD LEAVE THAT TO THE JUDGE OF THE QUARTER SESSIONS COURT TO DETERMINE WHETHER THE SUBJECT

MR. CUNDARI: YOU SEEM TO DEPEND TO A LARGE EXTENT UPON EAVESDROPPING AND WIRE TAPPING IN ALL SORTS OF CASES; YOU MENTIONED FRAUD CASES, BOOK-MAKING, VICE CASES, NARCOTIC AND SO FORTH. DO YOU THINK YOU ENJOY A PARTICULAR ADVANTAGE OVER SAY, THE STATE OF NEW JERSEY WHICH PROHIBITS WIRE TAPPING, TO THAT EXTENT ?

MR. BLANC: OH, I THINK UNQUESTIONABLY SO; I THINK YOUR LAW ENFORCEMENT OFFICERS HERE WOULD DO A FASTER AND A MORE EFFICIENT JOB IF THEY HAD THE RIGHT TO TAP WIRES ALONG THE LINES THAT I HAVE SUGGESTED.

MR. CUNDARI: THEN YOU DEPEND VERY, VERY MUCH UPON WIRE TAPPING IN PHILADELPHIA ?

MR. BLANC: WE DO, INDEED. THE POLICE DEPARTMENT DOES AND THE DISTRICT ATTORNEY'S OFFICE DOES.

SENATOR DONAL C. FOX: WELL, MR. BLANC, MAY I ASK YOU THIS: YOU MENTIONED MR. DASH WHO I THINK WAS YOUR PREDECESSOR IN OFFICE. DID YOU SAY THAT HE WAS CONDUCTING A STUDY OF WIRE TAPPING ON BEHALF OF THE AMERICAN BAR ASSOCIATION?

MR. BLANC: I UNDERSTAND SO. HE IS HERE TODAY, BY THE WAY.

SENATOR DONAL C. FOX: OH, FINE. WELL THEN HE CAN PROBABLY GIVE US ALL THE INFORMATION.

MR. BLANC: HE IS MAKING A COMPLETELY OBJECTIVE STUDY OF THE MATTER FOR USE OF THE VARIOUS STATE LEGISLATURES.

SENATOR FOX: WELL THEN, CAN I TAKE IT THAT YOUR PHILOSOPHY IS THAT YOU HAVE DRAWN NO DIFFERENCE WHATSOEVER BETWEEN SYNDICATED CRIME AS CONTRASTED WITH INDIVIDUAL OFFENCES COMMITTED

BY ANYBODY WITH RESPECT TO THE USE OF WIRE TAPPING.

MR. BLANC: I DO NOT. I'LL GIVE YOU AN EXAMPLE AS TO HOW IMPORTANT THAT IS: WE HAVE AN UNSOLVED MURDER CASE IN PHILADELPHIA - MR. TURNER OF THE PHILADELPHIA INQUIRER, ONE OF THE EMPLOYEES, ONE OF THE SUPERINTENDENTS - WAS ONE OF THE SUSPECTS IN THE CASE; HE HAD BEEN BROUGHT IN MANY, MANY TIMES AND WE WERE GIGGED VERY BADLY BY ONE OF THE NEWSPAPERS WHICH WAS OPPOSED TO THE INQUIRER. THE POLICE DEPARTMENT HOMICIDE SQUAD AND OUR COUNTY DETECTIVES HAD BEEN WORKING ON THIS FOR SOME TIME AND WE HAD BEEN KEEPING ALL SUSPECTS UNDER SURVEILLANCE. SATURDAY NIGHT, BY REASON OF WIRE TAP EVIDENCE, WE WERE ABLE TO CATCH ONE OF THESE INDIVIDUALS IN A VERY HEINOUS CRIME IN CONNECTION WITH HIS DAUGHTER. AND THE MAN TRIED TO MAKE A DEAL WITH THE DETECTIVE BUREAU AND WITH ME IF I WOULD TEAR UP THE EVIDENCE WE HAD IN THE FORM OF A STATEMENT RECEIVED FROM HIS DAUGHTER, THAT HE WOULD CONFESS THE MURDER HIMSELF. OF COURSE, THAT WAS THE SORT OF THING WE WOULDN'T GO FOR UNDER ANY CIRCUMSTANCES, BUT NONE THE LESS WE WERE ABLE TO ASCERTAIN A CRIME THAT WE WOULD HAVE NEVER KNOWN ANYTHING ABOUT WERE IT NOT FOR THE FACT THAT HIS HOME WIRE HAD BEEN TAPPED - AND A VERY HEINOUS CRIME, INCEST IS THAT. SO, WE WOULD USE IT IN INDIVIDUAL CASES AS WELL AS IN SYNDICATED GROUPS. WE HAVE BEEN SO USING IT, AND EFFECTIVELY.

SENATOR FOX: THEN YOU WOULD USE YOUR DISCRETION AND PRESENT IT TO THE PRESIDING JUDGE OF YOUR CRIMINAL COURT.

MR. BLANC: THAT'S CORRECT, SIR.

ASSEMBLYMAN JOSEPH THURING: I HAVE A QUESTION.

MR. BLANC, I BELIEVE YOU TOLD US THAT FOR THREE AND A HALF MONTHS YOU HAD A CONTINUOUS WIRE TAP WITH RELATION TO THIS VICE PROBE ---

MR. BLANC: THIS MODEL AGENCY, YES.

MR. THURING: ARE YOU FREE TO TELL US WHETHER OR NOT THERE WERE COLLATERAL ISSUES, COMPLETELY EITHER COLLATERAL OR UNALLIED THAT AROSE, THAT HAD CRIMINAL OVERTONES AS A RESULT OF THIS PARTICULAR TAP THAT IN NO WAY WAS CONNECTED WITH THIS VICE PROBE THAT YOU PURSUED ?

MR. BLANC: No, we got nothing except information concerning the farming out of these youngsters, some of them as young as thirteen, fourteen years of age, and information concerning the location of these filthy obscene films, and so on. We heard some of the most fantastic language that was ever spoken by anyone. The language that was used was perfectly horrible, but nothing in the conversations that we had monitored had to do with anything that would give rise to any other crime; all these conversations had to do with their attempts to get more girls into the ring, their attempts to farm them out to various people around the country.

MR. FOX: AND NOW, WITH RELATION TO THE ABUSES, AND YOU SEEM TO HAVE A VERY STRONG FEELING THAT THERE SHOULD BE SOME DEFINITE SAFEGUARDS TO LEVEL OR TO CONTAIN THE USE OF THIS WIRE TAPPING. HAVE THE ABUSES ARISEN BY CIVILIAN USE, THAT IS OUTSIDE OF LAW ENFORCEMENT ?

MR. BLANC: YES. WE KNOW VERY WELL THAT SOME OF THE PRIVATE AGENCIES, EVEN PRIVATE LAW ENFORCEMENT AGENCIES FOR

THAT MATTER MAY BE USING IT. WE DO KNOW THAT PRIVATE DETECTIVES ARE USING IT FOR THE PURPOSE OF ACQUIRING EVIDENCE IN DIVORCE MATTERS. WE KNOW THAT PRIVATE AGENCIES USE IT FOR OTHER PURPOSES AS WELL. THERE HAVE BEEN REPORTS OF ATTEMPTED BLACKMAIL - SO THAT WE DO KNOW THAT THE PROMISCUOUS^{USE}/OF IT IS SOMETHING THAT MUST BE STOPPED. BUT NEVERTHELESS, THE EFFECTIVENESS OF THIS TECHNIQUE FOR LAW ENFORCEMENT OFFICERS IS SO IMPORTANT THAT IN MY OPINION IT MUST BE PERMITTED, BUT IT MUST BE SURROUNDED BY EVERY POSSIBLE SAFEGUARD THAT WE CAN POSSIBLY WRITE INTO LAW.

MR. THURING: WHICH LEADS TO MY NEXT QUESTION. DO YOU HAVE ANY SPECIFIC RECOMMENDATIONS IN RELATION TO THESE SAFEGUARDS?

MR. BLANC: WELL, THEY ARE UNDER STUDY AT THE PRESENT TIME. FIRST OF ALL -----

SENATOR FOX: MR. BLANC, DIDN'T YOU SAY IN THAT CONNECTION THAT THE APPLICATIONS IN YOUR OPINION SHOULD BE LIMITED TO THE ATTORNEY GENERAL, THE DISTRICT ATTORNEY AND THE CHIEF OF POLICE.

MR. BLANC: THAT IS CORRECT, BUT EVEN THEY SHALL DO A WIRE TAP ONLY UPON THE ORDER OF A JUDGE OF THE QUARTER SESSIONS, THAT'S THE FIRST SAFEGUARD. AND THEN THAT THE MATERIAL OBTAINED THEREBY BE SUBMITTED TO THAT JUDGE FOR HIM TO DETERMINE WHETHER IT SHALL OR SHALL NOT BE USED, OR UNDER WHAT CIRCUMSTANCES IT SHALL BE USED. THE ACTUAL TAPE ITSELF TO BE FILED WITH THE JUDGE AND TO BE USED UNDER HIS DIRECTION, AS I SEE IT, BY THE DISTRICT ATTORNEY FOR PURPOSES OF GETTING

INFORMATION AND GOING OUT AND GETTING DIRECT INFORMATION -
AND DIRECT TESTIMONY RATHER THAN THE USE OF THE WIRE ITSELF.

SENATOR FOX: LET ME ASK YOU THIS. I MEAN, IF YOU ARE
GOING TO LIMIT IT IN ACCORDANCE WITH THE SUGGESTIONS THAT HAVE
BEEN MADE BY YOU, AND THIS WOULD ALSO GO TO THE ATTORNEY
GENERAL, THE PROSECUTING ATTORNEY, OR DISTRICT ATTORNEY OR
PROSECUTOR AND THE CHIEF OF POLICE OF A MUNICIPALITY - WOULD
YOU COMPEL HIM PERSONALLY TO MAKE THE APPLICATION TO THE PRE-
SIDING JUDGE BASED UPON AFFIDAVIT ?

MR. BLANC: DEFINITELY. IT WOULD BE DONE IN THAT
WAY. THE AFFIDAVIT WOULD COME -----

SENATOR FOX : JUST A SECOND. IN OTHER WORDS, THEN
YOU WOULD NOT HAVE THAT APPLICATION MADE BY ANY ONE OF A WHOLE
GROUP OF ASSISTANTS THAT MIGHT BE SERVING UNDER THAT PARTICULAR
OFFICIAL?

MR. BLANC: WELL, I WOULD CERTAINLY ANTICIPATE THAT
THE FIRST ASSISTANT DISTRICT ATTORNEY OR THE CHIEF OF THE
TRIAL SECTION WOULD BE AUTHORIZED TO MAKE SUCH AN APPLICATION,
BECAUSE THE MANY INVESTIGATIONS -----

SENATOR FOX: WELL, WHERE DO YOU DRAW YOUR DEMARKATION?

MR. BLANC: WELL, DON'T YOU SEE, EVERYBODY WHO IS ENGAGED
IN THE WIRE TAPPING WOULD BE BOUND TO KNOW ABOUT IT; THE CHIEF
OF YOUR COUNTY DETECTIVES AND THE COUNTY DETECTIVES WORKING
WITH HIM WHO ARE DOING THE OPERATION AND WHO ARE OBTAINING THE
TRANSCRIPTIONS FROM THE TELEPHONE CONVERSATIONS WOULD OF NECES-
SITY HAVE TO KNOW ABOUT IT - IT COULDN'T MISS.

SENATOR FOX: THE POINT IS, COULD THEY REQUEST THE
PERMISSION?

MR. BLANC: No, IT WOULD HAVE TO COME THROUGH THE HEAD OF THE OFFICE. IN OUR OFFICE IT WOULD BE MYSELF OR MY FIRST ASSISTANT OR THE HEAD OF THE TRIAL SECTION WHO WOULD GO INTO THE COURT.

SENATOR FOX: IN OTHER WORDS, IF I UNDERSTAND YOU CORRECTLY, THE OPERATING OFFICERS IN THESE VARIOUS DEPARTMENTS WOULD COME TO THE HEAD OF THE DEPARTMENT WITH THE FACTUAL SITUATIONS THAT THEY HAVE GARNERED, AND THEN THE HEAD OFFICIAL OR THE CHIEF OFFICIAL WOULD IN TURN, THROUGH HIS FIRST ASSISTANT MAKE THE APPLICATION TO THE PRESIDING JUDGE?

MR. BLANC: THAT IS CORRECT.

MR. THURING: MR. BLANC, WITH RELATION TO THAT SPECIFIC QUESTION ASKED BY SENATOR FOX, DO YOU AGREE THAT IT WOULD LIMIT OR NARROW THE CHANCE OF THIS THING GOING AWRY IF YOU LIMITED IT TO THE ATTORNEY GENERAL'S OFFICE AND THE CHIEF PROSECUTING OFFICERS OF THE COUNTIES? AND NOT THE CHIEF OF POLICE.

MR. BLANC: No, I AM AFRAID NOT. BECAUSE THE DETECTIVE BUREAU OF THE POLICE DEPARTMENT HAS THE JOB IN THE FIRST INSTANCE TO UNEARTH THE PERPETRATOR OF CRIME. AFTER ALL, THAT ISN'T THE CHIEF RESPONSIBILITY OF THE DISTRICT ATTORNEY'S OFFICE. THE CHIEF RESPONSIBILITY THERE IS PROSECUTING AFTER A MAN HAS BEEN BROUGHT IN BY THE POLICE DEPARTMENT AND AN INDICTMENT HAS BEEN FOUND. BUT, ALSO, AS I SAY, I THINK IT IS OUR RESPONSIBILITY TO PREVENT CRIME IN ALL AREAS THAT WE POSSIBLY CAN.

MR. THURING: DO YOU ALSO FEEL THAT IT WOULD AID TO LIMIT THE TIME PERMITTED FOR THE TAP? FOR INSTANCE, IF NOTHING

WAS UNCOVERED WITHIN A CERTAIN PERIOD OF TIME.

MR. BLANC: YES, I THINK THAT WOULD BE UP TO THE COURT.

FOR INSTANCE, THE COURT MIGHT REQUIRE A DAILY SUBMISSION OF THE TAPPED EVIDENCE, AND IF OVER A CERTAIN PERIOD OF TIME NOTHING WAS OBTAINED AND NOTHING RELATING TO THE CRIME THAT WAS SET FORTH IN THE ORIGINAL APPLICATION FOR THE RIGHT TO TAP, THE COURT COULD ORDER THE DISCONTINUANCE OF IT.

MR. THURING: I SEE.

SENATOR FORBES: MR. BLANC, I HAVE ONLY ONE QUESTION.

IT MAY BE A LITTLE DIFFICULT FOR YOU TO ANSWER IT, YOU MAY CHOOSE NOT TO ANSWER IT; BUT, YOU MENTIONED THAT YOU DEPEND VERY EXTENSIVELY, AND YOU DON'T FEEL THAT YOU WOULD NOW HAVE BEEN ON THE VERGE OF BREAKING UP A BILLION DOLLAR RING OF PORNOGRAPHY, THE VICE RINGS AND BUSINESS FRAUDS, AND SO FORTH AND SO ON, WITHOUT WIRE TAPPING. WELL, HERE IN THE STATE OF NEW JERSEY WIRE TAPPING IS GENERALLY CONSIDERED ILLEGAL, IT IS NOT IN WIDE-SPREAD USE, WE ARE TOLD, BY LAW ENFORCEMENT OFFICERS - IN FACT, MOST DENY ANY USE OF IT - DO YOU THINK, THAT AS A RESULT OF THAT, LAW ENFORCEMENT HERE LAGS BEHIND IN EFFECTIVENESS THE LAW ENFORCEMENT IN THE STATE OF PENNSYLVANIA? DO YOU THINK, AS A RESULT, WE HAVE WIDE-SPREAD SYNDICATES, AND SO FORTH, IN THESE AREAS?

MR. BLANC: WELL, I DO KNOW OF ONE INSTANCE IN THIS VICE PROBE THAT IN ONE OF YOUR COUNTIES IN NEW JERSEY, THEY KNEW NOTHING ABOUT THE ORGIES THAT WERE GOING ON THERE, OR THE PICTURES THAT WERE BEING TAKEN OR THE SALE OF THOSE PICTURES COMING FROM THIS PARTICULAR COUNTY UNTIL WE GAVE THEM THE INFOR-

MATION OF THAT FACT AND THEN THEY PROCEEDED TO INVESTIGATE AND GO ON FROM THERE. IF WE WEREN'T DOING THE WIRE TAPPING AND SUPPLIED THAT INFORMATION HERE IN NEW JERSEY THAT WOULD GO ON INDEFINITELY.

SENATOR FORBES: BUT YOU STARTED YOUR WIRE TAPPING AFTER YOU HAD HAD A TIP ON A COMPLAINT FROM A PARENT. YOU ALSO MENTIONED THAT THIS HAD BEEN GOING ON IN PENNSYLVANIA FOR TWO AND A HALF YEARS IN SPITE OF WIRE TAPPING.

MR. BLANC: THIS WAS UP IN MONTGOMERY COUNTY AND NOT IN OUR COUNTY. THIS WAS IN ANOTHER COUNTY -- YOU SEE, SIR, IT STARTED WITH A COMPLAINT FROM A MOTHER OF A FIFTEEN-YEAR OLD CHILD....

SENATOR FORBES: IN SHORT, IT WAS NOT WIRE TAPPING THAT LED TO YOUR VIGILANCE AND TO YOUR BREAKING UP OF THIS SITUATION, IT WAS A TIP.

MR. BLANC: IT WAS THE TIP THAT GAVE US THE NAME OF ONE PERSON: THIS HEAD OF THE MODEL AGENCY.

SENATOR FORBES: WITHOUT THE WIRE TAPPING HOW WOULD YOU ^{HAVE} PROCEEDED?

MR. BLANC: WE COULD NOT HAVE PROCEEDED - WE WOULD NEVER HAVE KNOWN UNLESS WE HAD A BIG FORCE WATCHING EACH OF THE GIRLS --- WE WOULDN'T HAVE KNOWN WHO THE GIRLS WERE, IN FACT, OR WHERE THEY WERE GOING, UNLESS WE SAT OUTSIDE OF THE MODEL AGENCY DOOR AND WATCHED EVERY YOUNGSTER THAT WENT IN THERE.

SENATOR FORBES: HOW DO YOU SUPPOSE, (I MEAN I AM JUST ASKING YOU), HOW DO YOU SUPPOSE THEY PROCEED IN NEW

JERSEY WHEN THEY GET A TIP ABOUT A VICE RING?

MR. BLANC: I CAN'T ANSWER THAT, I DO NOT KNOW.

SENATOR FORBES: MAYBE WE'LL HAVE TO ASK SOME OF OUR PROSECUTORS AND DISTRICT ATTORNEYS. THANK YOU VERY MUCH, MR. BLANC.

ASSEMBLYMAN DOMINIC N. CUNDARI: I HAVE JUST ONE QUESTION, MR. DISTRICT ATTORNEY. I'D LIKE TO TAKE A HYPOTHETICAL CASE AND BRING IT TO A CONCLUSION. IN THE CASE OF A VICE RING, YOU ^{HAVE} EVIDENCE, OR BELIEVE THAT A CERTAIN LOCALE IS OPERATING A HOUSE OF PROSTITUTION, FOR INSTANCE. YOU GO INTO A QUARTER SESSION COURT AND ASK THE JUDGE FOR AN ORDER ENTITLING YOU TO WIRE TAP THAT PARTICULAR RESIDENCE. YOU MOST LIKELY WOULD GET THE ORDER IN THOSE CIRCUMSTANCES. AS A RESULT OF THE ORDER, AND AS A RESULT OF THE WIRE TAP, YOU ACQUIRE CERTAIN EVIDENCES THAT CRIMES ARE BEING COMMITTED AT THAT LOCALE. WHAT WOULD YOUR NEXT STEP BE? WOULD YOU HAVE TO GO BACK TO THAT COURT FOR PERMISSION TO GO IN AND RAID, OR WOULD YOU THEN MAKE THE RAID?

MR. BLANC: No, we'd make the raid. If we had information for example that on such and such a night six of these girls were going to this particular place where one of these parties were being held, and we got the information in the afternoon of that day, we would have the right to go ahead and raid because we know the thing is going on --- it would be an ordinary raid.

MR. CUNDARI: Right, the raid would be consummated. Then it would be necessary -- at what time would it be necessary to go into a court and say to them "What part of the testimony can we use?"

MR. BLANC: I THINK IF WE SUBMITTED THE TESTIMONY AT THE END OF EACH DAY, SO THE COURT IF IT SO DESIRED COULD PLAY IT BACK AND HEAR WHAT GOES ON. IF, OVER A CONSIDERABLE PERIOD OF TIME THERE WAS NO EVIDENCE OF THE PARTICULAR CRIME THAT WAS TALKED ABOUT IN THE APPLICATION FOR THE RIGHT TO WIRE TAP, THAT THE COURT COULD THEN, AND WOULD, ORDER THE TAP DISCONTINUED.

MR. CUNDARI: NOW, IF THE TAP DISCLOSED SUFFICIENT EVIDENCE WITH WHICH TO POSSIBLY CONVICT, WOULD YOU ALLOW THAT WIRE TAPE RECORDING OF THE CONVERSATION TO BE PUT INTO EVIDENCE?

MR. BLANC: YES, DEFINITELY. IF THAT WAS THE ONLY EVIDENCE THAT WE HAD, BUT IN MOST CASES - IN FACT, IN THE GREAT MAJORITY OF CASES (I THINK IT'S BEEN ONLY TWO OR THREE TIMES THAT THE TAPE ITSELF HAS BEEN USED AS EVIDENCE) IT IS THE INFORMATION THAT IS OBTAINED BY IT, AND THEN DIRECT EVIDENCE IS OBTAINED AND THAT DIRECT EVIDENCE IS USED AT A TRIAL OF A CASE.

SR. FORBES:- JUST ONE CONCLUDING OBSERVATION - I JUST WANT TO GET IT CLEAR IN MY MIND BECAUSE IT IS IMPORTANT HERE IN THE STATE OF NEW JERSEY - THAT YOU FEEL EQUALLY AS STRONGLY ABOUT SO CALLED EAVESDROPPING/^{EQUIPMENT,} THAT IT SHOULD BE UNDER THE SAME SAFEGUARDS THAT YOU PROPOSE SHOULD GO INTO EFFECT.

MR. BLANC: I DO INDEED.

MR. THURING: ONE THING FURTHER; WITH RELATION TO THE TRANSPORTATION OF THE FINISHED TAPE ~~OF~~ THE ACTUAL PHYSICAL TAPING OF THE WIRE, DO YOU FEEL THAT IT WOULD BE ADVANTAGEOUS TO DIRECTLY DIRECT THAT TO THE COURT FOR IMPOUNDING SO THAT NO CHANGES OR DELETIONS OR ERASURES COULD BE MADE?

MR. BLANC: WELL, MY IDEA IS THAT IT WOULD BE SUBMITTED TO THE COURT AND BE HELD THERE UNDER SAFEGUARDS AND BE AVAILABLE TO THE DISTRICT ATTORNEY FOR HIS USE, BUT WE WANT TO SURROUND THIS WITH EVERY POSSIBLE SAFEGUARD, AND NO MATTER HOW STRONG THOSE SAFEGUARDS ARE, THERE ARE BOUND TO BE VIOLATIONS OF IT, WE KNOW THAT, BUT THAT WOULD NOT BE THE REASON FOR NOT PERMITTING IT AT ALL.

SENATOR FORBES: WELL, WE WOULD LIKE, ON BEHALF OF THE COMMITTEE AND THE LEGISLATURE OF NEW JERSEY, ^{TO} EXPRESS OUR GREAT APPRECIATION TO YOU FOR TAKING THE TIME TO COME UP AND GIVING US YOUR VIEWS ON THIS, AND I AM QUITE SURE THE COMMITTEE IS GOING TO FIND IT VERY HELPFUL, AND WE APPRECIATE YOUR GIVING US THIS COURTESY.

MR. BLANC: I'M VERY HAPPY TO HAVE BEEN HERE, SIR, I ASSURE YOU, AND IF YOU DON'T MIND I'LL RUN BACK.

SENATOR FORBES: NOW I WOULD LIKE TO ASK ANOTHER GENTLEMAN WHO HAS TAKEN TIME OUT OF A BUSY DAY TO GIVE THIS LEGISLATIVE COMMITTEE HIS VIEWS ON THE SUBJECT, THE DISTRICT ATTORNEY OF NEW YORK, MR. HOGAN, WHO IS HERE. IT HAS BEEN THE THOUGHT OF SOME MEMBERS OF THE COMMITTEE AND THE ATTORNEY GENERAL AS WELL AS THE PROSECUTORS' COMMITTEE THAT WE SHOULD HAVE THE BENEFIT OF HIS VIEWS IF HE COULD FIND TIME TO COME AND GIVE THEM TO US; HE HAS VERY KINDLY CONSENTED TO DO THIS. I WONDER, MR. DISTRICT ATTORNEY IF YOU COULD STEP UP HERE TO THE SEAT OF HONOR - WE APPRECIATE YOUR COMING OUT HERE TODAY, VERY MUCH. IF YOU LIKE, MR. HOGAN, I HAVE SOME QUESTIONS THAT HAVE BEEN SUBMITTED ON BEHALF OF THE PROSECUTORS' ASSOCIATION ON POINTS THAT THEY WOULD LIKE YOU TO DEVELOP

BUT I THINK PROBABLY YOU'D LIKE TO BEGIN WITH A GENERAL STATEMENT OF YOUR VIEWS, AND THEN WE COULD GO INTO THE QUESTIONS.

DISTRICT ATTORNEY HOGAN: THANK YOU, SENATOR.

GENTLEMEN: I AM HAPPY TO APPEAR HERE AND WHILE I HAVE SOMETHING THAT CHARITABLY MIGHT BE CONSIDERED A STATEMENT PLEASE FEEL FREE TO INTERRUPT ME AT ANY TIME AND ASK ANY QUESTIONS YOU WISH.

SENATOR FORBES: DO YOU HAVE COPIES OF THE STATEMENT?

MR. HOGAN: I AM SORRY I DON'T, I BUTCHERED IT ON THE WAY OVER HERE, BUT I CAN HAVE A TRANSCRIPT MADE.

IT IS MY HOPE THAT THE FIFTEEN YEARS EXPERIENCE MY OFFICE HAS HAD IN DEALING WITH THIS TECHNIQUE REFERRED TO AS WIRE TAPPING, MAY ENABLE ME TO BE OF SOME ASSISTANCE TO YOUR COMMITTEE, FIRST WITH RESPECT TO PROCEDURES FOLLOWED IN NEW YORK, AND SECOND, IN ASSESSING THE VALUE OF WIRE TAPPING --

SENATOR FORBES: EXCUSE ME, MR. HOGAN, WHEN YOU REFER TO WIRE TAPPING DO YOU INCLUDE IN THAT PHRASE IN YOUR MIND THE USE OF EAVESDROPPING EQUIPMENT, ALSO?

MR. HOGAN: OH YES. --- IT'S VALUE IN THE ADMINISTRATION OF JUSTICE. NOW, PRELIMINARY, AND IT MAY BE REPETITIOUS, I'D LIKE TO BRIEFLY ALLUDE TO THE LAW IN NEW YORK. WIRE TAPPING WAS MADE A CRIME IN OUR STATE IN 1892 AND IT WAS LEGALIZED UNDER CERTAIN EXPRESS CONDITIONS IN THE STATE CONSTITUTIONAL CONVENTION IN 1938. THEREAFTER, THERE WAS LEGISLATION WHICH IMPLEMENTED THIS CONSTITUTIONAL PROVISION AND PLACED THE ENTIRE PROCEDURE UNDER JUDICIAL CONTROL. THAT LEGISLATION WAS PASSED IN 1942. THE CONSTITUTIONAL PROVISION AUTHORIZES THE USE OF TELEPHONIC INTERCEPTIONS, BY STATE LAW ENFORCEMENT OFFICERS

UNDER A SYSTEM OF JUDICIAL SUPERVISION THROUGH THE ISSUANCE OF EX PARTE ORDERS. THE STATUTE THAT I REFER TO, WHICH WAS PASSED IN 1942, SETS FORTH THE STEPS WHICH THESE NAMED OFFICERS MUST FOLLOW IN ORDER TO OBTAIN THIS PRIVILEGE. BRIEFLY, THESE ARE: FIRST, APPLICATIONS FOR ORDERS MAY BE MADE ONLY BY THE ATTORNEY GENERAL, THE DISTRICT ATTORNEY OR A POLICE OFFICER ABOVE THE RANK OF SERGEANT. SECOND, THE APPLICATION MUST BE BASED ON THE OFFICERS OATH OR AFFIRMATION THAT THERE IS REASONABLE GROUND TO BELIEVE THAT EVIDENCE OF CRIME MAY BE OBTAINED. THIRD, THE PARTICULAR TELEPHONE LINE, AND THE PERSON OR PERSONS WHOSE PHONE IS TO BE TAPPED, MUST BE IDENTIFIED AND THE PURPOSE OF THE WIRE TAP MUST BE SET FORTH. FOURTH, THE OFFICER MUST APPLY TO ONE OF A GROUP OF JUDGES DESCRIBED IN THE STATUTE - IN NEW YORK CITY IT WOULD BE THE COURT OF GENERAL SESSIONS, WHICH IS ROUGHLY EQUIVALENT TO A COUNTY COURT THROUGHOUT THE REST OF THE STATE, - OR TO THE SUPREME COURT OF THE STATE. AND FIFTH, THE JUDGE MAY EXAMINE THE OFFICER OR DISTRICT ATTORNEY UNDER OATH AND SHALL ISSUE THE ORDER ONLY IF HE IS SATISFIED AS TO THE REASONABLE GROUNDS SET FORTH IN THE AFFIDAVIT .

TO THESE STATUTORY REQUIREMENTS, MY OFFICE HAS ADDED CERTAIN RULES WHICH ARE DESIGNED FIRST, TO AVOID THE INDISCRIMINATE USE OF WIRE TAPS, AND SECOND TO ENSURE MAXIMUM SECRECY WITH RESPECT TO THE EXISTENCE OF THE WIRE TAP; AND, THE CONTENT OF THE INTERCEPTED STATEMENT. THESE SUMMARIZED ARE AS FOLLOWS:- FIRST, THE APPLICATIONS THEMSELVES ARE LARGELY RESTRICTED TO INVESTIGATIONS INVOLVING ORGANIZED CRIME OR OFFICIAL CORRUPTION.

SECOND, A WIRE TAP ORDER CAN BE APPLIED FOR ONLY IF THE ASSISTANT DISTRICT ATTORNEY ENGAGED IN THE INVESTIGATION CAN CONVINCED BOTH HIS BUREAU CHIEF AND THE DISTRICT ATTORNEY THAT IT IS NECESSARY. WE REGARD IT AS A PRIVILEGE, WE DO NOT ABUSE IT. ALL APPLICATIONS RECITE, OF COURSE, WHETHER OR NOT A PREVIOUS APPLICATION HAS BEEN MADE TO ANY OTHER JUDGE. THIRD, THE FACT THAT A WIRE TAP ORDER HAS BEEN OBTAINED AND A PLANT IS INSTALLED IS KNOWN ONLY TO THE JUDGE, THE TELEPHONE COMPANY'S SPECIAL OFFICE AND THE DISTRICT ATTORNEY'S OFFICE, AND RECORDS OF ALL ORDERS ARE CENTRALLY MAINTAINED BY THE COMMANDING OFFICER, IN OUR CASE OF THE DISTRICT ATTORNEY'S SQUAD OF DETECTIVES, SO THAT INSTANT REFERENCE TO ANY OF THEM CAN BE MADE, AND A DUPLICATE CARD SYSTEM IS MAINTAINED BY MY CHIEF INVESTIGATOR. FOURTH, THE FACT THAT A WIRE TAP HAS BEEN INSTALLED, THE NAME OF THE PERSON WHOSE LINE IS BEING TAPPED, AND THE CONTENT OF THE INTERCEPTED COMMUNICATIONS ARE NEVER DISCLOSED UNLESS SPECIFICALLY AUTHORIZED BY THE ISSUING OR TRIAL JUDGE - THERE IS NO LEGAL PROHIBITION WHICH WOULD INTERFERE WITH OUR DISCLOSING THE CONTENTS OF INTERCEPTED CONVERSATIONS, BUT THAT IS AN OFFICE RULE THAT WE NEVER DISCLOSE IT UNLESS THE JUDGE AGREES THAT SOME USEFUL PUBLIC SERVICE WILL BE SERVED BY SUCH A DISCLOSURE. AND FIFTH, AND THIS IS BY WAY OF AN OBSERVATION, AND I THINK THE DISTRICT ATTORNEY FROM PHILADELPHIA ALSO ALLUDED TO IT, WIRE TAPS ARE INFREQUENTLY USED (THAT IS THE CONTENT) AS EVIDENCE, BUT MAINLY FOR LEADS AND INFORMATION WHICH PRODUCES OTHER EVIDENCE AND USUALLY EVIDENCE WITH MORE PROBATIVE VALUE.

NOW, YOU GENTLEMEN KNOW THAT THE SUPREME COURT OF THE UNITED STATES HAS UPHELD THE CONSTITUTIONALITY OF THE NEW YORK STATE WIRE TAP PROVISIONS. IT IS ALSO A MATTER OF RECORD

at in all cases where wire taps were used, cases that have been tried, not a single conviction has been reversed on appeal on the grounds that the wire taps were improperly or illegally obtained. It is of course true that no legislation, no rules or regulations adopted by a District Attorney, a police commissioner or an Attorney General can completely prevent abuses with respect to wire tapping, or any other form of law enforcement activity, for that matter. I caution you, however, in attempting to evaluate legalized wire tapping by comparing its unquestionable benefits with possible abuses, to keep a sharp eye out for the alarmist with a flair for the dramatic. It has been our experience that this particular field produces the most extravagant accusations of abuse of practices, as ill-founded and unsupported as they are shocking, and as irresponsible as they are inaccurate. An illustration, which I am sure has come to your attention, is found in the fantastic assertion of Mr. Justice Douglas of the Supreme Court that in the year 1952 58,000 wire tap court orders were obtained in New York City. Now, here is the U.S. Supreme Court Justice who makes a completely unsupported, utterly ridiculous statement. His figures are off by, I calculate, at least 10,000%, because it's roughly estimated by a fairly accurate estimate that in a given year the police department and the five district attorneys who represent the counties and New York City obtain about 500 to 600 orders for wire tap interceptions.

MR. CUNDARI: Each, or between them?

MR. HOGAN: In toto. I don't have the figures for the city but I think the statistics from my own office will be illuminating, and I may say that my own office has, unfortunately, most of the criminal business in the city. Brooklyn has a larger population, but because of the concentration of industry and a million or so people who come to

Manhattan to work and seek recreation, we have the largest crime load in the State of New York. As a matter of fact, it approximates 40 per cent of the criminal statistics for the entire State.

Now, I have had prepared for the Committee's use two charts (hands charts to Committee) which will give you an indication of the volume of wire tapping in New York County. These charts show the scope and extent of our overall prosecuting activities, the number and kinds of investigations on which wire taps were installed, and the results obtained. Our figures demonstrate that, although wire taps were installed in a very small percentage of our cases, they have, I think, produced remarkable results and splendid results in the toughest types of investigation, those involving organized crime and corruption.

Specifically, you will observe that during the 14-year period, looking at the total at the bottom of the sheet, we have obtained an average of 68 wire tap orders a year, for a total of 957 in these 14 years, in the course of 353 investigations. In those cases 537 arrests have been made; thus far 403 have resulted in convictions, only 79 in dismissals - a success average of 84 per cent.

Now, you will observe also that in that same period, we have handled some 362,000 criminal matters; 44,000 felony dispositions in the Court of General Sessions; 135,000 misdemeanor dispositions in Special Sessions; we add to that 30,000 gambling matters in Magistrate's Courts, and 151,000 complaints which have been processed. So that we

have 957 times where we thought it necessary and expedient to obtain orders in 353 investigations in 362,000 criminal matters.

Now, I should like to refer to--

MR. CUNDARI: Before you leave the chart, Mr. District Attorney: Out of 362,000 and some odd complaints, you only utilized wire tapping in 353 instances; is that correct, sir?

MR. HOGAN: In 353 investigations. You see, in some of these investigations, we might have two or a dozen wire taps. I think the mathematical figure that should be utilized in equating wire tap activity with complaints is 957, because in 957 instances in 353 investigations - now, investigations may involve a number of criminal matters.

MR. CUNDARI: Now, if you had the leeway that Philadelphia has, or Pennsylvania has, would it be your opinion that you would utilize wire tapping in many, many more instances than you have used it?

MR. HOGAN: I'm afraid I am not familiar with their leeway as distinguished from ours.

SENATOR FOX: They have no restrictions at all.

MR. CUNDARI: If you had had no restrictions, in your opinion, would you as a matter of necessity have utilized wire tapping to a very large per cent more than you have?

MR. HOGAN: No.

MR. CUNDARI: You don't have to just depend upon wire tapping to as large a per cent as perhaps Pennsylvania?

MR. HOGAN: I can only say that we don't restrain ourselves when we think that we have reason to believe

that a crime is being committed or that evidence of the crime may be obtained. We limit ourselves only in that, if it is a routine case, we don't ask for the privilege, but in any serious case we do ask. Now, the police department may engage in wire tapping in less serious cases; I'm sure they do, but the answer to your question is that, even if there weren't limitations in the statute, I don't think we would have availed ourselves of the privilege much more or any more than we did.

I have also, which may be interesting to you, - I am sorry I have only two copies - a breakdown of the categories of crimes in which this privilege has been utilized. Occasionally you hear a complaint to the effect that it is used only in gambling and prostitution cases, and I think this breakdown will prove that the criminal investigations are of a very serious nature. The 353 investigations are analyzed here and you will see that homicide, abortion, narcotics, larceny, frauds, extortion are included there, and you will have an opportunity to reflect on the percentages which are reflected in that chart.

Now, it may be helpful if I refer to a few cases which, in my judgment, were broken by my office through leads and information furnished by wire taps. A few years ago, we had a so-called basketball investigation that unearthed corruption in college sport on a nation-wide scale. This scandal involved some 15 professional fixers, 33 players, 6 colleges, 49 basketball games, in which score-rigging deals were negotiated in New York State and in 22 other cities in 17

other states, really nation-wide in its scope. Investigation, information obtained over telephone wires enabled us to piece together an accurate picture of the workings of this bribery ring. The recordings of the incriminating conversations led to the breaking of recalcitrant witnesses and that resulted, in turn, in cooperation against the fixers and higher-ups. Thirty-eight arrests resulted and 36 of these 38 were convicted, including 14 of the 15 fixers - the 15th died before the trial was completed. And without wire tapping, this case just couldn't have been started; I mean, we had a tip from a newspaperman to start with, but it was no more than, "Are you interested in this sort of thing?" "Yes." "Well, watch Eddie Gard, of Long Island University basketball team." So we watched him, maintained surveillance, and we found he was meeting a chap named Salozzo, who had a long criminal record. Salozzo was suspected and ultimately convicted of smuggling gold into the country. That was enough to warrant our going to a judge and asking that we be permitted to intercept telephone conversations on Salozzo's wire, and then we found basketball players from various schools calling Salozzo and making arrangements to meet him, and we were able to cover these meets, so that, after the many months investigation, when we called in these basketball players and they lied their heads off that they weren't involved, it was a simple expedient to play back these intercepted telephone conversations, and in the course of one night half a dozen of them broke and gave us the names of the

fixers. I don't think we could have made a dent in it without the privilege accorded to us by the court.

Wire taps were used to advantage in successfully prosecuting the half-million dollar stolen bond ring, led by one Irving Michel, who acted as a broker for burglars specializing in stolen securities. This system of marketing these securities was most complex; he operated with forgers and other characters, including one Irving Nitzberg, who was twice convicted of murder and an alumnus of Murder, Inc., but the convictions were reversed in the Court of Appeals. A wire tap on Michel's home telephone number was the prime factor that resulted in his indictment and conviction and a ten to twenty-year prison sentence, which he is now serving. In addition, Nitzberg and eight others were arrested and indicted and all pleaded guilty to charges of grand larceny and forgery.

Wire taps enabled us to break up an intricate conspiracy involving a ring of crooked policy operators, who succeeded in fixing the figures upon which their gain was based so as to reduce their payoffs on winning numbers to a minimum. This scheme depended to a large extent on manipulation of the daily clearance figure of the Cincinnati clearing house and upon a net work of daily telephone calls between Cincinnati, New Jersey and New York. As a matter of fact, the headquarters of this ring was in New Jersey and, while we didn't have the opportunity, it would have been much easier if we could have intercepted telephone calls in New Jersey because

90 per cent of the activity was in New Jersey. But they were checking with New York newspapers and we happened to be maintaining surveillance on a notorious underworld character at the time, and these curious telephone calls coming from New Jersey excited our curiosity and we put in wires and finally, through these telephone interceptions, got the full picture of the conspiracy.

SENATOR FORBES: You say you didn't have the opportunity to wire tap in New Jersey. Why was that? You didn't think you would get the support of our law enforcement officers?

MR. HOGAN: We didn't anticipate that they would willingly break the law; we have never requested it.

SENATOR FORBES: You considered that the law precluded it?

MR. HOGAN: Oh, yes, yes. It was our definite understanding.

Well, that resulted in the indictment of some eight key figures in this conspiracy, all of whom pleaded guilty, including, if you please, the Secretary of the Cincinnati Clearing House who was being paid a thousand dollars a week to give the number that had the least play on it as the concluding digit in the pay-off number.

Recorded wire tap conversations were most helpful in bringing about the conviction of the New Jersey insurance broker, Louie Saperstein, and the indictment of his underworld associates who, operating between New York and New Jersey, were able to siphon off from the Labor Union Welfare Fund the sum of \$300,000 in less than 3 years.

You know some of the ramifications of that case.

Wire tap evidence is probably the most important element in obtaining convictions of fake charity racketeers who operate what we call "boiler rooms," and the name I think is given to a setup where a number of pitchmen or salesmen get on the phone and it was the incessant clatter and ring of the telephones that prompted some person to refer to them as boiler rooms. I don't think we could make a beginning at arresting this criminal activity, which is carried on almost exclusively over telephones, without the privilege which is accorded to prosecutors and police in wire tapping. Over the years, I suppose we have convicted 40 or 50 of these persons. Among them were some self-styled clerics, the Reverend Raymond Norman and a so-called Bishop Tyarks, and they were taking, we estimate, \$100,000 a year from gullible New Yorkers just on the strength of misrepresentations made over the telephone.

Wire taps led directly to the capture of a participant in the \$107,000 payroll stickup, Sam Granito, wanted by Boston police.

Wire taps, for the 20 years that I have been in the District Attorney's Office, have been a powerful investigating weapon in the field of labor racketeering. Where the victims fear the businessman's apprehension about cooperating with law enforcement authorities is our chief stumbling block. Highly reputable citizens come in and just commit perjury, deny that they had any connection with labor union officials or criminals who dominate labor unions, and intercepted

onversations have been most helpful in breaking down these businessmen. Often they constitute the basis for perjury indictments which induces the businessman to dispense with his fear and cooperate with law enforcement authorities.

Now, just a few examples of this will suffice: Without wire taps we never could have convicted, I think the most powerful labor boss on the east-side waterfront, Mike Vimenti and his two lieutenants, Montevero and Gichioni. Johnnie Dio, whose name is in the paper currently, is a labor racketeer, former associate of Leptè and Guerar. He returned to his haunts after a long prison sentence, after serving a term for extortion. We maintained surveillance over him that included wire tapping and surveillance bore fruit when two of his lieutenants, Anthony Tupozzio and an ex-burglar named Joseph Cohen, were convicted for trying to shake down a flower bulb concern. They were sent to jail. Another associate of Dio, Samuel Zachman, tried the same extortion racket in the messenger service industry. Zachman and his partner, one Nicholas Leone, were convicted and sentenced to State Prison. And Dio, with the help of wire taps, was convicted for state income tax evasion and presently is awaiting trial of two indictments in my office which are largely attributable to these intercepted telephone conversations.

Many convicts on parole have been sent back to jail. I can think of one, Jerry Sullivan, who is an ex-associate of Owney Madden, one of the most notorious murderers of prohibition days. He was out on life-long parole and our wire tap surveillance of his activities provided evidence

which permitted the Parole Board to revoke its parole and send him back to prison, where he died.

Here is an interesting case: A labor union which adopted the technique of having its officials and members make hundreds of telephone calls in order to tie up the telephone lines of some non-union pharmacies and thus coerce them into signing up with the union. That is felonious conduct under New York State law. These union officials were brought to book solely because a wire tap on the union's telephone disclosed that the calls were emanating from union headquarters, and we had no more to do than play those conversations to the attorneys for these union officials and they threw in the sponge, confessed their guilt and pleaded guilty.

Wire tap evidence and leads smashed the largest ambulance chasing ring to be investigated by our office in 20 years. Five lawyers involved in that ring have already pleaded guilty. A corrupt physician whose specialty was the sale of thousands of narcotic prescriptions to hundreds of dope addicts pleaded guilty to an indictment when he realized that his recorded dealings with the addicts could neither be explained away nor overcome.

Well, I think I have given you an indication of the value of wire tapping in our particular office. I have other cases here, our files are replete with them, but it has been an extremely valuable privilege and we regard it highly. You will recall that in February of 1955, there was a raid on an illegal wire tapping center in Manhattan .

and that led to a grand jury investigation and to the trial and conviction of four persons, two of them telephone company operatives, and the most important of which was a John Brody, a lawyer who spent most of his time as an investigator, and Brody with three of the defendants pleaded guilty; Brody elected to stand trial and was convicted and sentenced to a term of from two to four years. Now, that case I think was instrumental in leading to a joint legislative commission which was established in New York to study the illegal interception of communications. You have probably had opportunity to read their report. The Chairman of the Committee is with us this morning, Assemblyman Savarese. I appeared before that committee and I made certain recommendations which I think have been included partly or completely in the Committee's Report. There are others who made recommendations too, but I add them to this statement for what they are worth: First, I believe that a court order should be required, even if the subscriber of the telephone to be tapped gives his permission. I would like to outlaw so-called legal wiretapping. I don't think that just because I'm a subscriber to a telephone that I should be permitted to intercept conversations in which I do not figure on that telephone. Presently, under New York State law, that type of interception is permissible. I would like to see it made unlawful.

Secondly, I think it might be wise to further centralize responsibility over wire tap order applications. I suggested to the Joint Legislative Committee in New York the raising of requirements. Presently a lieutenant

in New York, in the Police Department, may make the application. I would think it might be prudent to make it at least an Inspector, possibly a Deputy Police Commissioner, and certainly, since I endorse and approve every application that is made in my office - there are only 70, an average of 68 over the last 14 years - I would be happy, personally, to make the application on behalf of my own office.

SENATOR FORBES: Would you apply that restriction to what we call eavesdropping equipment too?

MR. HOGAN: Oh, yes. I think that is another one of my recommendations here.

The third recommendation, which I have alluded to before, is that I believe a court order should be required before the contents of wire tap reports or recordings can be released, either in open court or to other authorities. Every once in a while a newspaper will publish a wire tap interception. It is always a bit of a mystery where they get them, but I think that ought to be prohibited, unless a judge determines that a public service may be performed if the interception is made public. But it ought to be a matter of judicial decision.

Fourth, any legislation regulating wire tapping should include a prohibition against interception of telephonic communication accomplished without actually breaking the wire or making connections such as are possible by induction coils or similar equipment.

I think that is enough of this statement to serve our purpose. If there are any questions, I'll try to answer

them.

SENATOR FORBES: I have one question I would like to ask that is before the Committee. I have a question here from Prosecutor Morss: Would you specify or describe any occasions where you have been in a position to assist New Jersey law enforcement authorities to apprehend serious violators of the criminal laws of New Jersey through wire taps installed in New York pursuant to court order?

MR. HOGAN: Well, that has happened dozens of times. Certainly our investigation of Joe Adonis was immeasurably assisted by the privilege accorded to us in New York and the then Attorney General of New Jersey was gracious enough to say, after he was convicted in New Jersey, that it couldn't have been accomplished without the evidence or without the material turned over to him and the special prosecutor at the time by our office. The conviction of Frank Erickson, who had a business establishment in New Jersey, was brought about largely by intercepted telephone conversations. We had been investigating for years, and the whole mosaic of his activity was put together largely because of the information that we pieced together from wire taps.

SENATOR FOX: Do you know whether that also applies to Costello's conviction?

MR. HOGAN: In regard to Costello, almost 90 per cent. Senator Kefauver acknowledged that, as did the federal authorities. It was an order permitting us to intercept telephone conversations on the wire of Frank Costello in connection with a murder investigation that gave us the

information that resulted in the so-called Orillio case. We found to our amazement that he was practically dictating judicial designations in New York County, to the Supreme Court of the State. That induced us to bring him before the Grand Jury and, on the basis of the telephone interceptions which we obtained for a period of about six months, Costello elected to tell the truth. He told the truth because he had been apprised before entering the Grand Jury that nothing would delight us more than to try him for perjury, so he told about his gambling operations in Florida, about his gambling operations in Louisiana, about his activities during the prohibition era; we had a complete story of his life and we were able to ask the questions intelligibly because we knew of his connections with Willie and Sallie Moretti in New Jersey, with Zwillman in New Jersey and with Adonis in New Jersey. We had the whole cast of characters from the telephone conversations, so that that interrogation before the Grand Jury was used by Senator Kefauver, and in a letter to me he said it represented 90 per cent of the questioning of Costello, and it has been used in every federal investigation and trial since 1943 when we collected the material.

SENATOR FOX: I was going to ask you this question- if I am out of order you can tell me: In connection with the Reisel case in New York City, the commentator, I think one of the New Jersey papers indicated that wire tapping was used in connection with the solving of that particular case. Are you at liberty to advise us whether that is so or not?

MR. HOGAN: I'm sorry, but I think I will have to refrain from that, Senator. Another instance in New Jersey-- it didn't result in a criminal prosecution but I think it was a bit scandalous - at least I thought it was - when Mayor Kenny of Jersey City, isn't it, came over to New York and was closeted in a hotel with Tony Bender, one of the worst underworld characters that we have. Now, without our surveillance of Bender - we certainly weren't maintaining any surveillance of the Mayor - we never would have had detectives covering this meet. We knew there was going to be a meeting between somebody in New Jersey and Tony Bender, and to our amazement it turned out to be Mayor Kenny.

SENATOR FORBES: Could I interrupt just for a minute? Mr. Greene, Associate Editor of the New Jersey Law Journal, has to leave and he would like to put into the record an editorial which the New Jersey Law Journal carried on the subject of wiretapping.

MR. GREENE: I am sorry to interrupt--

SENATOR FORBES: Mr. Greene, if you would just put it into the record.

MR. GREENE: The New Jersey Law Journal, under date of October 25, 1956, published an editorial, which I wrote and it was concurred in by the editorial board of the New Jersey Law Journal, entitled "Wiretapping - a 'Dirty Business.'" I would like to have that read into the record in full.

SENATOR FORBES: Thank you very much.

SENATOR FOX: Mr. Greene, I think it should appear on the record and I am going to put the question to you:

You are not and never have been affiliated with any law enforcement agency, have you?

MR. GREENE: Not at all. After hearing what happened in Philadelphia, I'm glad I wasn't.

(Editorial submitted by Mr. Greene)

SENATOR FORBES: Now, we will get back to Mr. Hogan. I'm sorry to have interrupted you.

SENATOR FOX: I wanted to ask you this, Mr. Hogan, if I may: You mentioned, I think, in connection with the wire tapping investigation in New York the name of a gentlemen by the name of Brody, is that correct. Was there not also involved in that a Mr. Keating?

MR. HOGAN: Mr. Keating at that time, or prior to the investigation, was counsel to New York City Crime Committee. Now, that may not be an accurate title - New York Citizens' Crime Committee.

SENATOR FOX: And that was the same Mr. Keating that was referred to by Mr. Brown, I believe, in his address - William J. Keating, who was the former counsel for the New York City Anti-Crime Committee?

MR. HOGAN: That's right, yes. And he was the person who disclosed the existence of this illegal wire tapping set-up in an apartment on East 55th Street. Mr. Keating announced that to the newspapers while in Albany on a mission to interest the Legislature in conducting an investigation of illegal wiretapping. I think the existence of that setup may have given impetus to the legislative desire to look into illegal wire tapping.

SENATOR FOX: Well, was Mr. Keating subsequently held for contempt of court?

MR. HOGAN: Yes. Mr. Keating, not content with revealing the fact that this illegal wiretapping setup existed and that the police had failed to do anything about it, and that the telephone company had failed to do

anything about it, made terribly serious charges affecting New York City Police; for example, he stated that the Chief of Detectives, Thomas Neilson, was present in this apartment, that a Lieutenant Moore was present in this apartment, that there were conversations between these high-ranking police officials and telephone company operatives, in which money was referred to, the suggestion being that money was offered to them to forget the whole thing- charges of that nature, which made it necessary for the Grand Jury to insist that Mr. Keating reveal the sources of his charges. If he had refrained from making these charges which couldn't be proved, there would have been no insistence on the part of the Grand Jury that he reveal the sources, but in justice to the Chief of Detectives and others who had been maligned by him, the Grand Jury properly insisted that he reveal the sources of his information. He refused and he was held in contempt, he was given a jail sentence, he appealed to our Appellate Division, and the five judges of that court unanimously upheld the decision of the General Sessions Judge who held him in contempt.

SENATOR FOX: May I ask you this: I notice on the first chart that you have submitted to us the number of wiretap order including renewals. That would be renewals of original orders applied for and granted by the court; is that correct, sir?

MR. HOGAN: Yes.

SENATOR FOX: And I have this other question and I have addressed it to Mr. Blanc and his answer was rather all-embracing. I take it from your testimony, sir, that

your applications for orders have in most cases been utilized in connection with the solution of syndicated crime in whole, or as you have indicated, in addition, official corruption; is that correct?

MR. HOGAN: That is true.

SENATOR FOX: So that as far as - if we can use the term - the ordinary run-of-the mill cases, you do not believe in, and apparently from the conduct of your office apply for orders in those.

MR. HOGAN: With this exception: I won't say that I don't believe in intercepting conversations - I think that is proper police activity. It so happens that, while the concept of our job is that it is not only a prosecuting agency, it is also an investigating agency. The policy of the office is not to investigate routine gambling cases. We think that is a police function. We don't have the man power, even with 77 assistant district attorneys, 10 investigators, and 50 detectives. I couldn't possibly attempt to investigate the forty to fifty thousand criminal matters which my office deals with each year. So that we have a man-made rule to the effect that we will not engage in any investigation of gambling unless it is organized, as Erickson organized it, or prostitution unless it is organized, as Luciano organized it. Then we consider it organized crime and a mob venture, and we are interested in it, but we don't investigate the ordinary vice case or gambling case. Now, in the Jelke case, for example, we wouldn't have any interceptions on a case like that because that was investigated by assistants of mine

working in the Court of Special Sessions where they try misdemeanors. That was developed without this help, but if a notorious underworld character was involved, we would be in on it.

SENATOR FOX: But you also feel, in connection with any application for orders, in line with the question I addressed to Mr. Blanc before, that they should be made by the Attorney General or the prosecuting attorney or the top official or his deputy in the Police Department; is that right?

MR. HOGAN: I think that would be a wise change in the New York State law. I think it would add a measure of control of responsibility, which I believe is there now, but which the statute ought to put there.

SENATOR FOX: In connection with the ^{illegal} use of wire tap equipment or eavesdropping devices, would you also advocate the imposition of severe penalties?

MR. HOGAN: I would--

SENATOR FOX: I know that is a comparative question.

MR. HOGAN: Yes. The penalty at the present time is a deterrent, certainly, to a lawyer or to a private investigator, but I see no harm in making it-- or giving the judge greater latitude if he has a particularly flagrant case before him; he might want to give more than the two years.

SENATOR FORBES: I have one question here from the prosecutors which I don't think was covered: What personal knowledge do you have of abuses on the part of law enforcement officers?

MR. HOGAN: I have no personal knowledge except as I read the presentment returned in Kings County some years ago to the effect that certain plain clothesmen were abusing the privilege to shakedown bookmakers. I had something in here covering that point. It's short, so I'll read it:

"With respect to alleged extortion by police, while I can't of course speak authoritatively with respect to the police department, I can say that I have never received any evidence or even a complaint, and I am in my 15th year as District Attorney of New York County, to the effect that any police officer has used information gathered in the course of a wire tap plant for corrupt, extortive or coercive reasons. If the police have indulged in this practice wholesale, and to the extent suggested by some persons who possess only hearsay information, it seems to me there should have been some reflection of it in my office. It seems to me that someone within the past 14 or 15 years would have made a complaint."

They certainly complain about police for everything else, and we have indicted a number of policemen during those years and sent a number of them to jail, as you would expect in dealing with an organization with 25,000 men; I wouldn't care whether they were police or anybody else.

SENATOR FORBES: I might point out that we have never had an indictment, until about a week or so ago, or prosecution for wire tapping in New Jersey, but it doesn't follow that there wasn't any.

MR. HOGAN: Well, as I say, I am sure that long before Brody was convicted of illegal wiretapping, illegal wiretapping existed in New York State, and I wouldn't quarrel with anybody who stated that some police have abused this privilege. I can only say that my files for 15 years do not reflect any complaints, nor do the

telephone company files reflect any complaints against the police. It doesn't mean, of course that some police haven't done it, but I don't think that it is done on a wholesale scale. In the first place, when you see how restrictive the operation is, my office with 68 orders, the entire city of New York with eight million people - five hundred to six hundred orders a year. I would estimate that half of that number, or 40 per cent of that number, are attributable to the five district attorneys' offices; that leaves three hundred to three hundred and fifty orders that the police department is responsible for. If you are speaking about abuse of wire tapping pursuant to court order, I don't think that there is much of it. Now, whether there has been some conspiratorial activity on the part of police with private detectives in illegal wire tapping, I don't know. I have never brought any policemen to book for that particular charge, but it may exist.

MR. KERBY: The Police Department has its own equipment, does it?

MR. HOGAN: Yes, and we have ours.

MR. KERBY: And under whose control is that equipment? How high up the echelon?

MR. HOGAN: I suppose it would be the Borough Commander. I am not certain of the answer to that.

MR. KERBY: You have indicated to us that the police of New York City are not under your jurisdiction?

MR. HOGAN: They are not, except for the 50 or 60 who constitute the District Attorney's squad, and I have a measure of jurisdiction with respect to those men. They

operate out of my office and work on matters that I supervise, so that I have that, although their loyalty is to the department, too.

MR. KERBY: Were there any changes in the police regulations concerning wire tapping after the presentment in 1949 of Prosecutor Helfont; in other words, was the procedure changed as a result of that presentment?

MR. HOGAN: I don't know of any. It may be that there was tighter departmental control but I am not in a position to answer that question.

MR. KERBY: Do you know anything about any wire tapping activities of a Mr. Kenneth Ryan of the New York City Police Department?

MR. HOGAN: I know that he figured in an investigation of illegal wire tapping which took place in 1949. Unfortunately, there was an acquittal in the case that was tried because, in my judgment, there was premature publicity. Ryan had been employed by this same Brody, who, in turn, was employed by a Ryan from New Jersey, one Clendennin Ryan, and Brody had instructed the former policeman to intercept telephone conversations on the wire of Hugo Rogers, who was then the Borough President of Manhattan. Presumably, Brody wanted to pick up some political intelligence which would be useful to Clendennin Ryan, who was then interested in New York City politics. May I say that there was no evidence that Mr. Clendennin Ryan knew what Brody was doing. Brody, so far as the evidence was concerned, was on his own in deciding that the quickest way to get what his boss, Clendennin Ryan, wanted was to go in on a wire.

So they did make preparations to intercept these conversations on the wire and, just about that time, the then Mayor of New York got wind of this and blew the trumpet, called in newspapermen and denounced everybody connected with it. Unfortunately, the preparations hadn't gone so far as to actually cut the wire. They made all the preparations, had the pair numbers and everything else, but there wasn't any damage to property of the telephone company, and our law at that time, with respect to illegal wiretapping, was in the section referred to generally as malicious mischief, so no malicious mischief had been done and we couldn't prove a case, so that it had to be dropped.

Now, thereafter, there was a change in the law making the possession of wire tapping equipment a crime. That, I think, directly stemmed from the Ryan matter that you refer to.

MR. KERBY: Thank you.

MR. THURING: Is there any statistical history of application having been made to the court and been rejected?

MR. HOGAN: No, not in my office, but I can tell you from my own experience that there have been many rejections and on many occasions my assistants are told that a judge isn't satisfied and there ought to be further efforts made, an invitation to come back in a few weeks with additional material if you can get it, and of course, although the statute doesn't require testimony to be taken, some of the judges actually interrogate for the record the assistants or the witnesses that the assistants produce.

They take this very seriously; it isn't a matter of going and saying, "Sign this, will you please, judge?" You make an appointment with the judge, there isn't anybody else present, he listens to what you consider or you think your reasons are, he examines the affidavit, interrogates you, he may call in a stenographer, take it down in writing, he may ask for additional evidence; it's a pretty serious operation.

MR. THURING: I assume, then, Mr. Hogan, that you go in yourself on important applications, is that correct?

MR. HOGAN: I do sometimes but not as a general rule. I put my signature to a copy of the affidavit. Actually there are four duplicate originals, and I put my endorsement-- the affidavit is usually signed by the Assistant District Attorney conducting the investigation. It is then approved in writing by the head of that particular bureau; let's say the Rackets Bureau, and underneath that is my endorsement with my signature. The judge examines that and then conducts his interrogation.

MR. THURING: There has been a statement made before this hearing that there are certain judges who are more lenient toward the granting of these applications. Is that true in your own jurisdiction?

MR. HOGAN: Yes. Human nature varies and it isn't a matter of leniency so much as it is that some judges are so frightened of civil liberties groups they wouldn't do much of anything. Fortunately, most of them take a realistic view of this and appreciate that while all of us

wish that we could get evidence in some way which would not invade privacy, that the overriding public necessity is such that we just have to do this in the same way that occasionally we have to obtain a search warrant.

MR. THURING: This committee, as you can well appreciate, is vitally interested in the existing legislation in New York. I note from the chart that this is of course New York County, is that correct?

MR. HOGAN: Yes.

MR. THURING: Mr. Hogan, have you had the benefit of comparison analysis with the other counties of New York and, if so, would you say that it pretty much runs the same as your report; that is, generally speaking?

MR. HOGAN: I have had the benefit and I can say that this is average for the heavily-populated counties. It's much above average for the rural counties. There are some counties in northern New York where, I am sure, the privilege is rarely used. Maybe they don't have the technicians but we did collate statistics for the entire State, and they are available to the Committee. I haven't them but the President of our District Attorneys' Association, I am sure would be happy to make them available.

MR. THURING: And your testimony with relation to the non-existence of abuses; that is, in official circles; is that good for the State of New York as well as for your own jurisdiction?

MR. HOGAN: I honestly believe so. You mean, abuses of the privilege accorded to us?

MR. THURING: That's right.

MR. HOGAN: I think Mr. Savarese' committee found that the abuses of legal wire tapping were few and isolated and could not be identified. Now, I distinguish that from the illegal wire tapping, which has been carried on undoubtedly by so-called private eyes.

MR. THURING: Now, within the framework of your own organization, you have a staff that does this work; that is, the physical wire tap?

MR. HOGAN: Yes. There are two detectives on this District Attorney's squad that I have described who have technical ability to do the mechanical work that is necessary.

MR. THURING: Now, this may sound, again, academic, but would you suggest or recommend that on a local law enforcement level that goes into the municipalities, if authority were given to, say, the chief of police to make the application and it was granted, that the specific safeguard of having a specific list of those who would do the tapping filed with the court be provided, and would you also recommend that that list contain the names of officers above the rank of patrolman?

MR. HOGAN: Well, to the first suggestion, I think it might be prudent and I see no objection to it, but you might have difficulty getting mechanics above the rank of patrolman. That might present a practical difficulty. Sometimes these men are former employees of the telephone company who become police officers. If they aren't, they have the equivalent of a telephone company wireman's experience. Now, you might not find that particular

efficiency in a police officer. You would be more likely to find it in the patrol group.

MR. THURING: One parting shot, again returning to your analysis of the investigations, I note here that alongside the item "Illegal wiretapping" you have the figure 2. Were they large syndicated wiretapping operations, or were they individual investigations?

MR. HOGAN: I am pretty certain they refer to the Brody case.

MR. CUNDARI: Do you use the services of private wiretappers?

MR. HOGAN: No.

MR. CUNDARI: You have two men in your office who handle that for you and you've never had occasion to go out into the field and get private tappers?

MR. HOGAN: I won't say "never." It may be that during the war years that we engaged an electronic expert to assist investigators in my office but we have never done it independently of personnel in the office. I think there were 2 or 3 situations which presented special difficulties and we did have the services of a man to assist my own detectives and investigators.

SENATOR FOX: Mr. Hogan, I would like to get your viewpoint on this: We had some testimony before the Committee from Mr. Spindel in connection with the telephone company to the extent that they are rather lax in connection with cooperation with law enforcement officials. Now, I'd like to get your viewpoint on that.

MR. HOGAN: I'm afraid I would have to have an elaboration of Spindel's testimony. The telephone company is lax in what respect?

The telephone company has always cooperated fully with my office in carrying out the orders of the court. It wasn't in that area that he thought they were lax?

SENATOR FOX: No.

MR. HOGAN: We go there and they give us cooperation, they give us the technical information which facilitates the work of my detectives. If they didn't give me that information, my detectives might be fumbling around for a long time.

SENATOR FOX: Well, as I gathered it, it was to the extent that the telephone company or the men employed by them must of necessity have some knowledge with respect to the conduct of illegal taps and that that knowledge would not be transmitted to the law enforcement authorities.

MR. HOGAN: Well, I wouldn't care to endorse anything Mr. Spindel has to say. I have found him most untrustworthy. I prefer to refer that question to Mr. Savarese, the Chairman of the Joint Legislative Committee. I think that Committee did find that the telephone company was remiss in forwarding complaints. They would investigate them themselves and found that many of them were unwarranted. I think, as I recall it, that there was some finding to that effect, that they could have been more vigilant in the area of illegal wire tapping. I suppose there was a businessman's reluctance to advertise the fact that a telephone conversation wasn't completely confidential and that they were very much afraid that subscribers would be alarmed and would in their own minds exaggerate the amount of eavesdropping that occurred. It

was a natural reluctance from a dollars and cents point of view to expose the fact that there was anything like illegal wiretapping going on.

SENATOR FOX: But from your observation, you have always received, so far as you know, complete cooperation from the telephone authorities?

MR. HOGAN: That is true. My own experience does not permit me to say other than that they have been most cooperative.

SENATOR FORBES: Mr. Hogan, I just have one question: In how many cases where you had court order for wire tapping was there no prosecution resulting?

MR. HOGAN: Well, I can't give you any statistics other than what is indicated on the chart. That tells you the number of arrest, the number of convictions, and--

SENATOR FORBES: Where you didn't prosecute, where you had a tap--

MR. HOGAN: Oh, there are some, sure.

SENATOR FOX: Would that be under the heading "Otherwise disposed of"? Where you have the total figure of 15?

MR. HOGAN: No. You can't get it from that chart because, on the basis of one interception, there might be a dozen arrests, so there isn't any figure that you can subtract from any other, and I don't have that statistic.

SENATOR FORBES: Would you say offhand that it was infrequent, or--

MR. HOGAN: No. I would say that maybe 50 per cent of the cases, but that doesn't mean that we don't get

extremely valuable information; for example, when I intercepted telephone conversations on the wire of Frank Costello, there wasn't any indictment that resulted from that interception, but it exposed his control of the then leader of the Democratic Party in New York County and it led to exposures in a dozen other states - Louisiana, Florida - the whole Kefauver range of activity. You can't always equate the one with the other.

SENATOR FORBES: But you say that in 50 per cent of the cases there is no indictment that results, although in such instances as the Costello one, much useful information is obtained?

MR. HOGAN: I would say that that would be my rough guess. In about 50 per cent of the cases there is no indictment that you can tie definitely to the interception, but it might lead in other directions that would result to advantage. For instance, you go in on this case, and we went in hoping to get information that would lead to the identity of the assailant of this murdered person and you come up with an entirely different investigation. Now, your statisticians would have to just trace that. We just don't do that. We know that it is extremely valuable and we can tell pretty quickly, too, Senator, when we are on a wild goose chase. We don't have to be in more than a few days before we know whether there is anything productive coming of it. The chances are that in a case such as you have in mind, the interception wouldn't be in more than a few days.

Prosecutor Morss: Do you believe that a leased line from the telephone company to police headquarters or the District Attorney's Office would improve the situation?

MR. HOGAN: Oh, it would. I have had many an argument with the top brass of the telephone company, hoping that we could be given that privilege. In the first place, I could see that it would cut down on the number of police needed to monitor these conversations; you have a central headquarters and have half a dozen police officers either taking down the conversations or using the recording instruments, whereas with a dozen wires in and a dozen locations throughout the County of New York, we might need as many as 30 or 40 police officers. Furthermore, and perhaps more important, it would permit an additional measure of control over the persons who are sitting on these plants. You would at least have them concentrated in an office and a lieutenant or captain of police or assistant district attorney could be supervising the whole operation; whereas, you can't send an assistant district attorney or 12 assistant district attorneys out to the various plants. But the leased wire would be very helpful.

SENATOR FORBES: Well, Mr. Hogan, we certainly have great appreciation for your help here today and your thoughts on this matter. You have been extremely helpful to the Committee and we appreciate your taking the time to do it.

OFFICE OF THE DISTRICT ATTORNEY
NEW YORK COUNTY

Types of Investigations where Wiretap Orders
were Secured and Taps Installed 1942 - 1955

<u>Categories of Crimes</u>	<u>Number of Investiga- tions in which wires were installed</u>
Larcenies and Allied Frauds	81
Extortion, Coercion, Blackmail	80
Organized Gambling (Lottery, Policy, Bookmaking)	37
Bribery and Official Corruption	36
Homicide	17
Abortion	15
Narcotics	14
Robbery, Assault, Possession of Weapons	12
Compulsory Prostitution	10
Perjury	8
Usury and Rent Gouge	8
Other Sex Crimes (Sodomy, Impairing Morals, Prostitution, Pornographic Literature)	8
Burglary	7
Black Market (Wartime)	4
Sabotage, Espionage, Communist Activity (For Federal Government Wartime; for New Jersey, Peacetime)	3
Ambulance Chasing	3
Illegal Wiretapping } <i>SYNDICATED</i>	2
Others (Libel, Arson, Violation City Charter, Jury Tamper- in , Forgery, Baby Black Market, Escape)	8
TOTAL	353

OVERALL PROSECUTING ACTIVITY AND THE USE OF COURT-ORDERED, LEGAL WIRETAPPING - OFFICE OF THE DISTRICT ATTORNEY, NEW YORK COUNTY, 1942-55

YEAR	CRIMINAL MATTERS DISPOSED OF				TOTAL	NUMBER OF INVESTIGATIONS WHERE WIRETAPS INSTALLED	NUMBER OF WIRETAP ORDERS INCLUDING RENEWALS	NUMBER OF WIRETAP ORDERS PER 1000 DISPOSITIONS	NUMBER OF ARRESTS RESULTING	CONVICTIONS	ACQUITTALS AND DISCHARGES	OTHERWISE DISPOSED OF	CASES PENDING
	GENERAL SESSIONS	SPECIAL SESSIONS	MAGISTRATES COURT (GAMBLING)	COMPLAINTS									
1942	3,253	5,527	③	10,000 ^④	18,780	22	76	4.0	23	19	4	0	0
1943	2,575	3,972	③	10,000 ^④	16,547	25	51	3.1	16	13	3	0	0
1944	2,791	4,198	③	10,000 ^④	16,989	19	48	2.8	17	15	2	0	0
1945	2,944	4,745	③	10,000 ^④	17,689	28	52	2.9	20	19	0	1 ^②	0
1946	3,527	7,297	5,571	10,763	27,158	41	60	2.2	26	26	0	0	0
1947	3,585	7,401	5,564	11,123	27,673	24	45	1.6	14	10	4	0	0
1948	2,911	10,608	2,918	10,593	27,030	52	79	2.9	25	22	3	0	0
1949	2,692	11,060	3,436	10,684	27,872	14	51	1.8	49	33	15	0	1
1950	2,685	12,693	2,986	11,147	29,511	25	74	2.5	51	41	8	1 ^① 1 ^②	0
1951	3,151	13,292	2,298	11,611	30,352	20	81	2.7	57	55	2	0	0
1952	3,428	11,063	1,606	11,736	27,833	28	102	3.6	41	26	8	5	2
1953	3,632	12,292	1,967	11,623	29,514	25	100	3.4	36	17	16	1 ^②	2
1954	3,982	13,881	1,758	10,259	29,880	33	97	3.2	92	58	10	4 ^③	20
1955	3,640	17,836	2,507	11,396	35,379	17	41	.9	70	49	4	2	15
TOTAL	44,796	135,865	30,611	151,995	362,267	353	957 ^⑤	2.6	537	403	79	15	40

① TURNED OVER TO OTHER AUTHORITIES

② ABATED BY DEATH

③ NO FIGURES AVAILABLE

④ ESTIMATE

⑤ AVERAGE PER YEAR 68.4

⑥ INCLUDES 2 RESIGNATIONS FROM BAR.

SENATOR FORBES: Now, I would like to ask Mr. Savarese, Assemblyman Savarese, who is Chairman of the New York State counterpart of our own New Jersey Committee. They have been at work on the subject of the illegal use of wiretapping and wiretapping generally in New York State, and Assemblyman Savarese has been most cooperative with this Committee and I would like to thank him now and also express our appreciation of his coming here today to give us some counsel and guidance.

ANTHONY SAVARESE: Senator and distinguished members of the Committee and Staff: I first want to express my appreciation for your having me here. I think that the two committees have reached a high in interstate cooperation and from the time of your inception you have been talking with us and we have been trying our very best to assist you and give you some of the background that we had to facilitate your investigation, going so far, indeed, as to release one of our eminent counsel, Mr. Cherny, to help you initiate your investigation and I am quite gratified that we were able to work with you to the extent we did.

I listened with great interest to the speakers this morning. Before I get into a very brief prepared statement, I would like to comment particularly on one phase of Mr. Hogan's statement and to bring it into focus with the statement made by the gentleman from the American Jewish Congress - Mr. Brown, I believe it was, to point up what was a very serious problem to us, and that is the difficulty of weeding out the substance behind these fantastic and exaggerated

claims that are made by people in this rather bizarre field of interception of communication. As Mr. Hogan said, it was quite simple to put the lie to the claim that there were over fifty odd thousand authorized phone taps in the City of New York each year, and that was one of the things that our committee was faced with doing, and it was also faced with the problem of getting the substance behind the statements made by men like Mr. Keating and Mr. Spindel, because their statement achieved great newspaper prominence and, indeed, were the basis perhaps for the creation of this committee. If you are able in this State, as I am sure you will be able, to weed through and break through that morass of claims and statements and get to the substance of it, it seems to me that that is the great service that the legislative committee can afford, and that is what we attempted to do in New York with some degree of success.

The other brief allusion to Mr. Hogan's testimony that I wanted to make, before I get into my statement, was something he said toward the end of his statement. He mentioned that the fundamental basis for wire tap legislation in the State of New York has its conception in malicious mischief, not in the common law concept of overhearing something which you are not entitled to hear. This it seems to me is another contribution that our committee has attempted to make to the statutory law of the state of New York. We resolved some 18 years ago what apparently New Jersey and Pennsylvania are now trying to resolve -

the question of whether there should be wire tapping and interception of communications by law enforcement officials in the interests of the general good of the public. This was done in our 1938 Constitutional Convention, and in that interval we have had an opportunity to see it work, both under the constitutional provision and the statutory amendments which were subsequently passed as enabling legislation to make it function, and we have seen not only the mechanics and the operation of our law by law enforcement but we have also seen the problems that have come about as the result of advancement in the electronic inventions, so that you no longer have the simple wire tap as the evil but now you have the so-called bugging and other instruments of intercepting communications which do not require a physical tap. So that we are somewhat in the position now where we are attempting to refine the original program which was set up practically in 1938 and to bring it into focus with today's achievements in electronic development.

I think the word of distinguished public servants like Mr. Hogan and the gentleman, Mr. Blanc, who testified before him - their word to us was taken very seriously. We recognized the great contribution these men have made to the welfare of our commonwealth and we appreciate very strongly that all of these inventions and developments in electronics have put organized and syndicated crime in a far better position than they were some years back. It would be well to appreciate the problems which law enforcement faces and to integrate any legislative program into that problem so that the public good is not thereby harmed.

Our report reflected that and I think that it ran throughout our entire program of legislation.

I was quite interested to hear some of the safeguards alluded to by Mr. Blanc in his proposal that law enforcement be entitled to have wire tapping in Pennsylvania. It impressed me that one or two of them were far more stringent than those we proposed in our legislative report, and I dare say that he will find, as he moves along, that law enforcement generally will look with a jaundiced eye on some of the proposals as being, perhaps, bordering on the unrealistic and impractical. But I can assure you that we will be talking with them and getting the benefit of their counsel on the subject.

Now, very briefly I will give you this prepared statement for the record, if you wish.

SENATOR FORBES: Do you have any copies of it?

MR. SAVARESE: No. This is pretty much like Mr. Hogan's statement; I worked it out as I came on the train.

In New York, the police have been using wiretapping to protect crime ever since the telephone came into use, although wiretapping was made a felony at the same time. The police assumed simply that the law did not apply to them, and New York's history in this respect has certain landmarks which might be worthy of mention now: For many years, the police practice of wiretapping was challenged only once so far as we can determine, and that was about 40 years ago when a famous police commissioner of a reform administration in New York City was haled into court

because his patrolmen had been wiretapping. The case was a very complex one involving the activities of various clergymen and other reformers, but the case of the police commissioner was handled very simply and very summarily. Mr. Justice Greenbaum, who later served a distinguished term on our Appellate Division, sat as a committee magistrate and from the bench he dismissed the complaint. In effect, he said it was nonsense to accuse the police commissioner of violating the law because he was simply carrying out his official duty of enforcing the law. This decision had no precedence or legalistic arguments to support it but it went unchallenged for 20 years, and those 20 years included the prohibition era when the police used wiretapping more and more in their effort to prevent drinking while trying to prosecute murder among the powerful underworld mob. Wire tap never had much value as evidence but it did help law enforcement officers to know who was who and something of what was going on.

Wiretapping became a real issue in New York State in 1938, the year of our last Constitutional Convention. There were various reasons for this, at least two of which were most important: One, that our people were incensed at the so-called police state tactics under the European dictatorships and the other was that successful prosecutions had been carried out against the top leaders of the underworld, including high political leaders, and wiretapping was supposed to have had a great part in it.

Mr. Hogan can tell you about that, because he had a great part in it. At any rate, an attempt was made in 1938

to outlaw wiretapping through the Constitution. The result was quite the opposite and this is of significance to you now. The law enforcement officers of New York State came forward unanimously in defense of the responsible use of wire tapping in the business of fighting the nasty business of organized crime. Supporting them, the Constitutional Convention proposed and the people of the State overwhelmingly approved an amendment prohibiting any invasion of privacy on the telephone except when authorized by court order. In other words, law enforcement wiretapping was given legal, even constitutional, recognition when done under the supervision of our courts. It took three years and then our legislature agreed on Section 813A of the Code of Criminal Procedure, which specifies the conditions under which our judges may authorize tapping. The New York law, constitutional and statute, is unique in America today. A few years ago the Massachusetts Legislature passed a bill modeled after the New York law but the Governor vetoed it on the grounds that it would slow up sound law enforcement procedures. That Governor represented one extreme viewpoint. At the other extreme are those who would prohibit any wiretapping or eavesdropping whatsoever.

I would suggest that, while our New York law is not perfect, we have offered some amendments which deserve the earnest consideration of your committee. As you are aware, our committee has been studying wire tapping for nearly two years. We were created primarily because of flagrant violations of privacy by private detectives using

modern eavesdropping equipment. We have a program on that which I would be happy to discuss with you at another time. But I understand that the main concern of your committee today is primarily wiretapping in law enforcement. That has also been within the purview of our committee in New York. We have not found everything satisfactory; irregularities have existed, and we have proposed legislative improvements, but in this area of law enforcement one thing stands out above all: From all of our inquiry and from all of the complaints we have received, we have not found a single scandalous flagrant violation of anyone's civil rights through wiretapping.

As I understand the problem confronting your New Jersey Committee, the law enforcement officers admit hiring New York City's most expert wiretapper, admit having wiretap equipment, maintain that wiretapping is useful and necessary against organized crime, but deny making any use of wiretapping. The least that can be said about our New York system is that it has the virtue of facing the facts and getting rid of hypocrisy and doubletalk while putting all police practices under some supervision of our superior judges. With all due respect to those who oppose all wiretapping on principle, I do not believe an attempt to repeal our New York law would have any substantial amount of support today after 18 years in operation.

SENATOR FORBES: Well, thank you very much, Tony. Does the Committee have any questions to ask of the Assemblyman?

MR. KERBY: Mr. Savarese, in connection with your studies, the New York law, as we understand it, provides for a court order. Have you ever found any abuses in the obtaining of the court order other than the way it should be done under New York law?

MR. SAVARESE: No, I can't say that we found abuses. I can say that we found it rather difficult to determine whether there are abuses and for this very simple reason: Under the New York law, an application is made, as you were earlier advised, by a police official or district attorney's office official. That application is made on affidavit form. The judge considers the affidavit and if he finds the information to be unsatisfactory or not sufficient to warrant the issuance of an order he may call the affiant in and discuss the problem with him and see if he can supplement such affidavit, and on the basis of that inquiry he may then act favorably and grant the order or refuse to grant it. That has never been a matter of record, so that if you examine the affidavit and you find it insufficient, you have no place else to go except the memory of the judge who may have signed many over the years and who may by now be out of office. This brings me to one of the recommendations of our committee: We felt that you should not inhibit the district attorney or the police officials in attempting to get this order on good grounds, but there should be some way of knowing and measuring the basis for the obtaining of the order so that a committee such as ours might make an intelligent analysis of it if the crime arose,

and we recommended that if the affidavit be insufficient then the interrogation before the court be on record so that you have two sources to reach. The bill passed but was vetoed by the Governor.

MR. KERBY: Did I hear you say that you had found no abuses by police department operation or use of wire tapping?

MR. SAVARESE: No, if my memory serves me, we found no abuse of the right of wiretapping by police or by district attorneys. As I say, we studied the applications and we were unable to reach a sound conclusion on that. We had a lot of broad statements made by men like Spindel and the like, but we were never able to track them down beyond hearsay evidence.

SENATOR FORBES: If there are no further questions, we will express our appreciation to you, Assemblyman Savarese, for all the cooperation you have given this Committee.

We are going to recess now for lunch and we will resume again at two o'clock, and we would appreciate it if the prosecutors present from the prosecutors' committee would be back at that time, too. The session this afternoon shouldn't be too long.

Thank you very much.

(R E C E S S)