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Afternoon Session- 1st day

SECOND PUBLIC HEARING

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)

Held:
Assembly Chamber, State House
Trenton, New Jersey
September 25, 1956

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MEMBERS OF COMMITTEE

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

Absent: Assemblyman Paul M. Salsburg

APPEARANCES:

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

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(AFTERNOON SESSION)

MR. FORBES: We will begin this afternoon's testimony with Mr. Spindel. This morning he confined his remarks to the demonstration which showed the Committee and those present what I would term some of the frightening advantages in the field of wire tapping and eavesdropping. This afternoon Mr. Spindel is here as a witness in connection with specific New Jersey instances and will provide such information as he can about either specific New Jersey wire tap cases or other information that would be helpful to the Committee.

Mr. Spindel, just for the record, would you give us your name and address?

MR. SPINDEL: Bernard B. Spindel, 1776 Broadway, New York City.

MR. FORBES: Mr. Spindel, have you ever discussed wire tapping or eavesdropping in the State of New Jersey with the Attorney General of the State of New Jersey?

MR. SPINDEL: Yes, I did.

MR. FORBES: Would you tell the Committee about that?

MR. SPINDEL: It took place sometime around May of last year. It was approximately about three months after the wire tap disclosure in New York City. At that time, in connection with my work as a Consultant to the New York City Anti-Crimes Committee, which caused the expose of the wire tap center, I had available information regarding wire taps, both in New York and in New Jersey. We had information that police in New York were involved

in wire tapping as well as officials of law enforcement agencies here in New Jersey in connection with wire tapping by private agencies. At the time I contacted one victim of a wire tap, a Mr. Devine, in his New York Office and his son met me at my home that evening. I advised him that there was a tap both on his home phone, the son's home phone, and on his father's home phone, and he carried that information back to his father. Subsequently I was approached by Mr. Frederick Freed, at that time connected with CBS in New York --

MR.SHERSHIN: Excuse me, before you go further would you give us the address of Devine, and full name, if you will?

MR. SPINDEL: I believe it's Chris Devine and Chris Devine, Jr. I, unfortunately, don't have the records available at this time.

MR. FOX: Llewellyn Park, West Orange, New Jersey.

MR. SPINDEL: Arrangements were made by Mr. Freed for me to come to Trenton and discuss the information that we had available on illegal wire tapping here in the State of New Jersey with the officials of this State.

MR. SHERSHIN: What officials?

MR. SPINDEL: Of the Attorney General, Mr. Richman. We came to Trenton --

MR. FOX: Mr. Freed?

MR. SPINDEL: Fred Freed.

MR. FOX: And you described him as an official of Colombia Broadcasting?

MR. SPINDEL: He was with the Colombia Broadcasting System at that time.

MR. FOX: In what capacity?

MR. SPINDEL: I believe he was a writer on the staff.

MR. FOX: But he was not an official of the Company, is that right?

MR. SPINDEL: Well, he was assigned to the program called "Eye on New York" and he was employed directly as an official of Columbia Broadcasting.

MR. FOX: Well, I want to get this straight, Mr. Spindel, was he an official of the Company or was he a writer for a specific program?

MR. SPINDEL: He had both capacities.

MR. FOX: And what capacity did he occupy as an official?

MR. SPINDEL: His exact title I couldn't tell you at the moment.

MR. FOX: Then don't characterize him in either one.

MR. SPINDEL: Now, I came to Trenton with Mr. Freed and met with Mr. Richman in his office, and present also was a Major Keaton of the New Jersey State Police. I said that I had certain information and I mentioned the Devine cases in particular and other data regarding Charles B. Gris who is a licensed detective in the State of New Jersey, and I mentioned several other cases. I gave them two names and asked them to check the identity and the correctness of the information on those names, and that was assigned to Major Keaton and he was to advise me whether those names checked out. If they did I was to transfer the complete

files to them. Two weeks went by and I had not heard from Major Keaton and I called him at his office and he said he had not yet received the information from Florida. I am still waiting for an answer. I have not heard, and that was the last information I had, my telephone contact with them then. I told them at the time of the meeting that I had information that police from across the river, meaning this side of Jersey, were working in cooperation with certain private individuals in conducting illegal taps.

MR. FORBES: What was the derivation? I mean how did you happen to come into New Jersey to provide this information? What was the connection? Was it Mr. Freed who requested you to do it.

MR. SPINDEL: Mr. Freed requested it, that's correct.

MR. FORBES: And is he a resident of New Jersey?

MR. SPINDEL: No. He knew that we did have this information available and thought that perhaps the people in Trenton would be interested in the information.

MR. FORBES: And was the information that you provided specific?

MR. SPINDEL: Yes, it was specific on several cases and the remainder of the cases we did not provide specific information because we already knew that certain police officials were suspected of having cooperated with the installation and the maintenance of these taps.

MR. THURING: Well, Mr. Spindel, how did you come by the information that the Devine wire had been tapped?

MR. SPINDEL: While investigating wire tapping for

the Anti-Crimes Committee in New York, one of the subjects in the investigation was Charles B. Gris who was a licensed investigator and a wire tapper. He is also licensed in the State of New Jersey, and we kept a surveillance on him at the time, and we also at the same time discovered that electronic transmitters and tapping equipment was being loaned to him by the West New York, New Jersey, Police.

MR. FOX: You say it was being loaned to him by the police?

MR. SPINDEL: Yes. The information that we had and I supplied at that time, the legislative committee in New York, photographs of the actual equipment which was consigned to the West New York, New Jersey, police, that was in the possession of Charles B. Gris, showing the serial number and the type of equipment.

MR. THURING: But you haven't answered my question as to how you got the information on Devine, how did that come to you?

MR. SPINDEL: We had him under surveillance and we followed him out to the Devine residence, or one of his men actually in that particular instance, and we subsequently talked to one of his employees who readily admitted that he had installed not only wire tapping equipment but he had also installed a tap tester.

MR. CUNDARI: Did you ever speak to the Devines?

MR. SPINDEL: I spoke to Chris Devine, Jr.

MR. CUNDARI: And did Chris Devine, Jr. give you the information that his wire was being tapped?

MR. SPINDEL: That's correct.

MR. CUNDARI: Will you tell the Committee why you gave him that information?

MR. SPINDEL: Well, at the time, with possibly forty names, it was at the same period of time that we released the information of the Hazel Bishop tap, the Revelon tap, and Chris Devine was also among them. Now, Gris was involved in all of these cases and inasmuch as we did not have the authority to pursue this legally and in making attempts to give it to law enforcement people to pursue it and no action taken we felt that it was a moral obligation to notify the people that they were the victim of an illegal tap.

MR. CUNDARI: And did you tell the Devines -- did you tell them that their wire was being tapped?

MR. SPINDEL: That is correct.

MR. CUNDARI: Did you tell them that you would remove the tap for them?

MR. SPINDEL: No. We just passed on this --

MR. CUNDARI: Did you offer to help them or --

MR. SPINDEL: Nothing whatsoever.

MR. FORBES: Could you tell what, if anything, you know about the wire tap activities in the State of New Jersey of Kenneth Ryan?

MR. SPINDEL: I couldn't give first hand information on that.

MR. FORBES: Can you tell us if you yourself have ever done what we might call electronic work in the State of New Jersey?

MR. SPINDEL: Yes, I have. I will say for the record that the installations that I have done here would be classified as a self-defense type of installation on the subscribers own phone for his own protection. In other words, with the knowledge of the subscriber, an individual who may be the victim of a blackmail or who may have been receiving threatening calls has requested that we put a recorder on his line so that he could record the threat or the blackmail or whatever the case may be.

MR. FORBES: Was this in cooperation with law enforcement officials or what this in a private capacity?

MR. SPINDEL: This was in a private capacity.

MR. FORBES: Did you have a beep tone installed at the same time?

MR. SPINDEL: No.

MR. THURING: When was the last time you did this?

MR. SPINDEL: I would say about six or eight months ago.

MR. THURING: And where did this occur?

MR. SPINDEL: I couldn't even tell you the name of the town.

MR. THURING: In what county?

MR. SPINDEL: It would be outside of Passaic.

MR. THURING: Outside Passaic County or City?

MR. SPINDEL: Outside the County of Passaic.

MR. THURING: Do you keep records of the --

MR. SPINDEL: Yes, I do.

MR. THURING: And do you have those records?

MR. SPINDEL: Yes, I do.

MR. FORBES: How many cases would you say you yourself have done for private individuals on their request and so forth in the State of New Jersey?

MR. SPINDEL: I would say about four dozen within the last three or four years, about fifty would be right.

MR. FORBES: About fifty wire taps in the State of New Jersey within the last two years.

MR. SPINDEL: I would say a little longer than tw years.

MR. RICHMAN: Well, now Senator, I would like to inject myself at this point. As I understood the testimony --

MR. SHERSHIN: General, I don't think that the Secretary can hear you. Would you like to repeat your comments.

MR. RICHMAN: As I understood the witness' testimony--

MR. FORBES: Just a minute. Would you withhold your comment just a minute. We want to have an orderly procedure and I just want to check with the Committee if you would like to be heard and if you should be at this point. You will be on this afternoon. Just a second.

MR. RICHMAN: Well I certainly hope that you will give me an opportunity to cross examine this witness who already has made completely unfounded statements.

MR. FORBES: Mr. Attorney General, you will be a witness this afternoon at which time you can make any comments or observations and so forth.

MR. RICHMAN: Regardless of that, Mr. Chairman, I think in all fairness I should have the opportunity to

cross examine this witness.

MR. FORBES: This, as far as I know, is not a court room. We are trying to gather information that will be useful to the Committee on the extent of wire tapping in the State of New Jersey. And please understand, you know orderly procedure is essential and I should like to ask the Committee what our procedure should be in terms of your being heard now or later or at what point.

MR. RICHMAN: Well I hope the Committee is interested in getting thr truth and not the results of some vivid imagination on the part of the witness.

(Members of Committee confer)

MR. FORBES: It has been suggested by Senator Fox that the Attorney General state specifically for the record what it is he wants, what his objection is or what is objective.

MR. RICHMAN: I want to make sure, Mr. Chairman, that this Committee is not deluded by receiving information that is unfounded. The only way I know to do that is that I be given an opportunity to cross examine Mr. Gris -- Mr. Gris, there is no relationship as I understand -- Mr. Spindel, and I think that's only fair in the interest of justice.

MR. FORBES: Well the Committee will take note that you have requested that and we will have to make a decision on it as a Committee. It is an unusual procedure and I think you can understand that it will be necessary. You are going to be on the stand and can get everything said that you want in the record. As to whether we are

going to have cross examination of a witness by another witness is something that I think the Committee would like to consult about and I think you can realize the fairness of that. But we will proceed now with Mr. Spindel.

Mr. Spindel, would you state again for the record the approximate number of taps you would say you have made in the State of New Jersey in the last, we will say, two to three years?

MR. SPINDEL: Well I would say it would be between 36 and 50, somewhere in there within the last three years.

MR. FORBES: Right. Could you tell us a little more about the circumstances accompanying some of these taps, the origin of them, the type of case, what was done with the testimony, and so forth.

MR. SPINDEL: In the majority of cases it was for information. In other words, an employer having employees whom he felt might be disloyal and actually maybe committing petty or grand larceny, would put a tap on his own phone to determine the guilt or innocense of an individual.

MR. FORBES: Would you tell us for the record, to the best of your recollection, some of the companies that ordered these taps?

MR. SPINDEL: I couldn't give them to you offhand. I will be glad to submit them to the Committee, if they would like.

MR. FORBES: You can't recall any from your memory?

MR. SPINDEL: I couldn't.

MR. FORBES: The names of any of these plants?

MR. SPINDEL: I couldn't accurately state them right from my memory now.

MR. FOX: You have mentioned four or five. Now, let's take them categorically. Let's take the first one, when was that?

MR. SPINDEL: Which case are you referring to?

MR. FOX: The last four or five that you referred to.

MR. SPINDEL: The last installation that I did in the State of New Jersey was around March, 1956.

MR. FOX: All right, March of 1956. Now, where was it?

MR. SPINDEL: It was in a town adjacent to Passaic.

MR. FOX: What's the name of the town?

MR. SPINDEL: I can't recall at the moment.

MR. FOX: You gave us the name of the County, what's the name of the town?

MR. SPINDEL: I can't recall it at the moment.

MR. FOX: You can't recall the name. What was the nature of the industry?

MR. SPINDEL: Chemical engineering, the manufacturing of chemical engineering devices.

MR. FOX: All right, that's the best of your recollection. Were you paid for your efforts?

MR. SPINDEL: Yes.

MR. FOX: And by whom?

MR. SPINDEL: By the corporation.

MR. FOX: Were they the ones that retained you?

MR. SPINDEL: That's correct.

MR. FOX: I see. And, of course, that was done without the knowledge of any police force or law enforcement authority. Is that correct?

MR. SPINDEL: That's correct.

MR. FOX: All right. Now, let's take the one before that. That was in March, 1956. What was the one before that?

MR. SPINDEL: That would be January of this year.

MR. FOX: January of 1956, is that right?

MR. SPINDEL: That's correct.

MR. FOX: All right. Now, where was that?

MR. SPINDEL: I'm trying to think of the name of the town.

MR. FOX: Well, what county?

MR. SPINDEL: I'm not familiar with the counties here.

MR. FOX: Well, give me the name of the company.

MR. SPINDEL: C.F.Giles & Company, I believe it is. I'm not sure of the name. They are on the other side of Hoboken.

MR. FOX: All right, C.F. Giles. Now you came out from New York to go to C. F. Giles & Company, is that correct?

MR. SPINDEL: That's correct.

MR. FOX: And that was in January of 1956. Now can you give the Chairman the name of the town that you went to, the county that you went to?

MR. SPINDEL: I know the town, it's on the tip of my tongue. They're in the shield business and I can't

recall, I'm sorry, too much water has passed under the bridge.

MR. FOX: All right, well no there's only a few months that have passed. Now let's take the next to that, that would be the third, when was that?

MR. SPINDEL: Well, in November, the end of November, 1955.

MR. FOX: What was the name?

MR. SPINDEL: I can't recall the name.

MR. FOX: Pardon?

MR. SPINDEL: I can't recall.

MR. FOX: You can't recall the name.

MR. SPINDEL: And I think its unfair to request a list of my clients.

MR. FOX: I am not requesting your opinion at all, sir, I am just asking you to answer a question, can you recall the name of your client in 1955?

MR. SPINDEL: I cannot recall.

MR. FOX: All right. Do you recall where it was?

MR. SPINDEL: I don't recall.

MR. FOX: All right. And now I'll take the fourth one, before that, where was that?

MR. SPINDEL: I don't recall.

MR. FOX: You don't recall that one, all right. And on none of these occasions did you confer with any law enforcement authority whatsoever, is that correct?

MR. SPINDEL: No, that's correct.

MR. FOX: Now I would also like to ask you, Mr. Spindel, in connection with the Devine situation, you mentioned a Mr. Gris. Mr. Gris used to work with you, is that correct?

MR. SPINDEL: Mr. Gris never worked for me.

MR. FOX: Mr. Gris did not work for you?

MR. SPINDEL: He never did.

MR. FOX: All right. And you say that this occurred in connection with a proceeding in New York?

MR. SPINDEL: Yes, an investigation in New York.

MR. FOX: And in connection with that investigation in New York did it appear that a tap was on the wire of Mrs. Devine or Mr. Devine?

MR. SPINDEL: There were two taps. Now there's a Devine, Jr. and a Devine, Sr.

MR. FOX: And a Devine, Sr.

MR. SPINDEL: That's correct.

MR. FOX: And was the tap on the home in Llewellyn Park?

MR. SPINDEL: There was one tap on the phone of Chris Devine, Jr., and there was another tap that was without the knowledge or consent of Mr. Devine on the Devine, Sr. phone.

MR. FOX: All right. Now, the home of Devine, Sr. is in LLewellyn Park, is that correct, sir?

MR. SPINDEL: That's correct.

MR. FOX: And Mr. Devine, Jr., was not living at that time in Llewellyn Park, was he?

MR. SPINDEL: I couldn't say whether he was living there.

MR. FOX: I see. Now do you know anything in connection with a tap on the home of the former Mrs. Devine?

MR. SPINDEL: The former Mrs. Devine?

MR. FOX: That's correct.

MR. SPINDEL: No.

MR. FOX: All right. Now was there also a tap on the office of Mr. Devine, Sr. in New York?

MR. SPINDEL: That I couldn't say.

MR. FOX: Well we are then limited, as I gather it, to two taps, one on the home in Llewellyn Park -- is that correct?

MR. SPINDEL: That's correct.

MR. FOX: -- and where was the other one?

MR. SPINDEL: The Chris Devine, Jr.'s.

MR. FOX: Can you tell me whether that was at the home in Llewellyn Park?

MR. SPINDEL: I don't have the address. I have none of the records.

MR. FOX: All right. Now, in that connection, as I gather from your testimony, you went to the Devine family?

MR. SPINDEL: We called Mr. Devine's office in New York.

MR. FOX: At his bond office in New York?

MR. SPINDEL: That's right.

MR. FOX: Is that correct?

MR. SPINDEL: That's correct.

MR. FOX: And did you have conversation with him?

MR. SPINDEL: No, he was not in and Chris Devine, Jr. called me back at my Attorney's office, and at that time he led me to believe that he was Devine, Sr., and he came to my home that evening and he met with me and we went to a restaurant on Broadway at which time I explained to him.

MR. FOX: Yes?

MR. SPINDEL: He asked me to check his lines and I said I would have nothing to do with that.

MR. FOX: By the lines you mean Llewellyn Park?

MR. SPINDEL: His home lines, yes.

MR. FOX: And can you give us the approximate date of that?

MR. SPINDEL: Of the meeting with Mr. Devine?

MR. FOX: Yes, the meeting with Mr. Devine, just approximate.

MR. SPINDEL: It was, it would have to be after the latter part of May because at the time I gave him a copy of the story that I had published in Colliers' Magazine.

MR. FOX: Now, subsequently did you do anything as far as the alleged tap on the Devine home was concerned.

MR. SPINDEL: Nothing.

MR. FOX: Nothing whatsoever?

MR. SPINDEL: Nothing.

MR. FOX: You didn't come out to West Orange?

MR. SPINDEL: No.

MR. FOX: Well, did you discuss it with anybody? Did you discuss it with this Mr. Freed, according to your testimony?

MR. SPINDEL: Yes.

MR. FOX: And Mr. Freed is, as you say, a writer or was with Colombia Broadcasting?

MR. SPINDEL: That's right.

MR. FOX: And as a result of discussing it with Mr. Freed did you subsequently at any time discuss it with Mr. Devine who was the alleged victim of the tap?

MR. SPINDEL: Mr. Devine?

MR. FOX: Yes.

MR. SPINDEL: Senior?

MR. FOX: That is correct.

MR. SPINDEL: No.

MR. FOX: All right. And in that connection with this gentlemen Mr. Freed, did you at any time indicate to the police or the law enforcement authorities of the town of West Orange or the County of Essex the data or the material that you had reason to believe existed?

MR. SPINDEL: No, as I stated earlier, the reason that we had avoided notifying the authorities there was because our information showed the possibility that law enforcement people had assisted in the installation of this tap and the maintenance of it.

MR. FOX: In other words then, as I understand it from this, you received the implication, if you want to use that word, that the West Orange police authority or the Prosecutor's office in Essex County were, to use a very plain but apt term, in cahoots, is that correct?

MR. SPINDEL: I didn't state any specific police

officers of any county. I said that my information --

MR. FOX: Well, Llewellyn Park is located in Essex County, for your information.

MR. SPINDEL: Well, I have no idea, it could have been a Newark police official who assisted them, it could have been a West New York, New Jersey, police official, and we know that Charles B. Gris was involved in one Devine matter and we had good reason to believe he was involved in the other.

MR. FOX: Well, Mr. Spindel, I am very much interested in this because I happen to come from Essex County. Do I gather that there was any implication whatsoever in your statement that any members of the West Orange Police Department or the Essex County Prosecutor's Office was in any way guilty of countenancing or knowing anything of this alleged violation of Mr. Devine's rights?

MR. SPINDEL: No, I have no knowledge of any individual being involved. Our information was that police officials were assisting.

MR. FOX: Well, where did you get that information from?

MR. SPINDEL: Well, we had that from one of Charles B. Gris' own employees and --

MR. FOX: What was his name?

MR. SPINDEL: Richard Rutherford. He was one of the men that went to the home of Chris Devine, Jr., and he was one of the people that picked up the equipment. Subsequently he testified that he picked up that equipment.

MR. FOX: And when you received that information from him in any way, did you communicate with the Devine

family?

MR. SPINDEL: We had that information and about, I would say maybe three months afterwards we told them.

MR. FOX: Then, in other words, you used the term local authorities before, as I conceive it now when you use the term local, you are not implicating any of the officials of West Orange or the County of Essex, am I correct in that?

MR. SPINDEL: That's correct. We don't know the exact police officials who were involved. Our subsequent investigation showed that he had direct connection with the West New York, New Jersey, Police Department. In fact, Mr. Gris' own office telephone, there was an office on this extension listed in one of the detectives of the West New York, New Jersey, Police, and we knew that he had equipment that he was loaning to and also borrowing some of the equipment from the West New York, New Jersey, Police. So with that information at hand, we did not want, or feel it justified, to go to any of the local police because we didn't know how far his connections did extend. And I am not saying, in all fairness to the Police Department in that area and the law enforcement agency that anyone specific -- our information was solely that there were law enforcement people assisting him and our previous investigation had substantiated that fact.

MR. FOX: Just let me get this, were you at any time or in any capacity retained by the Devine family?

MR. SPINDEL: Never.

MR. FOX: You were not.

MR. SPINDEL: The only member that I met was Chris

Devine, Jr., and that was on that one occasion when he came and received the information of the tap. I was never retained by them directly or indirectly or by anyone. I have never met any other member of the family.

MR. FOX: But in that connection, although you were not retained in any capacity, and you did not report it to any of the local authorities, you and this Mr. Freed, as I understand it, spoke to the Attorney General about it, is that correct?

MR. SPINDEL: That's correct.

MR. FOX: So, in other words, all of this was voluntary on your part.

MR. SPINDEL: That's correct.

MR. FORBES: The tap on Mrs. Devine Jr.'s, telephone, do you know whether or not that was made with her permission or not?

MR. SPINDEL: From the information that we had received, it was put in with her knowledge and at her request.

MR. FORBES: Do you know for what reason?

MR. SPINDEL: The information that we had was that it was a matrimonial action pending at that time.

MR. KERBY: Would that be a reason why she would want a telephone tap on her own telephone?

MR. SPINDEL: Possibly to intercept the conversations of her husband.

MR. KERBY: Do you know whether or not she and her husband were living together at that time?

MR. SPINDEL: They were.

MR. KERBY: The other alleged tap on Llewellyn Park, do you know whether or not that was with or without the permission of the owner of the house?

MR. SPINDEL: The information we had was that it was not with his knowledge and not with his permission.

MR. KERBY: Do you know who fixed up that tap?

MR. SPINDEL: The information that was available at the time was that a law enforcement officer at the direction of Charles B. Gris installed that tap.

MR. KERBY: Do you know the name of that law enforcement officer?

MR. SPINDEL: No, I have not been able to trace that down.

MR. KERBY: Do you know whether or not any messages were intercepted on that tap?

MR. SPINDEL: I believe there were several.

MR. KERBY: What evidence do you have of that?

MR. SPINDEL: Of that I have no direct evidence.

MR. CUNDARI: Mr. Spindel, you never physically went to the Devine home in Lewellyn Park?

MR. SPINDEL: No.

MR. CUNDARI: Could you give us the name of the individual, if there was any such individual, who went to the home in Lewellyn Park to make a physical observation of that wooded area as to where the line may have been coming out of the house onto a telephone wire?

MR. SPINDEL: I don't follow your question.

MR. CUNDARI: Do you know whether or not anyone went to Lewellyn Park with the Devine's to look at the physical outlay of the area to determine whether or not an actual tap was consummated?

MR. SPINDEL: No.

MR. CUNDARI: You don't know the name of the person who did that? Do you know whether or not anyone did that with

the Devine's?

MR. SPINDEL: I couldn't say. I have no idea.

MR. FORBES: Mr. Spindel, you estimated there were 36 to 50 cases in the last three years where you have done wire taps on the request of people, companies, and so forth in the State of New Jersey. Would you supply this committee with that data?

MR. SPINDEL: Yes, I will get my records and I will be glad to submit them to you.

MR. FORBES: You will provide the committee with specific cases?

MR. SPINDEL: Yes. May I ask that they not be published though due to the type of work.

MR. RICHMAN: May I ask the committee to provide me with that.

MR. FOX: Excuse me, Mr. Attorney General. Mr. Spindel, I would like to know, if you can give it to me, the approximate time that this alleged tap was made on the Devine residence?

MR. SPINDEL: Offhand, I couldn't give it to you. I will be glad to look at whatever notes ---

MR. FOX: Can you give it to me approximately in the light of your familiarity with all these other details?

MR. SPINDEL: I would say it was early in 1955.

MR. FOX: January?

MR. SPINDEL: Approximately January of 1955.

MR. FOX: And that continued for how long?

MR. SPINDEL: That continued - now the Chris Devine, Jr. continued about six weeks or so.

MR. FOX: Did I understand you to say that Chris Devine, Jr.

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and Mrs. Devine were living together at that time?

MR. SPINDEL: Well, the question previously was, "Were they living together at the time." Now at the time we had the information, Mr. Devine, Jr. told me he was living with his wife. There were periods that he was separated. He went back. He was separated and then subsequently divorced.

MR. FOX: Do you know whether or not between January and April of 1955, Mr. Devine, Jr. was living in California and Florida and returned on April 15, 1955, and his wife was living on Lennox Avenue in East Orange?

MR. SPINDEL: I believe the wife was living at Glenwood. I am lost right at the moment because I do not have the record. But at the time we had the complete data available and I'll be glad to locate them and give them to this committee, whatever information I have.

MR. FOX: I still can't understand and get into my head head - I may be a little dense - perhaps it may also be a part of the industry - what connection you had with this in view of the fact you were not retained by the Devine family whom I happen to know?

MR. SPINDEL: The only interest we had - if you will permit me to answer in sort of a broad way - at the time in working with the Anti-Crime Committee, we were gathering evidence of wire taps. We had developed over 50 or 60 cases of illegal wire tapping both in New York and New Jersey. One of them that we had discovered at the same time the tap on the Devine people was also the Hazel Bishop and the Revlon taps.

MR. FOX: That was where?

MR. SPINDEL: Over in New York. Now this was simultaneous. Now at the time we notified Mr. Devine, we also notified Mr. Raymond Spector who heads the Hazel Bishop Corporation. He has previously testified the first information came from me that his lines were tapped. He subsequently checked and found that they were tapped. Now our prime purpose was to gather this information and beyond that, we could do nothing with the data ourselves.

MR. FOX: All right. You were gathering this information for whom?

MR. SPINDEL: The New York City Anti-Crime Committee and Mr. Gris --

MR. FOX: Now was it within the scope of your duties as an employee of the New York Anti-Crime Commission to locate and to advise individuals, people, that their lines were being tapped or would that or should that have been reported to your immediate superiors for their action?

MR. SPINDEL: It was reported to the Anti-Crime Committee. It was placed in their files. All this data is in their files. It was at the time.

MR. FOX: And were you delegated by them to contact Bishop, Revlon and the Devine's?

MR. SPINDEL: They knew at the time.

MR. FOX: No. My question was: Were you directed to contact them?

MR. SPINDEL: Well, Mr. Keating and my direct supervisor - Mr. William Keating and John O'Mara had resigned from the Anti-Crime Committee and I was no longer in the employ of the Anti-Crime Committee and this is a period of about four months

afterward that we felt that we should notify the people.

MR. FOX: Well, that's what I want to know, why did you feel it incumbent upon you to notify the Devine's, Bishop and Revlon? I mean, what was your motive in doing that? Is it customary in the business?

MR. SPINDEL: No. I felt it my civic duty to notify the people that they were the victims of illegal taps. I had worked long and hard in finding these taps and bringing an expose about.

MR. CUNDARI: May I ask one question in connection with that? You say you felt it was your civic duty to call these people and inform them that their wires were tapped?

MR. SPINDEL: That's correct.

MR. CUNDARI: Don't you think that was contrary to the purpose for which you were hired by the Anti-Crime Commission of the City of New York or the State of New York?

MR. SPINDEL: The New York City Anti-Crime Committee was a private body of citizens. It is not an official agency and their investigation and their effectiveness in the wire-tap scandal was finished at the time that these people were notified.

MR. CUNDARI: Was there any possible talk of a monetary consideration being given as a result of this information?

MR. SPINDEL: At no time, and Mr. Spector has testified as to that, that I did not give it to Mr. Spector even personally. I sent it through a Mr. Bill Davidson, who by coincidence is a very close friend of the women in charge of relations for Hazel Bishop. I have never met Mr. Spector other than outside the committee room, a similar committee in New York.

MR. CUNDARI: This was around 1955, is that correct?

MR. SPINDEL: That's correct.

MR. CUNDARI: It is ironic, is it not, that you have such a familiarity with the names of all of these people and still you are unable to tell us in November of 1955 and in January of 1956 what cities you were employed at?

MR. SPINDEL: Right now I would like to point this out, that I do an average of about eight taps a month, minimum. I travelled 1150 miles to appear at this committee hearing and I leave tonight or tomorrow morning back again. I cover an average of 3,000 names and addresses a year and it is almost impossible to expect me to pin down cases. In many cases I go in and tap a line and install the equipment and come back to remove the equipment, and it may be a month or two from the time I installed it. It is impossible to expect any individual to recall every name and every address and every date.

MR. FORBES: Mr. Spindel, as you can see, this information is valuable to the committee and we would appreciate having it. Now on the specifics of the wire taps done by you in the State of New Jersey at the request of these clients, corporate or individual, where are those records are they in your home or office?

MR. SPINDEL: They are located at our office in New York.

MR. FORBES: As you probably know, this committee does not have subpoena power in New York. We have to ask you if you will ---

MR. SPINDEL: I will be most happy to submit anything, providing that the names are not published publicly, but only

for the use of the committee. They are welcome to have it and any other data that I can give the committee, I will be most happy to give them.

MR. FORBES: Now the Attorney General has indicated his anxiety to get these records.

MR. SPINDEL: Well, I have attempted to give his office information in the past and I will not submit the list to him at present. There was no action taken previously and I did not have the courtesy of even a return call by Major Keaton of the State Police. Major Keaton gave me his card and his number and wrote his home number down and I am still waiting to have an answer and I spent a lot of time gathering this data, making the trip to Trenton, and talking to them and going back, and I had done additional work afterwards in preparing this, should the information we gave them be confirmed, and we were prepared to give them the entire file, and I haven't even had the courtesy of a return call.

MR. FORBES: Well, thank you. Now it will be, as you know, very helpful to this committee to have this data and we appreciate your offer to provide it and follow it up as rapidly as you can at your convenience.

MR. THURING: Mr. Spindel, before you leave the stand, your testimony was that you felt that it was your civic duty to notify this fellow that his line was tapped, is that correct?

MR. SPINDEL: Yes, at that time, we notified almost, I'd say, about twenty people that their lines were tapped.

MR. THURING: And you did that by telephone, is that right? You called Lewellyn Park and ---

MR. SPINDEL: No, I never called Lewellyn Park.

MR. THURING: Who called Lewellyn Park?

MR. SPINDEL: I never called Lewellyn Park. I called Mr. Chris Devine, Sr. at his New York Office.

MR. THURING: I see. And did you then make contact with him in New York?

MR. SPINDEL: At the time I was calling from my attorney's office and I used a ficticious name and Chris Devine, Jr. called back and at that time, we asked him to call back to my attorney's office and I went downstairs to a public phone booth and he went down to a public phone booth and then I identified myself on the telephone to him and he came to my home that evening.

MR. THURING: Well, why did you use a ficticious name?

MR. SPINDEL: Fearing that the telephones at his office might well be tapped, if I used my correct name, it would be obvious that either I am coming down there to inspect the telephones or I am supplying information. To any tapper in New York, my name is fairly well known.

MR. THURING: Well, with Revlon and Hazel Bishop, did you tell them over the telephone or personally?

MR. SPINDEL: No. With Raymond Spector of Hazel Bishop, I gave it to Mr. Bill Davidson who was writing a story with me in Colliers Magazine at the time and he relayed the information to Miss McCullough who in turn gave it to Mr. Raymond Spector.

MR. THURING: And you have also testified that you have a New York address out of which you operate your business?

MR. SPINDEL: That's correct.

MR. THURING: Now, in relation to these New Jersey clients, how did they come to you? Can you tell us that?

MR. SPINDEL: Well, they would come to us either through the recommendation of attorneys or detective agencies or some would come direct because of publicity and the reputation that I have.

MR. THURING: Did you have a representative in the State of New Jersey who solicited this business?

MR. SPINDEL: No.

MR. THURING: At no time?

MR. SPINDEL: No.

MR. THURING: Now you have told us about some of these cases that you have had. How many do you have pending in the State of New Jersey?

MR. SPINDEL: At present, none. I have been working out of state.

MR. THURING: Well, is there any reason for the dirth of cases now? It's been several months since you have had one.

MR. SPINDEL: I have been involved in several cases outside the state and we are limited on equipment and we are limited on time and personnel. In fact, we are not taking anything now for the next 60 days.

MR. THURING: Out of any state or just New Jersey?

MR. SPINDEL: Pardon me.

MR. THURING: From any state or just New Jersey?

MR. SPINDEL: We are not taking anything from anywhere for the next 60 days.

MR. THURING: How about the past 60 days?

MR. SPINDEL: Oh, we have been involved in other projects.

MR. THURING: Have you had requests for wire tapping from the State of New Jersey by anyone in the last 60 days?

MR. SPINDEL: Well, that's a hard question to answer. I have perhaps 50 or 60 telephone calls that I haven't even answered. I have been away for some time. I have called my service and received my numbers and I haven't called the people back and I am leaving today or tomorrow.

MR. FORBES: I can verify that. The committee on various occasions has tried to get in touch with Mr. Spindel and have been unsuccessful.

I would like to ask you this: To the best of your recollection were any of the cases -- were all the cases that you have undertaken to refer to in New Jersey for private individuals and corporations? Were any of them undertaken at the request of law enforcement officials on the local, county or state level?

MR. SPINDEL: No.

MR. KERBY: Mr. Spindel, you have stated that you have made taps in New Jersey, either Charles Gris or his employees have; can you name anyone else who to your knowledge has ever made a wire tap in New Jersey?

MR. SPINDEL: Not to my knowledge. I couldn't make a direct statement.

MR. FORBES: Well, thank you very much, Mr. Spindel. We would appreciate it if you could stand by this afternoon a while if you don't mind.

MR. RICHMAN: Do you intend to act on my request for permission to cross examine?

(Discussion among Committee Members.)

MR. FORBE: Mr. Attorney General, in connection with your request to cross examine the witness, we have just discussed

it around the table and our feeling is that if witnesses are going to cross examine each other, it would lead to a hassle without the usual protocols of court room procedure, etc., but that you will be a witness later on and you can comment at length. At the same time, right now if you have some questions you would like to ask if you will submit them to the chair, we will ask them exactly as you have put them.

MR. RICHMAN: I will be very happy to do that.

MR. FORBES: It is just in the interest of avoiding a hassle which might not be particularly illuminating. We will put any questions you have now to Mr. Spindel as you submit them to the chairman. In other words, you can give them to us now or we can call Mr. Spindel back later.

MR. RICHMAN: I can give them to you orally, right now.

MR. FORBES: I'd rather you submit them in written form.

MR. RICHMAN: Well, as I understood this witness, he said he is leaving the state tonight.

MR. FORBES: Well, he is going to be here the rest of the afternoon.

MR. RICHMAN: Well, I don't know why we have to involve ourselves in this sort of protocol. I am also here, Mr. Chairman, as the Attorney General of this state.

MR. FORBES: I am aware of that.

MR. RICHMAN: This witness has already testified as to certain illegal activities on his part within this state.

MR. FORBES: You are aware, I think, of the statute under which witnesses testify before this committee.

MR. RICHMAN: May I ask him, Mr. Chairman, is he under

subpoena?

MR. KERBY: No, no subpoena has been issued to my knowledge.

MR. FORBES: However, his testimony is under oath.

MR. RICHMAN: That may very well be. I understand that. In the interest of justice, with this man leaving the state, going 1100 miles away, according to his own testimony, don't you think that I am entitled to cross examine him immediately?

MR. FORBES: You can by submitting written questions to the chair.

MR. RICHMAN: Well, I think, Mr. Chairman, that your ruling is not only unfair, I think it is an evidence on the part of this committee to receive hearsay testimony, unsubstantiated testimony, without cross examination or any real attempt to get to the truth.

MR. FORBES: Well, of course, not a single one of those things does the committee feel to be true. We are trying to be fair, Mr. Richman.

MR. RICHMAN: I think you are being very unfair.

MR. FORBES: Any question you want to ask ---

MR. RICHMAN: I am prepared to ask the questions right now.

MR. FORBES: Will you submit the questions in writing to the chair? If you do, they will be put to the witness. Now that is in the interest of orderly procedure and it's the result of a conference with the committee, including the entire committee, as you are aware, and it's the committee's judgment, and I don't think the committee is operating with the intention of doing anything but justice in achieving its objective in the legislative

directive and toward that end if you will submit the questions to me in writing, I will read them exactly as you submit them to the witness.

MR. RICHMAN: Senator, you know you are not a lawyer. You know perfectly well ---

MR. FORBES: I have the advice of a few good lawyers.

MR. RICHMAN: All lawyers know perfectly well that cross examination by written questions submitted is inadequate and rarely, if ever, productive, because you have one question and the answer to that leads to another question. So that any submission of questions in writing would be of little value, particularly with a witness of this character whose answers are completely unpredictable. It would be impossible for me to submit questions in writing because I would have no idea what would be the proper question next because I would have no idea what this particular witness might say, nor do I think he would have.

MR. FORBES: I don't think you should characterize this witness's testimony.

(Conference among Committee Members.)

MR. FORBES: We are going to take a five-minute recess to determine our procedure in view of the Attorney General's protest.

(Recess.)

MR. FORBES: The committee hearing will resume. Mr. Attorney General, we discussed at some detail your request, and it was unanimously decided by the committee that you will be a witness here this afternoon, at which time the patent question will be

asked you - if you care to comment - at which time you can talk at length and in such detail as you might want to on that particular subject.

Secondly, you can submit written questions the committee will ask of Mr. Spindel in exactly the form submitted, but it's the feeling of all the committee, of whom one, two, three are lawyers, that to permit a cross examination by witnesses appearing before a committee of this kind would not help the committee get at the facts and that it would not make for an orderly, informative procedure, and that's a unanimous decision of the committee, trying to be fair and to keep the record clear. But we appreciate, as I say, your situation and you will have the opportunity to comment in detail yourself, and to submit through the chair all the questions you would like asked of Mr. Spindel.

Senator Fox wanted me to point out, there is absolutely no restriction in the form of the questions that you might care to submit.

MR. RICHMAN: Well, of course, I have already pointed out, Mr. Chairman, the difficulty of that type of examination. It is rarely, if ever, productive and I regret the committee's decision. I think you should be vitally concerned with the credibility of witnesses that appear before you.

MR. FORBES: We are vitally concerned, Mr. Attorney General.

MR. RICHMAN: I hope you are, Mr. Chairman.

MR. FORBES: We are.

Now, because the previous testimony concerned in some detail and specifics the Devine Case, is Mrs. Joan Dexheimer, here?

SENATOR FORBES: Mrs. Dexheimer, will you come forward.

J O A N F I S H E R D E V I N E D E X H E I M E R, 176 Charlton Avenue, South Orange, New Jersey, called as a witness, was duly sworn.

SENATOR FORBES: Mrs. Dexheimer, you have given testimony to the committee in closed session so you are aware of the purposes and why these hearings are being held. Now, prior to your arrival, the so-called Devine case has been referred to in the testimony of our previous witness, Mr. Spindel. We would appreciate it very much if you would answer some questions in connection with it. You have given us your name and address. Will you give us your husband's name and your former husband's name and when you were married to him?

MRS. DEXHEIMER: My former husband's name is Chris Devine and we were married ---

SENATOR FORBES: Jr.?

MRS. DEXHEIMER: Jr. or the III, and we were married May 9, 1953, and my present husband's name is Richard Dexheimer and we were married May 26th of this year.

SENATOR FORBES: Will you tell the committee of your experience as to a possible wire tap of your telephone at 55 Glenwood Avenue in East Orange when you were married to Christopher Devine, Jr.?

MRS. DEXHEIMER: As I explained to you, I am not sure that my phone was tapped. I had Mr. Gris hired to make sure that it was not being tapped and he put a machine of some type on it, a tape tester, to insure that --- I could push a button before I made a telephone call to see whether it was being tapped or whether it wasn't and it registered that it was not being tapped at all

times before I was reunited with Chris Devine. When we came back together, it registered that it was being tapped and shortly thereafter a man contacted Chris and his father, Chris Devine, Sr. and told them that they had some information to give him. The man said that his name was Mr. Lincoln. Now, since I have spoken to you last, I have found out from Chris that Lincoln and Spindel were the same person or he said that. Chris told me that just a couple of weeks ago.

MR. FORBES: It was in March, then, of 1954 that you hired Mr. Gris to see if your line was being tapped?

MRS. DEXHEIMER: That's right.

MR. FORBES: What led you to suspect it was being tapped?

MRS. DEXHEIMER: I believed first of all that I was being followed and that's why I went to him.

MR. FORBES: And who was it, do you know, who installed the tap?

MRS. DEXHEIMER: It was Mr. Gris and a companion who wasn't introduced to me. He told me that I would know him if I heard the name and he refused to introduce him to me.

MR. FORBES: Now, the tap tester, according to your previous testimony to the committee at the closed hearing, was on for two and one-half months, is that right?

MRS. DEXHEIMER: Yes, approximately.

MR. FORBES: And there was a recording machine placed on the telephone to record the call?

MRS. DEXHEIMER: Yes, there was.

MR. FORBES: Can you tell the committee your knowledge of

an alleged wire tap in June of 1955 at the home of Christopher Devine, Sr.

MRS. DEXHEIMER: Well, at the same time that this Mr. Lincoln called Chris, he called the house in Llewellyn Park where his father was living, and his mother and father were separated at the time, and he told him that he believed that his phone was being tapped, not only in Llewellyn Park, but in his office on Wall Street and that he had information he offered to give him. But he told him that he was not working by himself, but he was working for the state and he was working legitimately and he was trying to help.

MR. FORBES: For the State of New Jersey?

MRS. DEXHEIMER: I don't know.

MR. FORBES: He just said the state.

MRS. DEXHEIMER. He said he was working legitimately now and then he said he would help them look for the tap, the alleged tap on Llewellyn Park and New York, and I believe they did. They climbed around the poles and things and found little wires, but nothing that really resembled a tap. They never did prove it so far as I know. And he then told him that he had some information.

MR. FORBES: Who is this he?

MRS. DEXHEIMER: This is Mr. Lincoln, who Chris told me was Mr. Spindel.

MR. FORBES: Now, did you ever see Mr. Lincoln or Mr. Spindel?

MRS. DEXHEIMER: No, I didn't. I saw this man who came to the house. That was all.

MR. FORBES: Well, would you know if you saw him, I mean,

if he was here?

MRS. DEXHEIMER: He was bent over the telephone plug, putting some things in the little hole in the wall. I am very much afraid I would recognize him in that position much better than I would face to face.

MR. KERBY: Now, the tap tester, Mrs. Dexheimer, did it ever show that a tap was on your telephone?

MRS. DEXHEIMER: Not while I was separated from Chris Devine. It did after, when we were reunited and reconciled and went back together and were living together. It showed that it was all of the time.

MR. KERBY: It showed that there was a permanent tap on your wire?

MRS. DEXHEIMER: Yes.

MR. KERBY: Do you know whether or not there was anything wrong with the tap tester or do you think it was functioning?

MRS. DEXHEIMER: Well, it did work out rather strangely, that it would be tapped while we were back together and not when we were separated. We talked about it, of course, and then when this Mr. Lincoln called and said that he had information to give to Chris, which incidentally he never did take because we were disgusted and thought there was nothing of any importance that we could think of that was gotten -- but when he did offer this information, it was shortly after we were back together and it seems that it would have been gotten at the time that we were not living together and if my tap tester said that it wasn't being tapped at the time that we supposed that he had gotten this information and then it registered that it wasn't, it just seemed

very strange to us.

MR. FORBES: When you suspected you were being followed and wanted this tap put on, who recommended Mr. Gris to you?

MRS. DEXHEIMER: Mr. Brenner of M.C.A., Music Corporation of America. He said that he was a personal friend and he had done work for clients of his. He was an agent and a manager for M.C.A., and he took me up to him and I told Mr. Gris that I thought perhaps I was being followed and I would just like to know if I were and if so, by whom, and he said that he would check it for me. But at the same time, he said, "Do you think your phone is being tapped?" I said, "I have no idea." He said, "Well, we can put a little thing on it just to make sure it isn't."

MR. KERBY: When you came back together and were reconciled with your husband, did you have the tap tester removed?

MRS. DEXHEIMER: No, not immediately. I left it on for about a week because we were planning to go away and we did - we left for Nassau - and then right before I left, I gave the key to the apartment to Mr. Brenner to give to Mr. Gris so that he could remove the thing. I thought it would perhaps be better because Chris Devine didn't like the idea very well. He thought I had put the recorder on for him, which I hadn't done, and the subject was just better not mentioned. He knew it was there anyway. So as soon as we left, Mr. Gris came in and removed it and returned the key. I never saw him again.

MR. KERBY: And the recording equipment was removed too?

MRS. DEXHEIMER: Yes, it was.

MR. KERBY: Did the recording equipment ever record a

telephone conversation?

MRS. DEXHEIMER: I tried it out, yes, on just a friend's conversation and it broke and I never used it.

MR. KERBY: That was the only one. Do you know where Chris Devine, Jr. is now?

MRS. DEXHEIMER: No.

MR. KERBY: Do you know anyone who knows where he is?

MRS. DEXHEIMER: No, but I know a lot of people who would like to know.

MR. KERBY: Is there anything else you can tell us about wire tapping in the State of New Jersey?

MRS. DEXHEIMER: That's the only connection I have ever had with it.

MR. FORBES: Does any other member of the committee have a question they would like to ask Mrs. Dexheimer?

MR. CUNDARI: Just one question, Mr. Chairman; Do you know why Mr. Lincoln or Mr. Spindel gave information to Mr. Chris Devine, Jr. or Sr. that their wires were tapped?

MRS. DEXHEIMER: Yes, several reasons. I am sure you can figure them out just as well as I can.

MR. CUNDARI: Well, I want to know specifically the reason why?

MRS. DEXHEIMER: Oh, well, he did, I think, put a price ---

MR. KERBY: Who told you that?

MRS. DEXHEIMER: Chris Devine, Jr.

MR. KERBY: Chris Devine, Jr.

MRS. DEXHEIMER: But, I don't know. He told me. That's all I can say.

MR. KERBY: Do you know what the price was?

MRS. DEXHEIMER: No, I don't.

MR. CUNDARI: Was the price paid for the information?

MRS. DEXHEIMER: No, so far as I know.

MR. THURING: Did you ever pay for the wire-tapping services?

MRS. DEXHEIMER: No. I was going to and then when I thought that there was something not quite right about it, I refused to and I haven't to this day.

MR. THURING: Were there bills submitted to you?

MRS. DEXHEIMER: Yes, there was.

MR. THURING: How much?

MRS. DEXHEIMER: I believe you asked me that before and I said I wasn't sure, approximately $150, something like that.

MR. THURING: Why didn't you pay?

MRS. DEXHEIMER: Because I only received it when Chris Devine and I came back together so it hadn't been in long and he sent me the bill then and then this Mr. Lincoln called before I got to pay it, which was only about two weeks later, and I just wouldn't do it because I figured it either wasn't working right or it was working the way he wanted, not the way I wanted.

MR. RICHMAN: Mr. Chairman, I didn't get the answer to one question. Did I understand the witness to say that Mr. Spindel put a price on the information?

MR. FORBES: I don't believe she said it was Mr. Spindel.

MRS. DEXHEIMER: I said it was Mr. Lincoln, although when Chris went into New York, then he identified himself as Mr. Spindel to him; at least, that is what he told me.

MR. RICHMAN: As I understand it, Mr. Chairman, either Mr. Lincoln or Mr. Spindel, whom I believe are the same individuals,

put a price on it.

MR. FORBES: Well, Mr. Attorney General, if you have got questions, would you submit them in writing?

MR. RICHMAN: I just wanted to clear the record.

MR. FORBES: Well, I don't think the record at this point says that.

MR. RICHMAN: I thought she said that.

MR. FORBES: Well, now, but you said that Chris Devine, Jr. said that Mr. Lincoln identified himself as being Mr. Spindel to Chris Devine, Jr.

MRS. DEXHEIMER: That's right. That's what he told me.

MR. CUNDARI: Mrs. Dexheimer, would you look around the room and tell me if Mr. Lincoln is in the room?

MRS. DEXHEIMER: I told you before I saw him just at a glance. I'll try to, but I am sure I can't.

MR. FORBES: We won't ask anyone in the room to bend over.

MRS. DEXHEIMER: I wouldn't know if he was.

MR. FORBES: All right. Now, if there are no further questions of Mrs. Dexheimer, we want to express our great appreciation to you for assisting the committee and we very much appreciate your coming down here and helping us. Thank you very much.

Would Mayor Nicholas La Corte take the stand.

N I C H O L A S S. L A C O R T E, 611 Chestnut Avenue, Elizabeth, New Jersey, called as a witness, being duly sworn, testified as follows:

EXAMINATION BY MR. FORBES:

Q Mayor, you are here by virtue of a subpoena duces tecum to read into the record, two -- as I understand it, we have subpoenaed correspondence between you and the Prosecutor of Union

County, between you in your capacity as Mayor and him in his capacity as Prosecutor. A Yes.

Q Would you read that correspondence into the record, please? A I would like it noted for the record, Mr. Chairman, that these letters between Prosecutor Morss and myself were of a confidential and official nature.

MAYOR LA CORTE: I am honoring your subpoena to read into the record this correspondence. This is dated September 14, 1955: (Reading)

"Hon. H. Russell Morss, Jr.
Union County Prosecutor's Office
Court House
Elizabeth, New Jersey

"Dear Sir:

"I have read the Elizabeth Daily Journal today, wherein you are quoted as follows:

"'Prosecutor H. Russell Morss, Jr. disclaimed knowledge of any illegal wire tapping in Union County. The prosecutor said neither the board nor Mayor Nicholas S. La Corte had consulted him on the subject nor had they offered such information to the grand jury.'

"It might be inferred from that quotation that you want from the Police Commissioners what they have regarding wire tapping. If you do, here it is. The following is a press release by the Police Commission last night:

"'One of the matters with respect to which we have been interviewing members of the Police Department, including Lieutenant Mulkeen, may be related to New Jersey Revised Statutes, Titled 2A:146-1 which reads 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 testfies concerning a message, communication or report intended for any other person and 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."'

"The Commission has a copy of a document which consists of a great number of typewritten pages and our inquiry tonight was directed specifically to the matter of whether or not Lieutenant Mulkeen was and is the author of that document.

(Question) "Is the document pertinent? We think so.

"Here is an excerpt:

"'On March 20, 1954, as a result of information obtained through wire tapping by Prosecutor Morss and with a search warrant, arrested Edward "Rusty" Rostaczynski, age 40 of 913 McLain Street at that address. En route to his home I was with Frank Engelhardt of the Prosecutor Office and just before arriving at McLain Street, he stopped to make a telephone call, allegedly to the man who was wire tapping in Westfield on the phone of (Name withheld by Commission), associated with (Name of Company withheld by Commission) of this City. When he got back in the car Engelhardt said that Rusty was home and had answered a call from (Name withheld by Commission) regarding basketball betting odds. When we entered the home, we found nothing in or near the phone, or on Rusty's person. It took a diligent search of his bedroom to find the evidence which was hidden beneath a drawer panel. Also, an address book was secreted there, containing names of his bettors and various gamblers and racketeers. Nothing was ever introduced at Rusty's trial in connection with the address book, nor any attempt made to summon any witnesses before the Grand Jury or trial, nor was our squad ever contacted for a pre-trial review. Further, previous to the raid on Rusty's home, Morss has stated, we would stage three raids simultaneously, one on Rusty, one on (name withheld by Commission) and one a party (Name withheld by Commission) living on (address withheld by Commission) which never materialized.'

"It is established that Lieutenant Mulkeen, Captain Engelhardt, and members of Lieutenant Mulkeen's squad, conducted that raid. Lieutenant Mulkeen was asked several questions designed to find out from him whether or not he was the author of the document, as well as this particular excerpt. Many of the questions were evaded, and others he refused to answer at all.

"Very truly yours,

Nicholas Sylvester La Corte
Mayor"

- - - - - - -

"September 16, 1955.

"Honorable Nicholas S. LaCorte
Mayor
City Hall
Elizabeth, New Jersey

"Dear Mayor LaCorte:

"I have reviewed your letter of September 14, 1955, pertaining to an alleged excerpt of an unidentified document.

"Permit me to premise my comment with reference thereto, by stating that it is my sincere purpose and duty to refrain from saying or doing anything which might in any way be construed as:

"(1) Impeding, delaying or prejudicing the rights of the State and the defendants on trial of the several indictments involving members of your official family commencing October 3, 1955;

"(2) Impeding, delaying, interfering with or hindering your Police Commissioners in arriving at a prompt and fair determination with reference to filling the existing vacancies for Chief of Police, Deputy Chief of Police, Captains and other senior ranks now vacant for somewhat in excess of six months.

"I am unable to reach any conclusion with reference to the documentary excerpt quoted in your letter since I have neither seen the document or been aware of its existence. Nor do I have any reason to believe it is authentic, genuine or accurate. However, at such time as those now in possession of this document no longer require it for their particular purpose, I would appreciate your assistance and cooperation in making it available to this office, with a history of its chain of custody, insofar as may be presently known to you or its possessors, in order that I may initiate a study of it and determine what action may be required under the circumstances.

"Since your letter appears to indicate that you and your Police Commissioners believe certain law enforcement officers, specifically referred to therein, may have been guilty of a violation of N.J.S. 2A:146-1 (Unlawful and Malicious Wiretapping), it is believed that I am obligated to you, your Police Commissioners and the individuals mentioned to assure you that, with reference to the specific raid cited in your letter, or any other raid or investigation in which law enforcement officers of your City, or this County, participated or were involved during my administration as County Prosecutor, I have neither knowledge nor reason to believe that anyone associated with the Elizabeth Police Department,

as well as this office, has engaged in any activity or committed any act constituting a violation of the above-cited statute. I can say nothing further in this respect as I would be required to divulge information pertaining to matters brought to the attention of and considered by both the January Stated Session, 1954 Term and the May Stated Session, 1954 Term Grand Juries of Union County. Permit me to cite the following excerpt from a leading authority on this subject which I believe expresses the rule of law existing in the State of New Jersey:

"'The obvious reasons for this secrecy were:

"'(1) That the Grand Jurors themselves ought to be perfectly free to debate and exchange opinions without a public accountability as to what was said.

"'(2) The witnesses called before the Jury ought to be likewise protected.

"'(3) The innocent man who might be presented, but not found against, ought to be protected.

"'(4) The party indicted ought not to have knowledge to enable him to escape' Sect. 1219, Vol. III Wharton, 'Criminal Evidence.' See also: Sect. 1221, Idem."

"Any transgression or infringement of the security of the proceedings before the Grand Jury, either directly or indirectly, would constitute a contempt of court as well as an obstruction of justice.

"In the event that you are in possession of, or in a position to procure for us, credible evidence of a violation of the statute cited, I would appreciate your making the same available to us. As you well know, this office is always open to you and we will be pleased to afford you the same degree of cooperation you have always experienced from us in the past.

MR. FORBES: Thank you very much, Mayor.

MAYOR LA CORTE: There is another paragraph, Senator.

MR. FORBES: I am sorry.

MAYOR LA CORTE: (Reading)

"I have declined a request by the representatives of the public press to divulge the contents of this communication, since it is believed that if such disclosure be made it would constitute a departure from accepted practices with reference to official communications of this nature, as well as a personal discourtesy to you.

Your determination to disclose or use the contents hereof will rest, I am sure, upon the dictates of fair play and justice. However, in the event that you deem disclosure appropriate, it is requested that the contents hereof be disclosed in its entirety and not excerpted or quoted out of context.

"Sincerely yours,
H. RUSSELL MORSS, JR.
County Prosecutor"

MR. FORBES: Thank you very much, Mayor LaCorte. Could we have those for the record? Are those the originals?

MAYOR LA CORTE: This is the Prosecutor's original letter, and I would like to keep it in my possession. However, if you want a photostat made, I am sure it can be done within a few minutes.

MR. FORBES: George, maybe you could ask somebody to arrange to get that photostated for the committee's records.

MAYOR LA CORTE: I have two more letters, sir.

MR. FORBES: Excuse me. You can proceed. George, you can hold that. We might want the rest photostated.

MAYOR LA CORTE: (Reading)

"September 21, 1955

"Mr. H. Russell Morss
Union County Prosecutor's Office
Court House
Elizabeth, New Jersey

"Dear Sir:

"I have your confidentail letter by Registered Mail of September 16, 1955.

"My previous letter to you was prompted by your quotation in the public press from which the inference was plain that if I, or the Police Commission, had any evidence of wire-tapping, it should be brought to either your or the Grand Jury's attention. I believe my letter to you was self-explanatory in that it gave you certain evidence of wire tapping. I did not ask any questions. Nothing in the letter called for an answer. Before determining

whether or not to make your reply public in the manner which you suggested, I think it would be most helpful to the situation if every effort possible could be exerted in assisting the Board of Police Commissioners to determine the authorship of the document I sent to you.

"More than that, I know I need not impress upon you the inestimable value of aiding the Police Commission in every way to substantiate the truth or any of the statements contained in that document. Since, as you know, names are named in the document and one of the men named is in your office, might it not be true that you are, therefore, in a position to aid us all in tracking down the truth?

"The Police Commission, I am assured, is doing its very best to run down the authorship of the document in question. With regard to this effort, I am informed that the Police Commission has interrogated Lieutenant Mulkeen thrice. At first, I am told that he unequivocally denied any knowledge whatsoever of wire-tapping in the City of Elizabeth or any place else at any time during his entire service as a member of the Police Department of Elizabeth. I am also told that on the second occasion and, I know personally, on the third as well, he evaded, or attempted to evade, innumerable questions in this regard; and in response to many other comparable questions, he refused to answer. And this was particularly true of the third occasion, at which time I was present, and at which time he responded with a refusal to answer on the ground that the questions were related to matter with regard to which he testified before the Grand Jury.

"Now, then, Mr. Prosecutor, is it not perfectly evident that these answers of Lieutenant Mulkeen cannot be reconciled? And while the Police Commission continues its efforts, is it not likewise clear that his claim that he is not obliged to answer the Police Commission's questions, for the reason given -- in which, incidentally, I see no legal merit -- that, however that may be, he has no right to refuse to answer the same questions if propounded by you?

"This done, you may be able to form a conclusion with reference to the document which, as you say, you presently are unable to reach.

"In compliance with your letter, you may rest assured that 'at such time as those now in possession of this document no longer require it for their particular purpose', I shall be happy to use my best efforts to see to it that you receive it, together with everything which may be uncovered by way of rendering the 'assistance and cooperation' which you ask.

"Moreover, if we, and I speak for myself and the Police Commissioners, with our limited facilities are able to find ourselves 'in a position to procure for us credible evidence of a violation of the statute cited', we will be glad to make it available to you. I am confident that I can rely upon the Police Commission to give you the results of any and all of its findings as soon as available.

"I realize, as you stated, that your office is always open to us and that you will be pleased to afford us the same degree of cooperation. Will you, therefore, see what you can find out from your end?

"I shall not make this letter public, but you have my permission to do so if you wish.

"Respectfully yours,"

MR. CUNDARI: Before you read the last letter, would you mind identifying who the sender is in the beginning?

MAYOR LA CORTE: This is Prosecutor Morss' letter to me, dated September 29, 1955.

"Honorable Nicholas S. La Corte
Mayor of the City of Elizabeth
City Hall
Elizabeth, New Jersey

"Dear Mayor La Corte:

"In response to your letter of September 21st, I wish to say that I have given deep thought to its contents, particularly with reference to the proceedings before the Police Commission.

"You stated that my reply to the inquiry of the press to the effect that neither you nor your Police Commissioners had consulted me or the Grand Jury expressed an inference of some nature. I fail to understand the meaning of that statement, since it appears to me to be a simple and obvious statement of fact.

"I wish to direct your attention to one rather inaccurate statement in your letter as it pertains to me personally. You suggest that the facilities of this office should be diverted from its very heavy and important schedule of operations applicable to the entire County in order to assist your Police Commissioners 'to determine the authorship of the document I sent you'. If you will reconsider your statement, I am certain you will conclude that it was erroneous in that at no time did you send me any document.

"Nor am I able to agree that the alleged document is either genuine or accurate. The quoted excerpt plainly indicates to me that the author either lacked first-hand information or misconstrued such little information as he may have had. In this regard, I make particular reference to the description of the alleged activities or conduct of the various representatives of this office.

"You may be assured that this office will consider this problem objectively, impartially and with all the wisdom at our command, so that no innocent person will be injured or embarrassed.

"Yours truly,

H. RUSSELL MORSS, JR.
County Prosecutor"

Those are all the letters I have.

SENATOR FORBES: Thank you, Mayor, and we have arranged to have them photo-copied promptly and the original returned to you.

MAYOR LACORTE: Thank you. I will wait right here for them.

SENATOR FORBES: Will William Mulkeen please take the stand?

W I L L I A M M U L K E E N, being duly sworn according to law, testifies as follows:

EXAMINATION BY SENATOR FORBES:

Q Will you give us your full name and address, please?
A William J. Mulkeen, 750 Laurel Avenue, Elizabeth, New Jersey.

Q And your occupation, Mr. Mulkeen? A I am a Captain of Police in the Elizabeth Police Department.

Q And what was your area of charge; what were you in charge of from February 15, 1954 to June 18, 1954?
A I was in charge of the vice and gambling squad in the City of Elizabeth.

Q Shortly after your appointment to the vice squad in 1954, did you have a conversation with Prosecutor Morss of Union County at his home concerning wiretapping? A I did.

Q And what was that conversation? A We had gone, myself and Officer Hattrich, a member of my squad, to Mr. Morss' home in Summit to discuss an unusual wire setup that we had seen in the City of Elizabeth and wanted his assistance in contacting the telephone company to see what

could be determined as to the setup that we saw. During the visit there, Mr. Morss explained that he had a man who did wiretapping for him and that he would put this man on this particular report that we had made on this wire setup.

Q Did you ever participate in a gambling raid at the home of Edward (Rusty) Rostozinsky in Elizabeth in March of 1954? A I did.

Q Do you know whether or not this raid was brought about because of wiretap evidence? A I was given the search warrant to serve and the information was based on wire tapping information obtained by Prosecutor Morss.

Q Did you make a report for the New Jersey Attorney General in 1955 concerning police matters, which report include wiretapping information? A I did.

Q And do you know whether or not the Attorney General ever received this information? A I believe he did, because when I testified before the Grand Jury on March 3rd or 4th or 5th, or thereabouts, the Deputy Attorney General, Mr. Rutkowski, either had the original or a copy of my report with him in the Grand Jury room.

Q Between March and May of 1954, did you accompany County Detective Chief Frank Englehardt to an apartment house in Union, New Jersey, where he attempted to listen in to a telephone conversation? A I did.

Q Would you tell us about it? A I was in company with Chief Englehardt and he made a stop in an apartment house in Union, New Jersey, and he went into the basement, into the phone box in the basement, and put a wire on the

box and informed me that there was no contact, he didn't record anything, and stated that there apparently was no one on the wire.

Q Do you know whether or not the Union County Prosecutor's Office has recording equipment? A Yes, sir.

Q Do you know if the office has used this equipment?

A I beg your pardon.

Q Do you know if that office has used the equipment?

A I was present when a statement was taken in another case from a defendant and the defendant knew he was giving it in a tape recorder.

Q Did you or your squad or any Elizabeth policeman ever participate in wiretapping to your knowledge? A I haven't participated in any wiretapping anywhere, either in the City of Elizabeth or elsewhere, and to my knowledge no members of my squad or members of the Elizabeth Police Department participated in any wire tap.

Q Do you know of any wiretapping in the City of Elizabeth? A Not to my knowledge; I know of none in the City of Elizabeth.

Q Have you any other information about wiretapping or eavesdropping, or the unauthorized recording of speech, that might be of use to this Committee? A Not that I recall at this time.

Q Well, thanks very much, Mr. Mulkeen.

MR. KERBY: I have a question: I believe you testified that you knew the "Rusty" raid was brought about from wire tapping evidence. How did you know that?

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MR. MULKEEN: On a Saturday morning on March 20, 1954, I was called, I believe, by Prosecutor Morss to come down to the Court House from his office, which I did, and present there were Prosecutor Morss and at the time I arrived Chief Englehardt was either there or arrived shortly after. Just the three of us; and Chief Englehardt had brought in a recording which I was informed came from a wiretap they had on up in the other end of the county, and they played this recording; I was present while it was played, which included information on betting activities, from a bettor to a bookmaker.

MR. KERBY: When Chief Englehardt went to that apartment house that you described, you knew what he was looking for, what kind of case he was working on?

MR. MULKEEN: It was a gambling case.

SENATOR FORBES: Thanks very much, Mr. Mulkeen. We appreciate it.

Would Chief Englehardt please come forward?

I would like to explain before we get into this testimony that both Chief Englehardt's testimony and Prosecutor Morss' testimony, by virtue of a court directive, will be confined strictly to putting on the record testimony given in previous closed hearing, and I will do my best to frame the questions from the testimony that is on the record and would appreciate it if some of my colleagues have copies so that we don't violate the court order. If there is any question in your mind about our asking something that was not covered in the previous testimony, I would appreciate it if you would raise

the point and we can determine if we are acting within the framework of that court order, and for the benefit of those who don't understand this procedure, it is because there is a case pending in court that has grown out of this particular aspect of the Committee's investigation.

F R A N K C. E N G L E H A R T, being duly sworn according to law, testifies as follows:

EXAMINATION BY SENATOR FORBES:

Q Will you state your full name for the record?

A Frank C. Englehart .

Q And your address? A 542 Bailey Avenue, Union, New Jersey.

Q And are you here by subpoena? A I am.

Q Chief, these are the questions I am going to read that were asked in the closed hearing: "Our Committee would like to present to you a couple of definitions." Well, I'll skip that.

(Reading) "Q Have you ever done or directed to be done any wiretapping or eavesdropping?" A I have.

"Q Will you tell us the first instance?" A The first instance was around 1948.

"Q What kind of a case was that?" A Bookmaking investigation, gambling.

"Q Was that a case when you personally did the wiretapping?" A That's right.

"Q Where was this?" A In Union County.

"Q What kind of a device did you use?" A An ordinary piece of a head set.

"Q Can you tell us in your own words how you made the tap?" A By attaching on to two posts in a terminal box.

"Q How did you know what posts to go to?" A The posts were numbered with the number of the telephone.

"Q Where did you obtain the numbers?" A The number of the telephone was in the box.

"Q You can tell from the box exactly to what number that was going to?" A It had the telephone number of the phone that I was interested in on the tag.

"Q What information did you obtain from this wiretapping?" A That bets were being called in to this particular--

SENATOR SHERSHIN: Chief, will you speak a little louder or speak into the microphone?

SENATOR FORBES: I would like to point out that when the Chief was testifying before the Committee, Mr. Morss was present as his counsel, and occasionally there are interpolations here by Prosecutor Morss in his capacity of representing the interests of Chief Englehart. So I will read in what Mr. Morss said in relation to these questions, so I'll go back a little--

"Q What information did you obtain from this wiretapping?" Mr. Morss asked: "Do you want specific information, or general?" "General," was the answer. Then you take it from there. The question is: "What information did you obtain from this wiretapping?" A Information pertaining to gambling, to betting.

"Q Was the owner of the telephone a bookie?" A He was believed to be; he was being investigated for that particular reason.

Q As a result of this evidence was he convicted?

A This individual was subsequently arrested and convicted.

"Q Did this evidence help in his conviction?" Now, just a minute. Mr. Morss said here: "You mean being used or did it assist in determining whether this man was in fact a bookmaker in view of the investigation?" And the answer to that was: "Q Both. Did this evidence help you come to the conclusion that the owner of the telephone was a bookmaker?" A Did that help me come to the conclusion? It did.

"Q How long did the wiretap take? Did it go on for a matter of days or was it shorter than that?" A My recollection is it was about three days and it took place anywhere from twenty minutes to forty-five minutes a day.

"Q What time of the day would you do it?" A As I testified before, it was in the afternoon and was probably between one-thirty and four.

"Q Probably during the period that horse race bets would be made?" A During the time when the activity is on in those cases.

SENATOR FORBES: Mr. Morss interpolated here: "Off-hand, let me interject, while the horses were running or before, Chief?"

THE WITNESS: I would say before they were running and after maybe the first or second race was on.

"Q Did you record the conversation?" A No, sir.

"Q Was anyone working with you at the time on the tap?" A Not to my recollection.

"Q You say you made the tap on a box?" A in a box.

"Q Where was the box located?" A In the basement.

"Q Was this an apartment house? A Yes, sir.

"Q Can you give us the address?" And Mr. Morss interpolated: "That, I think is privileged matter." Then Mr. Thuring of the Committee, Assemblyman Thuring, said: "I think we should have an understanding, Mr. Morss, you are here during the interrogation of Mr. Englehart in what capacity?" Mr. Morss' answer was: "As counsel for him. He has asked me if I'd represent him." Mr. Thuring: "Let the record show Mr. Morss appears as counsel for Mr. Engelhart." The next question was: "Q What was the next time you made a wiretap after this particular instance?" A That was in 1954.

"Q Was that done on your own or at someone's request?" A That was done with the instruction and knowledge of the Prosecutor, of the office.

"Q Did you tap, yourself, this time?" A No, sir.

"Q Did you assist in the tap?" A I was present.

"Q What was your part in it?" A More or less to see, I imagine, that the tap was put into operation.

"Q Was the person performing the tap employed as a regular member of the Union County Prosecutor's Office?" A He was not.

"Q What information was obtained in general from this wiretap?" A That bets on sporting events were being

called in to a particular individual who was under investigation.

"Q How long did this tap take?" A I believe that was three days.

"Did you hear the same general information each day?" A In the line that it was pertaining to gambling bets, sporting bets.

"Q Did you see what kind of equipment was used in that tap?" A In the actual tap? No.

"Q But did you see it before it was placed on the wire?" A No.

"Q You say no. Do you know what kind of equipment was used?" A All I know is that there was wire, and what sort of tap was put on to it I did not see, as to the physical tap.

"Q There was recording equipment?" A There was.

"Q Was that conversation recorded?" A Part of it was, anyway.

"Q On all three days?" A Part of it anyway; I couldn't tell you to what extent.

"Q Do you know where those recording tapes or wires are?" A Yes.

"Q Where?" A The tapes are in the possession of our office.

"Q Do they still have the conversations on them?" A They do not.

"Q What happened to the conversations?" A The conversations were removed subsequent to the trial of an individual.

"Q By whom?" A Me.

"Q Was this evidence used or helpful in connection with the prosecution of any person?" A Not directly, no.

"Q Was someone prosecuted as the result of this tap?" A That's right.

"Q What was the next time you participated in any sort of a wiretap?" A Probably a week later, a week or two weeks later.

"Q Is that on a different individual?" A That's right.

"Q Was it a bookmaking case?" A The tap was effected as a result of information which placed this individual in the category of being a suspected bookmaker.

"Q Did you make the tap yourself?" A That, I can't say. The attempt was made.

"Q Can you say in your own words what you did?" A I attempted to tap on, the same as I did in the first one, but I got no response, there was no answer, there were no ingoing or outgoing calls - whether I was on properly or not, I do not know.

"Q Whose equipment did you use?" A My own.

"Q Your own equipment. You own equipment yourself?" A Well, either myself or the office. It's there, or was.

"Q Does the county own it?" A I would say more or less, yes. In that case, it was never purchased.

"Q When did the county purchase it?" A That individual piece was never purchased.

"Q Were you reimbursed?" A For that particular one, no.

SENATOR FORBES: Well, the answer given in the hearing before was: "I was taken care of."

"Q How much did it cost? Do you know?" A You may

have skipped something, sir. Or else it's later on.

Q Well, this is in connection with that particular piece of equipment. Let me read you the questions and answers so that you don't get confused: (Reading) "Q Your own equipment. You own the equipment yourself?" Your answer was: "You can call it or the county. I work for the county and it was in my possesion." The next question was: "Does the county own it?" And you said, "I would say yes." "Q When did the county purchase it? A Well, probably seven, eight years ago. At the time of the first one the county didn't purchase it; I purchased it." The next question was: "Were you reimbursed?" And your answer was: "I was taken care of." The question then was: "How much did it cost? Do you know?" and you said, "Maybe $5.00, the same as you go in any radio store and buy a head set." Now, is that your recollection? A That's right. I believe you have a part there that says something about the first piece that was used was taken in a raid, a bookmaker's raid, and then there was a subsequent piece which you are now speaking of.

Q Well, now, I'll read the next question. A As to the second one?

"Q Where was that one purchased?" A Give me that again, sir.

"Q Where was that one purchased?" We are now talking about the $5.00 one. A In a store in Elizabeth, a radio store.

"Q Did the county buy any other equipment other than that?

Tapping equipment. And the answer was: "Not to my knowledge."

"Q what other instances after those you have related to us have you participated in wiretapping?" A Will you read that again, sir?

"Q What other instances after those you have related to us have you participated in wiretapping?" A There was one other.

Q All right. Now, I'll read you what was in the testimony here: "What other instances after those you have related to us have you participated in wiretapping?" Answer: "Let me clear up the last one before I get ahead too far. QUestion: "Fine." Answer: "There were no conversations heard or anything on that particular telephone." Mr. Thuring asked: "Why was that?" And you said, "There was no response, sir. In other words, the people were out." Mr. Thuring said: "That was done for only one day," and you answered: "One night for probably fifteen minutes." Now, the next question:

"Q Do you climb a pole when you do this or is this another case in a box?" A No, I did not climb any pole.

"Q Could you go on to the next incident of wiretapping in which you played some part and tell us what part you played in it?" A There was one other tap placed in a town in Union County.

"Q When was that?" A That was between August and October of 1954. I believe that's the date. It was near the end of the baseball season.

Q All right. Your answer to that was: "That was subsequent to this, subsequent to March, I believe the date

is '54, if I'm not mistaken. You have the records there. You know the date is '54 or whether it isn't." A That's right.

"Q You mean we are familiar with this particular case?" And your answer was: "I believe you are." Then the question by Mr. Thuring was: "Was it after '54 or in the year '54, to the best of your recollection?" And your answer was: "I believe in March of '54." A Sir, that is wrong. In March-- the second one was in March and the third one was shortly after, and the fourth one was in September or October; it was around the end of baseball season, possibly this time of the year.

"Q Did you make the tap in this case?" A No, sir.

"Q Did you assist in it in some way?" A I was present.

"Q Did you see the equipment?" A Yes.

"Q Was that the same kind of equipment that you previously described, just a head set?" A Somewhat similar, yes.

"Q Where was that attached?" A Somewhere on a pole.

"Q You never saw it attached?" A No, sir.

"Q Where were you standing in relation to the actual location?" A I was seated in a car.

"Q Did you actually see the tapping? A No, sir.

Q Your answer was: "I did not. That would be the last thing, to stand on the street watching. That would be too conspicuous." A I believe I was asked, was I standing on the street. I don't believe I testified I was standing on the street.

Q The question was: "Did you actually see the tapping?" And your answer was: "I did not. That would be the last thing, to stand on the street watching. That would be too conspicuous." A That's right.

Q Do you have a recollection of seeing the equipment before the man mounted the pole? A Something - I don't recall just what it was, whether it was wire, or just what.

Q Can you describe it to us? A All I recall is probably seeing wire, to my recollection.

Q Your answer I will read: "Q Can you describe it for us?" "A Yes. As I said before, a regular head set. In other words, you can tell one or put it over your ear the same as an operator can use or you can have two pieces to it. The first one I had, I took up on a raid." Then the question was: "Found it in a raid?" Your answer was: "That's right." Mr. Thuring asked: "Did you use it afterwards?" A That's right.

"Q What information did you obtain this time?

A That bets were being called in to this particular phone.

"Q Was the information from the wiretapper helpful in the case? " A It always assists you.

Q Your answer on it was: "That only confirmed other information that we already had on it, that bets were going in there." A That's right.

Q All right. Thank you very much, Chief. We appreciate it.

SENATOR FORBES: Now, will Prosecutor Morss please come forward?

H. R U S S E L L M O R S S, J R., being duly sworn according to law, testified as follows:

EXAMINATION BY SENATOR FORBES:

Q Will you state your name and address? A H. Russell Morss, Jr., Summit, New Jersey.

Q Mr. Morss, to be sure that we keep within the confines of the court order, we just agreed here, counsel and the Committee, that I will read the questions and read your answers, which you can confirm as we go along.

ATTORNEY GENERAL RICHMAN: Mr. Chairman, I know that my suggestions are not usually followed, but why not put that testimony in evidence if you are just going to read it. It serves no purpose to read it over. You've got it all there.

MR. MORSS: I read over the transcript pretty hurriedly this morning and there is one thing in there that I would like to correct. Either my testimony was misinterpreted or I spoke too quickly. Toward the end of my testimony you asked me about the New York Police Department and whether they used private wiretappers, and I said I believed they did. That statement, to my knowledge, is not correct. I have no knowledge that New York does use private wiretappers.

SENATOR FOX: Well, Mr. Prosecutor, may I ask you this question: In other words, after your review of the transcript, there was a portion of it that you, yourself, would like to correct at this time?

MR. MORSS: That was one thing that caught my attention, Senator Fox. There are some minute things like words that aren't correct, but nothing of any major importance.

SENATOR FOX: But from your observation, you assume this

goes to the gist of your testimony, is that right?

MR. MORSS: That's right. I would not want to make as a matter of record anything with reference to the New York Police Department and, if I did say that, I don't know why I said it at the time. I have no knowledge and I recently read Frank Hogan's testimony before Congress in which he denies that his office uses a private wiretapper.

SENATOR FOX: In fairness to yourself, would you like to refer to the particular page?

SENATOR FORBES: Senator Fox, this was testimony given at a closed hearing. This is now a public hearing. I will read as rapidly as possible but we ought to get on the record the testimony, and when we get to this point you can correct it.

MR. MORSS: It is well toward the end, Senator.

SENATOR FORBES: Well, when we get to that point, you can make the corrections, if that is agreeable. I'll go through this as quickly as possible.

(Reading:

"Q Mr. Prosecutor, will you state your name and address?
A H. Russell Morss, Jr., Summit, New Jersey.

Q And what is your occupation. A Counselor-at-law, County Prosecutor of Union County.

Q How long have you been county prosecutor?
A February 23rd or 24th, 1953. Prior to that I was Assistant Prosecutor from February 1st of '46, same office.

Q Are you here today by virtue of subpoena or voluntarily?
A Voluntarily.

Q I want to point out a couple of definitions to clarify any misunderstanding. In general we feel that when we speak

of wiretapping here today we mean the overhearing or interception or a recording of telephone communication to which you are not a party, the manner by which it is done is not material. By eavesdropping we mean the overhearing by a device or the recording of a conversation or discussions to which you are not a party, the manner, whether by microphone recording device, transmitters or otherwise, is not material. Have you any questions about those? A No, I don't think so.

Q Have you ever done any wiretapping or eavesdropping in the State of New Jersey? A Let me ask a question first. I notice the stenographer here. This is for the record, is that correct?

Q Yes. A Part of the official report in the legislature of the State of New Jersey.

Q Of the Legislative Committee. A Later becomes part of the record.

Q Yes. A Have I ever done it personally?

Q Yes. A No.

Q If not in the State of New Jersey, elsewhere, not counting military service? A Personally I have never done it anywhere that I can recall.

Q Have you ever directed any wiretapping to be done in New Jersey or elsewhere? A Yes.

Q How many times? A Oh, according to my best recollection there have been three occasions when we actually requested wiretapping information and obtained the services of a wiretapper.

Q When you say "we", you mean whom? A I mean myself.

Q As Prosecutor? As prosecutor of Union County?
A Yes. And that was done by myself alone.

Q When were these three requests made? Approximately.
A I can't recall exactly as to the time but I would say since I have been prosecutor, approximately two years ago.

Q Could you take up these three instances one by one and tell us in general what kind of a case you were working on and the general circumstances? A I will be glad to give the general circumstances. I would like to make this clear, I hope you understand my position. I believe I have a duty not to reveal any specific information that will embarrass anybody or not to reveal any specific information that relates informers or confidential agents working for the county prosecutor. In some instances where we obtained a tap the person was innocent.

The first occasion I had been bothered by an operation in the City of Elizabeth which was very, very difficult to detect. I made inquiry of various law-enforcement agencies about wiretapping. It had been suggested to me by a person who had been a law enforcement officer that wiretappers could be obtained. I discussed the matter--

Senator Forbes: Can you tell us who that was?
The witness: No. I prefer not to, Senator. Please believe me, I want to cooperate with you.
Senator Forbes: I understand.

A (Continuing) I then consulted another law enforcement agency. As the result of that consultation, I was introduced to a man. And at that time representatives of a local police department had come to me about a situation in their town. I was asked about wiretapping. As I recall a suggestion was made they would tap these lines. At that time I told them I didn't want any of my men to do any tapping but I thought I could find a man, and I did have that line checked. Actually it was more than one line. That's what made it very suspicious. It was a complex of lines into a specific location. I met the man, showed him the location, told him what information I wanted. I wanted to know whether there was any illegal activity on thoese wires. Within two days I received a report from him that he was unable to detect any illegal activity.

The next occasion where I used this man-- there had been a raid in one county-- I received information with respect to a telephone to a private home . We made our usual investigation. We subpoenaed the records of the telephone company and this individual, while he was a relatively well-known responsible businessman, the record of his toll calls indicated that he was in touch with at least a half-dozen suspected bookmakers in Northern New Jersey quite well-known to law enforcement authorities.

The question arose whether, based on that information, we would raid his private home on the suspicion he was the head of a syndicate or banker who had a financial interest in the syndicate. I made the decision to again use a tapper.

I might state that at this stage this was experimental as far as I was concerned because I knew very little about tapping. I read about it. I discussed it with authorities in New York and I discussed it with federal authorities.

As a result of that tap we found this man was only a bettor, not a bookmaker. But it did give us information on a bookmaking establishment in our county which was raided, and successfully raided.

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On the third occasion we received a transcript of a wiretap from another law enforcement agency, again going into a private home.

Senator Forbes: You say you received information from a wiretap made by you?

The Witness: No, from another law enforcement agency. We received a report of an intercepted conversation of--

Senator Forbes: Was that a New Jersey law enforcement agency?

The Witness: No, it was not. It was of bets being placed in a certain location to this 'phone in my county. It was in a private home.

A (Continuing) This man had been previously arrested and convicted by our office, was suspected of being connected with Erickson at the time of his original arrest. In view of the fact it was in a private home it was originally revealed there was no activity there during the day that you could put your finger on. I again used the wiretap and had the line checked and verified the information that we got from the other jurisdiction, conducted a raid immediately and arrested the man with the evidence. He was subsequently sentenced to State Prison; not on the wiretap evidence. No one to this day knows that in the case we used wiretap to my knowledge.

By Senator Forbes:

Q Mr. Morss, when you obtained the services of the wiretapper, what was your feeling about the New Jersey statute that says wiretapping is illegal? A I studied it carefully. There had been an article in TIME, which I have with me, which discusses the pros and cons of wiretapping. I read an article in the New York Times, a debate between Deputy General Arnold and-- or former, I think he was Attorney General-- and Deputy Attorney Rogers on wiretapping. As I say, I discussed it with agencies that used it more or less. I studied the New Jersey act. I talked to the sponsor of the act. I don't know whether it was before or after. But I have talked to Homer Zink about the act as to what the intent of the act was. In my opinion, the New Jersey act does not prevent a law enforcement officer from wiretapping. It uses the language 'wilful and malicious'. Now, the cases in our State in defining malicious - and various law dictionaries such as Black and Bouiver's- say it's an act committed with evil intent and without justifiable cause.

Now, as you know, since the Winne case prosecutors in this State have been on a tough spot. We have a gambling law that's difficult to enforce, that in many respects does not have public support and yet, as the statute says.."

MR. MORSS: Pardon me, sir. That is not "as the statute

says". It should be "as the decision states."

SENATOR FORBES: All right. (Continues reading):

"Now, as you know, since the Winne case prosecutors in this State have been on a tough spot."

Is that what you mean?

MR. MORSS: No. It says "as the statute says, you can't wink at a gambling violation," isn't that what follows?

SENATOR FORBES: Yes. (Reading): "We have a gambling law that's difficult to enforce, etc.," and "yet, as the statute says, you can't wink at a gambling violation."

MR. MORSS: That should be "as the decision says." I may have said statute but it's incorrect.

SENATOR FORBES: And you want that corrected?

MR. MORSS: Yes. I am referring to the Winne decision, not any particular statute.

SENATOR FORBES: All right. (Continues reading):

"Once you have a violation you must act on it. That's my opinion, that the prosecutor has a duty to use all lawful means when he has any violation-- any information of violation of the law, whether it be gambling, to use all lawful means to detect that crime if it is done under certain circumstances which do not come within the definition of malicious.

Q In other words, any law enforcement agency in this State, by that interpretation, would be entitled to wiretapping? A No, Senator, I don't think so. I think you would have to have a sound basis very similar to that which requires a search warrant. You just couldn't go out helter-skelter and wiretap anybody just for the sake of tapping.

Q But the judgment in this one the prosecutor made?
A The prosecutor or whatever law enforcement officer does today.

Q In other words, he can do it on his judgment?
A I don't think that's healthy situation. I would like to see a law put through that would regulate wiretapping and restrict it either to the Attorney General and the State

Police or go down as far as the county prosecutor and put it under the control of the assignment judge of the county.

Q But on that point without any such safeguard and without it being at least ostensibly legal, it's legal under the present statute to do what you did? A Yes, I do, no doubt about it. I have even discussed it with grand juries and they recommend it.

"By Mr. Kerby:
"Q You feel those three taps were legal taps? A Yes, sir.

Q Before you made the decision to hire the wiretapper did you consult with the Attorney General? A Well, as I say, Russ, I cannot reveal the identity I consulted with. I think that's amatter of privilege under the law.

Q Did you obtain the Attorney General's opinion with respect to the legality or illegality of wiretapping? A Not a formal opinion. I have discussed it with the Attorney General.

Senator Forbes: The present Attorney General?
The Witness: As to the meaning of the law.
Senator Forbes: Did you give him this interpretation?
The Witness: I think he can best express himself what his opinion is.
Senator Forbes: But I said did you give him your interpretation that you have given this Committee?
The Witness: Oh, yes. I think you will find most prosecutors, if they study this act, will agree with the interpretation.

Q Have you discussed it with other prosecutors? A I have discussed it with some of the prosecutors.

Q They feel it's legal. A Yes.

Q They expressed their opinion? A I haven't heard any that disagree.

Q Do you know whether or not they use wiretapping, legal wiretapping so-called? A No, I wouldn't know. If I knew I couldn't reveal it."

Now, the next question-- we are leaving some of the questions that have already come out in the public hearing.

MR. MORSS: I think it should be complete.

SENATOR FORBESS: All right. Well, as an accommodation-- We'll go back.

MR. MORSS: Well, I think it should be.

SENATOR FORBES: Well, it's all right. We will read it completely. (Continues reading);

"BY SENATOR FORBES:

Q On that particular subject, Mr. Morss, on the specific information that you feel you should not reveal. You are here-- it's appreciated-- voluntarily, because the ways things developed in the Committee. A I think you know I have very strong feelings on this subject.

Q I think you probably know I have. A You and I don't see eye to eye. I have as yet to hear any case, although that day in Trenton you mentioned probable abuses, I have yet to hear of any documented case where a law enforcement agency abused the power.

Q Well, again that's a matter of interpretation. You see, you and I wouldn't prove anything by hasseling out our own interpretations. I think it's a matter the courts will interpret and so forth and the legislature whether to amend the act or not. But on the subject of material that would be extremely helpful to this Committee, such as who the wiretapper is, because if he's done a job for you he probably has done jobs for other people and so forth- whether that information you are not prepared and don't feel you should give to this Committee today, the Committee is anxious to get that information if it feels that it's important to the Committee work, we will proceed through legal channels. I presume you would proceed likewise. A That's right.

Q I hope you understand our differences are of opinion and not of law. A You have a job to do and I have a job to do. I feel this way: One of the greatest advantages to law enforcement is the ability to compare notes or transmit notes and information from one agency to another. But there is not only a written law, the common law. England and the United States gives law enforcement officers a privilege. I don't think they can be compelled to disclose the identity of anyone unless that identity is already known. If we were to do it, all doors would be closed. One law enforcement officer wouldn't dare talk to another one.

Q Again I don't personally agree with that interpretation that that would be so or that would follow through. But that's a personal difference of opinion. A I'd say that's based on eleven years of experience. I think you have people here - you have an ex-FBI working for your committee - I think that he would probably verify that.

Q This difference of opinion has been 'wailed'"- it has here - "on the national level too. But the Committee

with the job to do and legally constituted and given what were deemed to be adequate information to get the information. Whether or not this comes under that is something, as an experienced lawyer, you will probably hear more about.

Senator Forbes: Now, do you want to pursue other questions with the prosecutor?

Mr. Kerby: I have a number of other questions.

Senator Forbes: All right. Do you want to proceed? I will tell you, Mr. Morss, why I have asked. The press has been after me and I know they have you, knowing from before you were coming because of this point of view which, without agreeing or disagreeing, I think it puts it on the table that there is a definite question as to the adequacy (from what I would call adequacy) of our wiretapping prohibition that, as Chairman of the Committee, will be talking to those fellows after you are finished here to explain this thing. I'd like to ask you if you would be present so that you can explain your own views, in other words, so I don't put words into your mouth that weren't there."

At which point, the transcript notes that a press conference took place and that Senator Forbes left the room.

MR. MORSS: That's not my recollection, Senator. I don't mean to quarrel with you or the stenographer. You did tell me--as I recall, you stated you had an important engagement and you had arranged a press conference and you invited me to participate. I said that I had not come over there to participate in a press conference, that I was there to give the Committee confidential information. You will recall, sir, that you then--

SENATOR FORBES: Excuse me, Mr. Morss. I can't let you and me give our separate interpretations--

MR. MORSS: I am here, sir, to state whether the record is correct. That record is not correct.

SENATOR FORBES: Excuse me, but will you just be quiet a

minute and let me consult the Committee? We are dealing with a court order, both of us, and I think if we are going to get into a discussion of what took place that is not shown in the transcript here, that probably should better take place on Friday, but I will consult the Committee and ask you to withhold your comments and I will consult with the Committee.

MR. MORSS: I would just like to go on record that I disagree with the record at that point, sir.

SENATOR FORBES: All right. That will be noted that you disagree with the record at that point. The point that you disagree with is what the record shows here--

MR. MORSS: The remarks about the press conference, because I have a clear recollection of saying that I did not wish to participate in a press conference.

SENATOR FORBES: All right. Your objection is noted, and I guess my interpretation will be noted in subsequent events. (Reading)

"H. Russell Morss testified further as follows:

"Examination by Mr. Kerby:

"Q On these three instances can you tell the Committee in general what kind of cases they were? A Well, all three of these related to gambling violations.

Q And the tapper that was used was the one individual or more than one? A Same person.

Q You say on one of the instances you received the wire-tapping information from another law enforcement agency? A Yes.

Q You said that was a law enforcement agency outside of the State of New Jersey. A The reason I hesitate to answer the question is because I don't want to pin point anyone. I don't think I have a right to. It was a confidential report from another law enforcement agency.

Q So you do not care to answer that? A That one I don't think I can very well.

Q Have you ever received other-- A I will say this: That we do get it from out of the State.

Q You did get wiretap information from out of the State? A Oh, yes. That's been going on for years. You will find local police headquarters get that.

Q That helps law enforcement officers in their job? A Yes, sir.

Q Do you receive wiretap information from other law enforcement agencies within the State? A I can't say whether it's wiretap information or not.

Q Would you say you received information-- A I get reports of telephone conversations. Now, I don't know whether it's a tap or not.

Q --of what was said on the telephone? A Generally speaking, type of conversation. Whether it was overheard by the eavesdropping method of wiretap, I don't know.

Q Did you suspect it was probably as the result of a wiretap? A I won't say one way or the other unless I knew.

Q Would they give the names of the persons calling and receiving the telephone calls? A No. Ordinarily on a message like that you don't get the name of the person making the call. You get the telephone number and probably the identity of the person receiving the call and the nature of the activity, what it involves.

Q I see. On any of these three instances do you know how the wiretapper operated? Do you know what kind of equipment he used? A No, I don't. All I would do is get in touch with him, 'I want certain information. I want to know whether there is illegal activity on the line.' Now, I do know in one case there was a recording. I know that much about it. There was a recording but how it was done, I don't know.

Q In one case there was a telephone conversation that was recorded? A Yes.

Q But you don't know whether or not he climbed the pole or whether he-- A No, I don't.

Q Do you know where he got his technical knowledge to make a particular tap? For instance , the pair and cable numbers. Do you know whether or not he had connections with the telephone company? A No. No, I don't know. I know generally there is a way of doing it without any official

connection with the telephone company.

Q There's a way of getting pair and cable information? A That's right.

Q And junction box? A And the telephone company being part of it.

Q Do you know how that can be done? A I think that's been published. Call up the telephone company and make out you are a repair man, pair and cable on such and such a number.

Q Do you know whether that's been done in New Jersey? A My personal knowledge, no.

Q Other than personal knowledge, by a rumor or hearsay? A Well, rumor and hearsay are not evidence, Russ, you know.

Q I'm sure it's not evidence. A I wouldn't be surprised, let me put it that way.

Q We want anything that's evidence or not evidence. A I don't know how the telephone company can prevent it either.

Mr. Thuring: Don't the repairmen have code numbers when they call in?

The Witness: That, I don't know.

Q How was that wiretapper paid? A Must have been cash. I don't recall too clearly now.

Q From whose funds? A County funds.

Q Are there any vouchers or cancelled checks which would reflect the payment? A No.

Q How much was the wiretapper paid? A I don't recall that."

The suggestion has been made, Mr. Prosecutor-- is it agreeable with you - we are perfectly willing to read it all in, but it has been suggested by some of the committee, if it had your agreement, that the balance would be stipulated as it exists here and made available.

MR. MORSS: Well, I know there are a couple of minor errors. There is one place in there that says something about "specious children." I don't know what specious children

means.

SENATOR FORBES: Well, I'll tell you: In connection with the errors, you might, if you would like to do it that way, you might--

MR. MORSS: I don't have a copy.

SENATOR FORBES: You might simply submit -- You don't have a copy?

MR. MORSS: No.

SENATOR FORBES: The Attorney General has a copy.

MR. MORSS: Yes, the Attorney General has a copy.

SENATOR FORBES: Then that is in your interests, as counsel for you, I believe, so maybe you could borrow your counsel's copy.

ASSEMBLYMAN CUNDARI: I understand, Mr. Chairman, there is nothing too wrong with the record, except the one statement--

MR. MORSS: Either I misunderstood the question or I was mentally asleep and gave the wrong answer about the New York Police Department.

SENATOR FORBES: Well, could we do this: That you be dismissed, so to speak, now, and you could make a note, Mr. Prosecutor, or you could simply write a note to be entered into the record of the part you would like corrected.

MR. MORSS: May I ask your indulgence in that, because the others are minor errors, but this is something I think--well, I can call it to your attention before I leave here today. I thought I had marked it. At page 53 there is the sentence: "That was the Sgt. Bond case in Linden." The word

is not Linden. It should be Union.

SENATOR FOX: Well, Mr. Prosecutor, do you want to set forth exactly the corrections that you think should be made?

MR. MORSS: These are the ones I caught from a very quick reading at noontime.

SENATOR FORBES: Well, do you want, either this afternoon or some time tomorrow-

MR. MORSS: Well, I can do it right now. This "specious children," on page 56, the first word.

SENATOR FOX: You want to correct that to what, sir?

MR. MORSS: Well, I don't know what word I used, but--

SENATOR FORBES: Well, you just want that noted that that was not the word you used, with an X next to it.

MR. MORSS: I will find the remark about New York and let Russ Kerby know.

SENATOR FORBES: All right. And we will enter whatever you want to note pertaining to this testimony into the record.

MR. MORSS: Is there anything further?

SENATOR FORBES: No. Thanks very much, Mr. Prosecutor. I might say that this is a public hearing and this is entered into the record, and this particular information will be available.

SENATOR FORBES: Now, the next witness will be the Attorney General and his testimony will be heard and further possible questions of Mr. Spindel. If there are any other witnesses present who were subpoenaed for today, I might say we are not going to get to them and if they would like to be dismissed, they may be, but I would like to request or order in the name of the Committee that you return tomorrow - tomorrow morning at ten o'clock.

Now, the Attorney General. Do you want to come down front?

ATTORNEY GENERAL GROVER C. RICHMAN: No, I will stay where I am.

G R O V E R C. R I C H M A N, J R., being duly sworn according to law, testifies as follows:

EXAMINATION BY SENATOR FORBES:

Q Would you give us your occupation, Mr. Attorney General? A Well, according to a statute passed by the Republican Legislature, I am prohibited from practicing law, and my occupation is solely that of being Attorney General of the State of New Jersey.

Q In connection with the situation this morning, in addition to the other questions which we might have, where we said that the first question would be: Would you care to comment on the testimony this morning by Mr. Spindel?-- A I assume you are referring to the testimony given this afternoon by Mr. Spindel.

Q You're right. A Without dignifying what appeared to me to be a rather rambling, incoherent, indefinite, vague

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Q You're right. A Without dignifying what appeared to me to be a rather rambling, incoherent, indefinite, vague

statement, I think, for your benefit, I will clear the record. I do recall that Mr. Spindel came to my office with a Mr. Freed sometime in the spring of 1955, as I recall it. He came there-- I don't recall at this moment who arranged the appointment, but it was instigated apparently by Mr. Spindel. When he arrived there, he gave information to Major Keaton and I with respect to an alleged wire tap involving some people in West Orange named Devine, I think it was. Now, that was immediately turned over to Major Keaton and subsequently investigated and eventually turned over to the Prosecutor of Essex County and found to be completely without foundation. I recall that Mr. Spindel wanted some information about an individual from Major Keaton; I do not believe he ever got that information because it was determined by us that he was not entitled to it. I think at the same time he also mentioned some activity in West New York. That, too, was investigated and found to be without foundation.

Q May I ask at this point, was there more than the one in the Devine case mentioned by Mr. Spindel? A Except for the West New York situation, I can't recall anything else.

Q What was the West New York situation? A Well, he made some allegations that the members of the Police Department, I believe in conjunction with a Mr. Gris, had purchased wire equipment or were loaning wire equipment, or something to that effect. At any rate it was investigated, according to my understanding, and found to be without foundation.

Q And you say that when he asked for the name of an individual or information about an individual-- A Yes, he

wanted to know about a particular individual. I can't recall the name. I am quite sure that Major Keaton will be able to recall it, and I have the impression that Major Keaton later told me that if Mr. Spindel was to give us any further information, he conditioned that upon getting this information. At least, that was my sole contact with Mr. Spindel that I have just related.

Q You did mention that you determined he was not entitled to the information. How was that determination arrived at? A We were, very frankly, Senator, suspicious of Mr. Spindel's motives in attempting to find out who this particular individual was.

Q Did you give any foundation for this suspicion? A Yes, I think we did, and I think it is privileged matter and I would prefer not to relate it here. I do recall, I am quite sure I recall, that he did mention the name of Charles Gris during the conversation. I later was reliably informed that he had at one time been employed by Mr. Gris, that they had had a falling out of some sort, and it was quite apparent to me that one of his motives in coming to me was to make trouble for Mr. Gris. I was later informed by the State Police that the allegations that had been made in connection with Mr. Gris were investigated and found to be without foundation. Now, naturally, we felt it incumbent upon us to make some investigation of Mr. Spindel, who represented himself as being a former employee of the Anti-Crime Commission in New York. We found that that was so, that he had been employed by that Commission. He, however,

apparently has from time to time been a member of numerous articles in various publications dealing with this subject, and I thought it was incumbent upon us to make inquiries of other responsible law enforcement agencies as to his background and reputation. I dislike to say this, but in view of his testimony here today, we were informed reliably that he is not reliable.

I want to call your attention, and then I will leave the subject of Mr. Spindel, to one activity on his part, and I do this in connection with his avowed expression here today that he felt it was his civic duty to advise the Devines of the fact that he thought their wire was tapped. In an article which appeared in the magazine "Reporter," and which Mr. Spindel has acknowledged in his testimony before the Cellar Committee in Washington; he acknowledged that he supplied this information to the magazine or to the actual author of the story. He has conceded that on one occasion at least, he not only went so far on behalf of an individual to tap the telephones of his employees, but when those same employees were called before a Grand Jury, he, at the instance of his employer, arranged to have Miniphone devices attached to the respective witnesses before the Grand Jury, who were then permitted to go in before the Grand Jury to testify, and when they left the Grand Jury, the Miniphone devices were taken off so that his employer could see to it , as he puts it in this article, that they had stood up and said the right thing in the Grand Jury.

Now, at this point, I will ask--

MR. SPINDEL: Mr. Chairman--

MR. RICHMAN: Just a minute now. At this point I will ask that these questions be directed to Mr. Spindel. Now, these are not all the questions I have but all that I have been able to prepare at this time.

MR. THURING: Now, Mr. Spindel, before you get into those, I would like to ask one question. Mr. Attorney General, you referred to Mr. Spindel's personal meeting evidently with you and Mr. Keaton from the State Police, is that right?

MR. RICHMAN: That's right. I recall, or I believe, Mr. Freed was present at that time. I did not know Mr. Freed before that time.

MR. THURING: That was the only time that you met Mr. Spindel?

MR. RICHMAN: That was the only time I had ever seen him, to my knowledge, until today.

MR. THURING: Have you or any member of your office received any further communication from Mr. Spindel at any time subsequent or prior to that occasion, relative to wire tapping in the State of New Jersey?

MR. RICHMAN: Not to my knowledge. He may have been in touch with Major Keaton, but with me, no, or with any immediate members of my office, although I do think he had a discussion at one time with Deputy Attorney General Rutkowski. I am not too sure of that, but I think he did.

MR. THURING: And his reference to a certain list, if I use the correct language, that he directed to your office in

relation to illegal wiretapping in the State of New Jersey, you would characterize as untrue, to the best of your knowledge.

MR. RICHMAN: I never heard of it before.

MR. SPINDEL: Mr. Chairman, I would like to make a statement for the record in answer to the Attorney General's accusations and state the facts behind this article and show proof that two statements within the article were inaccurate. The article was written about eight months prior to publication--

MR. RICHMAN: Now, Mr. Chairman, I object--

SENATOR FORBES: We will give you the question and then you can answer it, because this is in the course of the Attorney General's testimony and it has been in accordance with the Committee's ruling.

"Questions to be directed to Mr. Spindel:

"Question: Wednesday, March 30, 1955, you testified for the so-called Cellar Committee in Washington and there acknowledged that you had furnished the material for an article entitled, 'Electronic Eavesdropping' which was part of an article generally entitled, 'The Private Eyes' originally published in 'The Reporter' magazine on February 10, 1955 and republished in 'The Reporter' but on a later date under a heading 'Electronic Eavesdropping.' The article stated in part as follows:" (And this quotation is from the article in "The Reporter.")

> "In one of the most elaborate electronic detection assignments ever attempted, Bernard Spindel once employed a combination of bugs, wiretaps, and pocket-sized Minifone wire recorders on behalf of a Midwestern labor leader whose operations were currently under investigation by two separate official bodies.

"Flying west, Spindel spent three days checking the union president's home and office for concealed listening devices. He found and removed no less than seven partially completed installations for microphones. In the next four weeks, working only at night, he ripped out all the cables at union headquarters, rewired the entire telephone system (consisting of 86 lines and a total of 600 connections) so that all lines led into one sealed terminal box, the only key to which was placed in the labor leader's hands.

"Duly impressed, the union president next asked Spindel to install wiretaps and telephone bugs in the offices of a dozen union lieutenants of whose loyalty he had doubts. A week later this job was also completed, the monitoring wires all being strung to a listening post in the president's office.

"The job might have ended there had not a local grand jury suddenly decided to question all the union officers. In this emergency, Spindel was asked to stay on and do what he could to prevent any backsliding. He solved the problem by providing eight Minifone units, complete with recorders in shoulder holsters and wrist-watch microphones. As each union lieutenant was called into the private chambers of the grand jury, the apparatus was strapped to his body and turned on. As soon as he emerged, the machine was removed and the record played. The labor leader was gratified to learn that all his aides were completely loyal.

"Spindel's itemized bill included $762.50 for cables, $100 for telephone company 'tips,' $638 for expenses, $3,000 for the eight Minifones with all attachments, $650 for the two special recorders, $750 for the three days of tap checking, and $2,500 for installation. The total payment for these and some other little items was $9,329."

The question that the Attorney General wants to know is: Where was the local grand jury to which the article refers? Please give the name, county and state or federal district.

MR. SPINDEL: In answer to the question, as I started to say previously, there are two portions within this article which are inaccurate--

SENATOR FORBES: Well, can you answer where first, and then you can point that out, if you like, but can you give specifically the answer to: Where was the local grand jury

to which the article refers?

MR. SPINDEL: I have no knowledge of the grand jury.

BY SENATOR FORBES: Well, could you please give the name of the county or state or federal district?

A It was Detroit, Michigan.

Q Now, the next question is: Give the date upon which the occurrence described with reference to the grand jury occurred. A That, I could not testify to. I have no knowledge of that. The only information that I have is that I received the tapes or spools for rerecording of the tape, and I have no idea what grand jury, what location, or what individuals were involved. I listened to one and started to rerecord, and when I discovered that it was testimony I returned it and refused to handle it. Now, it is on record that I testified on this matter before the New York county grand jury and about seven days before publication, I was to have received originally several months before it the actual article for clearance, word for word of the article. The first time I saw this article was in the Public Relations Office of the National Broadcasting Company, and that was during the period when I was to appear on a national program in connection with the promotion of this original story. I read the story, noticed the inaccuracies in two locations, and this is one of them, at which time - and again this is about ten days or seven days before the publication date or release, - I sent a blistering telegram to the Editor that certain changes had to be made due to inaccuracies and that I had not been afforded the opportunity to correct

the copies prior to publication. In the first article, second paragraph, there are two items there, and this is a direct copy of it- you can see that the pages were broken open as a result of that telegram, and minor changes were made. They couldn't make all the changes because they would have to rip out the entire plates and start all over again. A copy of that telegram, a certified copy of it, is on file with the New York County Grand Jury investigating wiretapping in New York. I testified to that and gave the full details in the entire matter and it was investigated. There are two inaccuracies and this is one of them. I had no knowledge that Minifones would be used before a grand jury; I was not present when they were used - I was in New York; the wires were sent to me for rerecording and I refused to rerecord. I have testified before a federal body on the same subject and testified before the New York County Grand Jury and I have submitted all evidence to substantiate my statements.

Q Now, the next question from the Attorney General is: Give the names of those persons to whom you attached, or arranged to have attached, Minifone units and who then testified before the grand jury.

A I have no knowledge of who they were. I was not present.

Q Would you give the name of your employer mentioned in the article? A That would be - International Teamsters, I believe. I couldn't give you the actual statement. I don't have my records.

Q But you believe it was the International Teamsters.

SENATOR FOX: I would like to ask you, Mr. Spindel: In light of the voucher that you apparently submitted for your services, is the amount that was mentioned in the question approximately correct?

MR. SPINDEL: It is not quite correct.

SENATOR FOX: Well, I will assume then that it is not quite correct but approximate - in some proximity; is that correct?

MR. SPINDEL: Yes, sir.

SENATOR FOX: Would you say it ran into several thousands of dollars?

MR. SPINDEL: Yes.

SENATOR FOX: Now, in the light of the fact that you undertook this task and your bill was in the neighborhood of some several thousands of dollars, can't you tell us at this time without qualification as to who your employer was?

MR. SPINDEL: Well, I don't think that it is fair at this time to divulge that. It has nothing to do with the investigation which is at stake at the present time, and I personally feel that the Attorney General is attempting to embarrass me and discredit my testimony earlier today. I would like to qualify further and state that any statement that I have made to this Committee today, I stand ready to substantiate with documentary proof.

SENATOR FOX: Now, I just reiterate a reasonable question. You have already voluntarily, even before my question, indicated that you thought it was probably the Teamsters.

My question is a very simple one: In the light of the amount of your voucher submitted to your employer in the City of Detroit, in the State of Michigan, can't you tell us accurately who the name of your employer was?

MR. SPINDEL: Well, I don't think it has any bearing on the subject matter that this committee is investigating.

SENATOR FOX: Well, in view of the fact that you have volunteered that you thought it to be the--

MR. SPINDEL: Well, I wouldn't go on record to give you any accurate information. I do not have my records on hand. I don't think that it comes within the scope of the committee, something that happened out in the midwest. I mean, I am not here for the purpose of supplying the committee with a list of all my clients. My work is just as confidental as the Attorney General or the Prosecutor. Sometimes it is a lot more confidential.

EXAMINATION BY SENATOR FORBES:

Q The next question of the Attorney General is: Were you ever employed by Charles B. Gris? A I have never been employed by or worked for Charles B. Gris. I have on previous occasions, many years ago, about four, performed certain technical services for him on certain jobs, and after a particular job I have testified to this before a grand jury and a New York state legislative committee studying the illegal interception of communications, but at one point where I suspected he did not have authorization for a tap I refused to work with that man any further. And from that date on, which is about three years ago, I have not been

employed by him nor would I take any job for him from that date.

Q Were you ever indebted to Charles Gris? A Not to Charles B. Gris. At the time that we were manufacturing equipment-- I can give you the facts on that question: At the time that we were manufacturing this equipment, I suffered a very serious attack and subsequently had a subtotal thyroidectomy, and I had approximately $45,000 in notes outstanding, and to cover the period that I was going in for my operation - pre-operative as well as post-operative - a man whom Mr. Gris knew, as well as I, who had extended a legitimate business loan, which at the time I entered the hospital and was ill I had repaid half, and following that Mr. Gris in attempting to force me to do certain work for him and make certain equipment, bought that note from this mutual friend, and when I discovered that he had purchased it, at the first opportunity I purchased that note back in full. In fact, Mr. Gris offered me office space within his office, free, if I would go in there and assist him in repairing his equipment, which I refused.

MR. CUNDARI: Mr. Chairman, while you are going to the next question. Mr. Spindel, would you mind answering this question: Do you know a Mr. Lincoln?

MR. SPINDEL: I am Mr. Lincoln. As I testified to this afternoon, that was the name I had used in calling them, for fear of giving my correct name on what I believed might be a tapped line.

MR. CUNDARI: You heard Mrs. Devine, or Mrs. Dexheimer at the present time, state that the reason why you were

volunteering information was for a fee, or a price, as she put it?

MR. SPINDEL: That is absolutely inaccurate. I have an actual recording of the conversation between myself and Chris Devine, Jr. and, if given sufficient time, I will produce it.

MR. CUNDARI: You have a recording of the conversation -- of the conversation between--

MR. SPINDEL: Of the conversation that took place between Chris Devine and myself.

MR. CUNDARI: Did Mr. Devine know that conversation was being recorded?

MR. SPINDEL: No.

SENATOR FORBES: Before the committee asks the next question the Attorney General has on the list, I would just like to speak to the members of the committee, please.

(Off record discussion among members of the committee).

SENATOR FORBES: It is the opinion of the Committee, Mr. Attorney General, that these next two questions, the Committee does not care to put to the witness, and believe they don't pertain to the testimony, and we are not going to put those questions to the witness.

MR. RICHMAN: I had understood, Mr. Chairman, that I was to be given the privilege of submitting all questions in writing and that there would be no question about their being asked of the witness. I recall your previously expressed commitment and ask you to read the questions.

SENATOR FORBES: I would just like to point out to the Attorney General that it was presumed that the questions

would pertain to the testimony given by the witness, and these questions do not pertain to the testimony given by the witness.

MR. RICHMAN: In my judgment, these questions pertain most vitally to the testimony of the witness. In fact, the witness has just made a statement which should have alerted you, Mr. Chairman, to the purpose of those questions.

SENATOR FORBES: Well, it is unanimously the opinion of the committee that this question is not a proper one for this committee to put to the witness, and we are not going to do it.

MR. CUNDARI: Mr. Chairman, it is not a fit question for a public hearing. Perhaps some time at a closed hearing, it will be asked of the witness.

SENATOR FORBES (Addressing Mr. Richman): Do you have any further questions pertaining--

MR. RICHMAN: I would like to go on a little bit further, if you will permit me, Mr. Chairman.

SENATOR FOX: Mr. Attorney General, may I just ask you one question I want to have clear?

MR. RICHMAN: Yes.

SENATOR FOX: In connection with the Devine matter, to which we have referred before, am I correct in my understanding of the fact that you stated that it was referred subsequently to the Prosecutor of Essex County?

MR. RICHMAN: Yes, it was.

SENATOR FOX: For a complete check-out?

MR. RICHMAN: That's right.

SENATOR FOX: I assume, sir, that you received a reply from the Prosecutor of Essex County?

MR. RICHMAN: I did, and it was negative.

SENATOR FOX: Thank you.

MR. RICHMAN: Now, I wish you would direct your attention now to the remarks just made by Mr. Spindel that the article quoted was incorrect in certain respects. In view of that statement on his part, I want to read you his sworn testimony before the Cellar Committee which makes specific reference to this article. He said, on page 79, and I am quoting: "On February 10, 1955, The Reporter magazine featured the story 'The Private Eyes.' Chapter 3 was entitled 'Electronic Eavesdropping.' I demonstrated and furnished the material for that chapter. Two years prior, this same magazine published 'The Wiretappers,' which ultimately won the George Polk award. Last year I was asked by the authors of this piece to assist them in writing this new article. I did so out of respect for the reporting and of what I considered to be a comprehensive report on the subject of wiretappers." I suggest to this committee that if Mr. Spindel had any doubts about the authenticity of the article, he should have raised them before the Cellar Committee and not when he is challenged at this point.

SENATOR FORBES: Do you have any more written questions you wanted to ask at this time?

MR. RICHMAN: I have none, Senator. Apparently they do not meet with your approval and then--

MR. SPINDEL: I would like to make an answer to that. I am glad you read verbatim. It states that I demonstrated and furnished the material for that chapter. Now, we are referring

to two separate articles. They are approximately two or three years apart. The chapter on Electronic Eavesdropping was published February 10, 1955. It is correct that I furnished it and, as I testified previously, there were two errors and approximately seven or ten days prior to the release of this article, we corrected or attempted to have corrected the article in which they appeared.

Now, the other article which we referred to is two years prior to the time that this same magazine published "The Wiretappers" which won the George Polk award. Now, I had nothing to do with that particular article and, as I said, I did cooperate out of respect for the reporting of what I considered to be the most comprehensive report on the subject of wiretapping.

Unfortunately, this article that was published February 10th was to have been published in August of 1954, and, for some reason best known to the publishers, it was deferred until February 10th. During that interim, someone had failed to send a copy, as we had agreed, for corrections and omissions, as was done in every other magazine article that I have ever been associated with or caused to be published.

MR. RICHMAN: I simply reiterate and call again to your attention that the sworn testimony before the Cellar Committee was after the publication of the article.

MR. FORBES: Mr. Attorney General, would you say to your knowledge there is any wire tapping in the State of New Jersey?

MR. RICHMAN: Well now, by wire tapping, Senator, I assume you mean the traditional cutting into lines or splicing of lines and so forth and so on.

MR. FORBES: I mean the statutory definition of wire tapping, as I read the statute, it covers -- Well, I will read it: (Reading) "Reads, takes, copies, makes use of --"

MR. RICHMAN: You don't need to read it. I think you and I are familiar with it.

MR. FORBES: (continuing) "-- discloses, publishes or testifies concerning a message, communication or report intended for any other person and passing over any such telegraph or telephone line, wire or cable in this state."

MR. RICHMAN: Well, so far as the cutting into or splicing of any lines, actual physical interception of any line, I was aware as I previously stated to this committee of the activities in Union County, and those activities were presented to the Union County Grand Jury, which did not see fit to indict. I know of no other wire tapping, substantiated wire tapping, within the state. Now if you are talking about eaves dropping devices, if you think they fall within that statutory definition, which I do not, that is probably a very different situation.

MR. FORBES: Well, we will get to that in a minute. But in connection with wire tapping, you have explained about cutting,

breaking or tapping any telegraph or telephone line, wire or cable. Now what about, whether it's cutting the wire or not, reading, taking, copying, making use of, a message, communication or report intended for any other person and passing over any such telephone wire, in other words, without a physical tap? We saw a demonstration here this morning of ways telephone conversations can be recorded without a physical tap, a break of the line.

MR. RICHMAN: Well, I think, if you are referring to, for example, things like using extension lines, or some such activity as that, I believe that is standard police practice and has been used.

MR. FORBES: To your knowledge is it carried on in this state by law enforcement agencies?

MR. RICHMAN: Using extension lines?

MR. FORBES: Yes. Will you explain the use of these extension lines?

MR. RICHMAN: Yes. Well, I think generally we all understand that probably usually with the consent of the subscriber, for example, in an extortion case, it is anticipated or hoped that the person attempting to perpetrate the crime would make a call in, I think it is standard police procedure to put a detective on an extension line and record whatever conversations come in.

MR. FORBES: That is done in ---

MR. RICHMAN: Oh, I think it is generally done, yes.

MR. FORBES: Is it done to your knowledge by the people directly under you?

MR. RICHMAN: I think the State Police have done that, yes.

MR. FORBES: Now, you say generally with the subscriber's request or consent.

MR. RICHMAN: The specific instances that I know of have been done with the subscriber's permission.

MR. FORBES: Now, ---

MR. RICHMAN: You must understand, Senator, that in this business of detection of crime, I am not in a position and would not necessarily feel that I should be in a position to know all of the mechanical details or devices that were employed in a bona fide effort to uncover a criminal.

SENATOR SHERSHIN: Can't hear you, Mr. Attorney General.

MR. RICHMAN: Can you hear that, Senator?

MR. SHERSHIN: That's better.

MR. FORBES: You would not know. But you do not personally know of any illegal use, as we interpret this statute, by the State Police or any local law enforcement bodies where wire tapping has been or is employed?

MR. RICHMAN: Just the items that I have mentioned. I have no knowledge of any such activity in this state.

MR. FORBES: Now, could you give the committee your knowledge of any eaves dropping activities in New Jersey by individuals or law enforcement agencies?

MR. RICHMAN: I must very respectfully refuse to give the committee any information whatsoever about the use of eaves dropping devices by the police. I think that the detection of crime is their responsibility, ultimately, perhaps, my responsibility. I sympathize with the desires of this committee to get

to the bottom of this problem. But I think it is an overriding consideration, that the police in the exercise of their duty in the detection of crime, should not, and it is in the public interest that it should not make known to the public generally all of those techniques and all of those devices that are used to apprehend criminals.

MR. FORBES: Do the State Police use eaves dropping equipment?

MR. RICHMAN: I refuse to answer that question because I think it is not in the public interest.

MR. FORBES: This committee, you may be familiar --- If you would like, I will read you a part of the resolution. One of the things we are examining, as a committee, is the area of eaves dropping, a demonstration of which we saw today, where by devices of one sort or another conversations can be recorded, including telephone conversations or any conversations in a room or between people. There is no statutory provision that I know of specifically prohibiting that. In other words, police officers can do it. But in addition, any individual can bug for whatever purpose they want. One of the purposes the committee was set up for was to examine this area of eaves dropping, to determine if there should be, either statutory prohibition or regulation or what should be done in that area of eaves dropping. I think that it is useful to the committee to know in general terms where and how such eaves dropping devices are used or employed by the State Police.

MR. RICHMAN: I think, Senator, you are talking about two different things. I want to make myself perfectly clear. I am only talking about the use of eaves dropping devices by bona fide

recognized police. So far as private eaves dropping is concerned, that is an entirely different matter.

MR. FORBES: Is there anything in the law against it?

MR. RICHMAN: I know of nothing in the present law against it. But I am now confining my position to those activities engaged in by law enforcement agencies.

MR. FORBES: Do you know of any ---

MR. RICHMAN: Now, let me say this to you, Senator, that this business of thinking that it is necessary for this committee to know how, where, when and why in detail eaves dropping devices are used by police is just so much nonsense. All you need to know, Senator, is whether or not they are used and I think it is generally known that they are used.

MR. FORBES: We have asked you that and you have refused to answer.

MR. RICHMAN: It is generally known that they are used.

MR. FORBES: And we have not asked you for specific details, Mr. Attorney General.

MR. RICHMAN: Now, if we go on.

MR. FORBES: Will you let me finish, please.

MR. RICHMAN: Well, you haven't let me finish, Senator.

MR. FORBES: We have asked you for information. You have refused to say if eaves dropping equipment is used by the State Police.

MR. RICHMAN: Because I very well anticipate the next question is where, when and how, and that I will refuse to answer.

MR. FORBES: Suppose you answer the first question and then we can discuss the second question. Are eaves dropping devices

used by the State Police, is the question.

MR. RICHMAN: I think it is extremely unfortunate that the activities of the committee - I think it is inadvertent on your part. I am convinced of your sincerity. I almost have come to the point where by calling police officers and police forces and try to determine how they detect crime, almost amounts to, Senator, a harassment of the police forces of this state.

MR. FORBES: There is no harassment and the committee has received great cooperation from virtually every police force. The greatest difficulty this committee has had in the area of law enforcement, is soliciting from the Attorney General of this state information that would be helpful to the committee of the kind I have just put to you, asking you specifically, do the State Police use eaves dropping equipment. This committee is about to make recommendations and will be making recommendations for laws that presumably you as Attorney General will be enforcing in an area that today is totally unregulated. If it is to be regulated intelligently, we need to know, not in terms of specific cases, the kind of devices used in eaves dropping, the kind of cases it is used on, what area it may need regulating in, that maybe should be legalized; it's information essential to this committee to make intelligent recommendations, and I would like to respectfully ask you to answer the question. The first question is: Do the State Police use eaves dropping equipment? It permits itself of a simple answer.

MR. RICHMAN: It does not permit itself of a simple answer at all, Senator.

MR. FORBES: Will you answer the question?

MR. RICHMAN: -- because you by your very statement of this question have indicated that it would only be helpful to this committee if you knew what devices were used and how they were used, what kind of cases they were used in, where they were used --

MR. FORBES: Will you just answer the first question.

MR. RICHMAN: I am answering the question. -- where they were used, and all those details of the detection of crime, and I say to you, and I think upon reflection you will agree with me, that it is not in the public interest for that to be general public knowledge.

MR. FORBES: If I may, I would just like to get a yes or no answer to the first part of the question. We will then proceed to the next ones and we can discuss them and the committee can consult as to whether or not you should be directed to answer the question.

MR. RICHMAN: I have said to you, Senator, that I think it is generally known that eaves dropping devices are used by police.

MR. FOX: Am I correct, Mr. Attorney General, in my understanding of your remarks that you just made a few moments ago in answer to a question, that with respect to devices involved in eaves dropping and eaves dropping, your statement was that, in connection with that, I concede it to be generally understood that that is so?

MR. RICHMAN: That's right.

MR. FORBES: In my opinion you have still not answered the question, Mr. Attorney General. The question is: Do the State

Police use eaves dropping equipment? Now, I would like a yes or no answer. From that we will proceed to other questions to which you can take exception if you like and the committee will make a determination on whether you should be instructed to answer. Now the questions here were put to Mr. Dollar in your office, and after a lengthy discussion between you and myself, you finally said, "You may answer --"

MR. RICHMAN: Now that, Senator, was a closed hearing and I think you should use discretion. You are treading in a very delicate area here.

MR. FORBES: He may answer that question, you said. You permitted him to answer it. Now, why is it then ---

MR. RICHMAN: That was a closed hearing.

MR. CUNDARI: Mr. Attorney General, I understand your statement was that it is generally conceded that the State Police Department does use eaves dropping.

MR. RICHMAN: All police departments.

MR. CUNDARI: When you say "generally conceded," is it your opinion that they do use it?

MR. RICHMAN: I would say, yes.

MR. CUNDARI: Thank you, sir. Now I direct your attention to an open hearing held here in the Assembly Chamber on July 23rd of this year when I asked you the question -- I said to you, "I would just like to make one statement, sir. You have been very courteous in answering all the questions except one. The question I propounded to you, evidently you don't feel inclined to answer today, because, I presume, it may be because it is an

open hearing. Would you feel so inclined to answer that question voluntarily at a closed hearing?" Your answer was: "Are you talking about tape recording?" I said, "Yes, by any branch of the executive department." You then said, "Yes, if you give me sufficient time to look into it. I mean, that's a large order." I answered, "My question was not whether or not subject to investigation you could so determine. My question was, have you any knowledge at this time, and if you have knowledge you have it now, whether or not there had been such tape recording used in hearings of any type by any branch of the executive department of government." You answer: "I would prefer not to answer that." I asked you, "Then you would rather have it at a closed hearing?" Your answer: "No, I would always rather answer at a public hearing. That doesn't make any difference to me whether it is closed or public. I just don't think I am in a position to answer that question today. I much prefer public hearings."

The Chairman said, "If that question were submitted, and we agreed on a private hearing at a future date, would you be willing to answer it?" Your answer was, "Yes." Now, at that time --

MR. RICHMAN: Now, just a minute, Mr. Assemblyman, go on. I think I made another qualification there in a later statement if you continue to read on.

MR. CUNDARI: All right. I asked you, "The question that you don't desire to answer, sir, is one --" and you said, "There is no statutory prohibition against the sort of thing that you are talking about at all at the present time." Then I said, "I understand but this committee is set up primarily --" You

said, "I know that." I said, "--not only for wire tapping but all of the other gadgets and instruments which invade private--" and you stopped me there. You said, "Well, you see it has other considerations. If there are areas in the state where that is done, it might very seriously affect their operation and their efficiency, if it were publicly known that they did do that." "That is exactly what I mean." Your answer: "And, therefore, I might be reluctant to answer that question in either a private or a public hearing, because I have no control over what you do with the evidence that you collect in a private hearing. It might be public an hour later."

I think that is the extent of the questioning and answering on that.

MR. RICHMAN: I think that's right, yes.

MR. CUNDARI: Now I ask you at this time, Mr. Attorney General, would you be prepared to answer the question that I propounded to you in July, when I stated, did you have any evidence whatsoever, any knowledge, that in the executive branch of the government, either in your office or the Governor's Office, whether tape recorders have been used for the purpose of recording conversation unknown to the people who were at the hearings or meetings?

MR. RICHMAN: For the reasons I have already stated I must respectfully decline to answer that question.

MR. CUNDARI: Several days after that hearing, I understand the Governor made a statement in the newspapers that he would not permit any members of his department to use tape recorders. Is that correct, Mr. Attorney General?

MR. RICHMAN: I was not present when that statement was made. I don't think I even saw it in the newspapers.

MR. CUNDARI: I think that is a matter of record.

MR. RICHMAN: It may be; I don't know.

MR. CUNDARI: Thank you very much.

MR. FORBES: Well, we are at the point now - we are still almost at the point of beginning - you refuse to state at a public hearing whether or not eaves dropping equipment is used by the State Police.

MR. RICHMAN: I have said that it is generally conceded, it is generally known that all police departments use eaves dropping equipment. I would assume that would include the State Police.

MR. FORBES: You would assume. Well, you are the head of it, don't you know? Can't you say, yes?

MR. RICHMAN: Senator, you don't understand some of the fundamental problems involved. I have tried to educate you about some of them, but I have been unsuccessful. Now, one of the other problems in this area is this, that if I give you an unqualified answer to that question, if I said, yes or no, and particularly if I said, yes, there is a line of cases that hold, having opened the door, that I must proceed and answer the subsequent questions. I think Senator Fox is familiar with that line of cases. And for that very reason, additional reason, I must refuse to answer that question because under no circumstance do I think you are entitled to know how, when, where and why eaves dropping devices are used by the police.

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MR. FORBES: Well, I completely dispute that. I believe this committee is entitled to know that information because we will be legislating in that area and to legislate, under the statutes, we are given the necessary authority to get information to legislate intelligently. You are surely familiar with some past history around the globe about police methods that impinge on civil liberties and what they can lead to in the loss of civil liberties. Police methods, police equipment and so forth are part and parcel of this. In a country such as this and in a state like New Jersey where they relate to statutes that are under consideration, I think that information should be provided to this committee to guide us intelligently in drawing up legislation. I dispute your contention that methods of police operation are none of the business of the Legislature of this state. I think it is our business when they are used in an area that is the subject of dispute and abuse as this particular area, and it goes right to the reason for the creation of the committee.

Now, if you like, I will adjourn the hearing for a few minutes and ask the Committee if they would agree with me as to the type of questions that we might proceed and request you to answer as it is our belief that they are important to the committee's work.

MR. RICHMAN: Well, as I have said to you many times, Senator, I think that the only thing you need to know for intelligent legislation, and I assume that is the only purpose of this committee, is whether or not such devices are used. When you get into the other area of how, where, when and why, then you are in an area were you must balance the equity.

This struggle between civil liberties and police and law enforcement -- it isn't a struggle; that's the wrong word -- has gone on from time immemorial, and we have to strike a happy balance somewhere along the line, and I wish, Senator, that you would take that point of view and try to establish that happy balance rather than to harass the police forces of this state with continual inquiry.

MR. FORBES: Just let me ask you this, Mr. Attorney General: How can we take a sensible line, how can we draw sensible legislation without your assistance; without your knowledge of eaves dropping activities, how can we establish sensible legislation, what areas, what protection, what type, whether equipment, itself, should be regulated, whether the specific devices, whether the general approach should be regulated, whether they should be the subject of court order, because right now in the State of New Jersey any individual, whether he is law enforcement or not, can bug any room, anybody's conversation? It opens an area that many of us consider is dangerous. That's the reason the committee is in being and if you would cooperate with the committee, it would be of great help in enabling us to draw sensible legislation. In my opinion, you ought to be directed to answer general questions along those lines. It would be helpful to the Legislature and in terms of a public hearing, it would be helpful in the formulation of public support or opposition to proposed legislation, to have your views and to have them spelled out, and give us in general terms the devices, types and where applied and in what kind of cases you found them most useful or indispensable, and so forth

and so on. All of that information would be extremely useful in my opinion. Now, maybe the majority of the committee doesn't agree with me.

MR. RICHMAN: It would be extremely useful to those people who make it their business to violate the laws of this state too.

MR. FORBES: And do you think they are unaware of eaves dropping devices?

MR. RICHMAN: I think they would like to have it handed to them on a silver platter.

MR. FORBES: What, the knowledge of eaves dropping devices?

MR. RICHMAN: How, when and where it is done.

MR. FORBES: Well, with a little cooperation, we could certainly agree to eliminate any specifics that might be of use in a particular case or in a particular area where it would do harm. But, surely, I think you leave the committee operating in a vacuum, when you, as the chief law enforcement officer of the state, the Attorney General, won't provide the committee with sufficient data to help it formulate intelligent legislation. I don't think we have asked for anything out of the ordinary. But I am willing to recess and see if the rest of the committee thinks that these questions should be pursued, and if they think they should be, all we can do is direct you to answer them.

MR. CUNDARI: Before we recess, Mr. Chairman, is it proper to put the question to the Attorney General at this time, would he rather answer that question at a closed hearing, so that everyone would not have access to it, as to the why, where and

how these recording devices are used?

MR. FOX: Well, now just a second, I would like to be heard for a minute on this. I think the Attorney General has been cooperative. He has his own particular views with respect to the practical effect of the application of these methods. In answer to Mr. Cundari's question he has specifically stated, and I reitereated and asked him again, and he indicated that he was ready to concede that eaves dropping devices were pretty generally used by law enforcement agencies. Now, that's a very simple answer and I think we can understand it. As far as the devices are concerned, we have had a pretty good demonstration here by Mr. Spindel as to what devices are used, by explanations from Mr. Smith as to what are used from a practical aspect. At this point, we are not novitiates and we have a pretty good conception as to the mechanical devices used. Now, I think we are splitting hairs, very frankly. And even before the second question propounded by Mr. Cundari is addressed to the Attorney General, if there is any further thought or discussion on that, then I think we should recess.

MR. FORBES: I would like to proceed to another question, Mr. Attorney General. Could you in general terms give the committee the types of cases where you consider the use of eaves dropping equipment is essential or plays a vital part in successful prosecution or law enforcement?

MR. THURING: Mr. Richman, before you answer that question, Mr. Chairman, I would like to be heard with reference to this particular problem. I think we are proceeding without due acknowledgment that the other members of the Committee have a

say in what we should do here. With relation to the position of the Attorney General, I, too, am satisfied that he is totally realistic in so far as his own particular problems are concerned, and I am sure as head of the law enforcement of the State of New Jersey, he also appreciates that we members here are trying to do a job with relation to the task undertaken.

Now, my view, and it is simply my view, is that the answer to the first question propounded by Senator Forbes should be answered, Mr. Richman, and it is simply whether or not it is used. But I completely concur with you, I don't think it should be pursued any further than that first question in an open hearing. I, too, feel that to give in an open hearing the answer to the detection and the answer to many crimes that have been solved because of this particular usage, which is totally legal in this state, is wrong. For a man to pick up a paper and be able to read it in his newspaper as to how it is done, it will mean the end of it, and I am sure that no member of this committee is interested in that.

Therefore, I feel that the first question is proper and it should be answered, but I feel that to pursue it any further is definitely not in the interest of the state.

MR. FOX: In open hearing.

MR. THURING: Yes.

MR. FORBES: Just let me ask the committee -- You have mentioned every member of the committee is entitled to make their views known. I wasn't aware that any member had been kept from expressing his views here today. Is there anybody feels they have

not had a full opportunity to --

MR. THURING: No, the only reason I said it, Senator Forbes, is because you proceeded with the question before the determination as to procedure, that's the only reason why I raised my voice.

MR. FORBES: Now, the committee may want to comment on this question before it is put to the Attorney General. My next question is: Could the Attorney General indicate in general areas the types of crime where the use of eaves dropping and electronic devices are essential in his opinion to the enforcement of law? I say that for this reason, if we are to enact legislation and are going to be formulating recommendations presumably that might lead to legislation, in my opinion, - and I think it was the concensus of the committee in earlier discussion and on the floor of the Legislature when it was debated - we don't want to impede law enforcement. But by narrowing the areas in which certain devices might be permitted or legalized, we want to be darn sure that we are bending over backward to narrow the area for potential abuse and for the impingement on civil liberties. Now if there are general areas where, it is considered by the Attorney General vital in the solution of crime, such devices in eaves dropping be exempt, if we were to recommend prohibitions, I think it is useful information for the committee to know that, in his opinion, in certain types of cases that is the main or principal or possibly the only way of solving them. As you say, we have got to draw a fine line. But right now we are operating in a vacuum where there is no line on eaves dropping, where anybody

can do it, and that has all the makings, I think, of abuse and is a great threat to civil liberties, and certainly in the field of public life, the field of business. We have had testimony about the number of businesses that go in for both wire tapping and eaves dropping. We have had a lot in my mind of very important testimony to help guide us. I think the other side of the coin, what I am trying to do and I think it is useful to the committee, is to ask the Attorney General in terms that won't impede his work if he could tell us the areas where he thinks the use of electronic devices is vital, and then he may list some types of crime that this committee doesn't consider to be that important, to give them a statutory exemption or whatever the approach will be. I think it would be useful information and it shouldn't involve a wrangle as to objectives.

MR. FOX: Well, you are speaking there, Mr. Chairman, in the broad generality of the field of law enforcement.

MR. FORBES: That's right. I am not asking him to itemize cases that they solve by electronic devices. It's a general question that I think would be helpful.

MR. RICHMAN: I can answer that question, Senator. I can think of no area in law enforcement where all of the modern devices, modern equipment, should not be used, when it is properly used, and you must rely upon your police officials to do the thing properly. They can be penalized if they do not. But I can think of no area in law enforcement that should not have at its command those devices.

MR. FORBES: Now, would you answer this: Do you think wire tapping should be legalized in the State of New Jersey?

MR. RICHMAN: Well, so far as wiretapping itself is concerned.

MR. FORBES: All law enforcement officials should have unrestricted powers in the matter of eavesdropping?

MR. RICHMAN: Right.

MR. FORBES: Do you think that should apply right down to the policeman on the beat, the lowest rung of the ladder of law enforcement?

MR. RICHMAN: I think you must leave that, eventually you will have to leave it anyway, but I think you must leave that to the controlling officers of the particular force or of the department or the agency involved.

MR. FORBES: Should the statute specify that the decision should be made only by the chief of police of a department?

MR. RICHMAN: I can think of many areas where that might be crippling.

MR. FORBES: Pardon me?

MR. RICHMAN: -- might be crippling and might be difficult. I can think of many occasions where the use of an eavesdropping device might be -- where it might be needed immediately.

MR. FORBES: In other words, you don't think any permission along the line anywhere should be required.

MR. RICHMAN: I think that the way to obviate the difficulty you're driving at, Senator, is to have properly trained and equipped policemen. I think that's why the Senate should pass a good police training bill so that ten years from now --

MR. FORBES: Well, now, if we are going to go into a political discussion, the Governor vetoed the bill that the Legislature passed.

MR. RICHMAN: the Governor vetoed a bill that wasn't workable.

MR. FORBES: All right, I'm sorry.

MR. SHERSHIN: Isn't this all out of order?

MR. FORBES: I agree, I apologize for my out-of-order, and Grover apologizes for his.

MR. RICHMAN: I am always willing to have you apologize for me.

MR. FORBES: To get back to this question then, in this particular area you think there should be no statutory rules or regulations as they pertain to the use of eavesdropping equipment, specifically, -- Would you include wire tapping equipment?

MR. RICHMAN: No, no.

MR. FORBES: All right, we'll say eavesdropping equipment --

MR. RICHMAN: In the police area.

MR. FORBES: -- in the police area which includes the policemen on the beat, which includes, I would presume, the other law enforcement agents such as ABC and one thing and another, that they should have unlimited and unrestricted use with no higher authority, no requested permission, but use at their discretion eavesdropping equipment.

MR. RICHMAN: That's right.

MR. FORBES: Well, I appreciate having your views on that particular score.

MR. RICHMAN: I can see, Senator, various areas where there might be abuse but if we get around --

MR. FORBES: So can I.

MR. RICHMAN: -- get around to the point of getting trained policemen on the beat, those areas would rapidly disappear.

MR. FORBES: Are you aware that there have been any abuses in New York State where wire tapping is legalized?

MR. RICHMAN: Senator, don't we have enough trouble in New Jersey? I don't think we ought to go into New York State.

MR. FORBES: No, but I am just talking about an instance in a state where wire tapping is legalized and where there's been abuse.--

MR. RICHMAN: I don't know of any. I know, I don't know of any.

MR. FORBES: -- by law enforcement.

MR. RICHMAN: I don't know of any.

MR. CUNDARI: Only one question, Mr. Attorney General, when you're talking about law enforcement agencies, you are talking about the policemen on the beat, I understand that you said if necessary they should be given the privilege of eavesdropping; what about the Barber Inspectors, the Tenement House Inspectors, the Game Wardens, would you term them all as a law enforcement agency which would also be able to use eavesdropping methods?

MR. RICHMAN: Well, in those quasi -- they aren't actually criminal areas in the true sense of the word, for example the Barber Inspector or the --

MR. CUNDARI: They are law enforcement agencies though, aren't they?

MR. RICHMAN: They are technically law enforcement agencies. They are not in the criminal business as such. I am talking about the enforcement of the criminal laws as such.

MR. CUNDARI: You were talking specifically about policemen because you mentioned the training the policemen have had.

MR. RICHMAN: Now don't misunderstand me. We have many, many fine policemen, and I think the vast majority of them are fine policemen and perfectly capable of properly deciding when to use these devices today. I think we could improve ourselves, that's all, but what I am talking about, Mr. Assemblyman, is the area of enforcement of the criminal statutes of this State.

MR. CUNDARI: Thank you.

MR. SHERSHIN: General, with respect to the wire tapping, what suggestions have you to offer to this Committee as to the limitations of legalized wire tapping for law enforcement agencies? What would you recommend?

MR. RICHMAN: I would prefer not to make recommendations because, as you know, I am a Member of the Governor's Cabinet. The last expression that I heard from the Governor was that he was opposed to legalized wire tapping. I am bound by whatever policy in that area that he prescribes. What I have expressed here today are purely my personal feelings.

MR. SHERSHIN: Well, can you give us your personal feelings as in your experience you had considerable experience both as Attorney General of this State as well as the Attorney General of the State in a federal capacity.

MR. RICHMAN: Well, certainly I think, putting it very roughly, Senator, I am not making this as a recommendation because I am not wholly in disagreement with the Governor's position, I can see sound reasons for it, but I think generally it has to be under the guidance and the protection of the court and I think generally it has to be limited to probably to myself and to the prosecutors of this State, but it must, in all events, be under the control and direction of the responsible judicial officer.

MR. SHERSHIN: All right, thank you.

MR. THURING: Now, Mr. Attorney General, with relation to the eavesdropping problem, has there come to your attention any abuses of the particular authority now vested in the hands of the police to use these devices? Just a yes or no answer.

MR. RICHMAN: Well, I prefer not to say just yes or no. I mean if you limit it to the police of whom I have a reasonably intimate knowledge, I would say no, but we have some ten thousand policemen in this State and I have no way of knowing what they are doing from day to day.

MR. THURING: There have been funneled down to you no serious number of --

MR. RICHMAN: Well, as a matter of fact, since this Committee started its investigation I have received just

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MR. THURING: There have been funneled down to you no serious number of --

MR. RICHMAN: Well, as a matter of fact, since this Committee started its investigation I have received just

three complaints about wire tapping itself.

MR. THURING: I'm referring my remarks now to eavesdropping.

MR. FORBES: Maybe there is less of it now that the Committee is functioning.

MR. RICHMAN: Usually they make it up anyway. And before the Committee functioned I didn't receive any complaints.

MR. FORBES: I think before the Committee adjourns we will have established that there have been instances of tapping which may not have come to your attention.

MR. KERBY: Mr. Richman, did you have the complaints checked out, that were reported to you?

MR. RICHMAN: Yes, all of them.

MR. KERBY: And what was the result of your check?

MR. RICHMAN: Negative.

MR. KERBY: Who checked for you?

MR. RICHMAN: The State Police.

MR. KERBY: Any particular person?

MR. RICHMAN: Any particular person?

MR. KERBY: In the State Police?

MR. RICHMAN: Would that make any difference?

MR. KERBY: Well, I might want to ask him what he found, specifically.

MR. RICHMAN: That's just what I thought.

MR. KERBY: Excuse me?

MR. RICHMAN: That's just exactly what I thought you might want to ask. That's a specific investigation,

it was conducted and had a negative result. I can see no purpose in pursuing it any further.

MR. KERBY: By negative you mean that no taps were found at the time he looked?

MR. RICHMAN: That's right.

MR. FOX: Well, you've gone even further than that, if I quote your own words correctly, have you not, Mr. Attorney General? I mean, I am referring specifically to the Devine case where you turned it over to them?

MR. RICHMAN: That's right.

MR. FOX: To a County Prosecutor for a further check.

MR. RICHMAN: That's right. As I recall it, a preliminary check was made by us and then turned over to the Prosecutor for a final.

MR. FOX: Or a specific test.

MR. RICHMAN: That's right. I do think the other three I mentioned were handled by us.

MR. FORBES: Do you think, Mr. Attorney General, in the area of eavesdropping that if a statute was proposed, written and proposed, that there should be a law to cover the area of eavesdropping other than by law enforcement officials?

MR. RICHMAN: Yes, I can see some necessity for that. I can see no necessity in the police area.

MR. FORBES: Even of regulating it?

MR. RICHMAN: That's correct.

MR. FORBES: But you do feel, in the case of wire tapping, it should be regulated or subject to court order if it were legalized.

MR. RICHMAN: Yes, I do.

MR. FORBES: And why do you differentiate eavesdropping from wire tapping?

MR. RICHMAN: Well I think because of the nature of the operation within itself, a telephone is a device that all of us have become accustomed to, all of us use and it is an easier problem to regulate from the standpoint of legislation. I think you would find an attempt to regulate eavesdropping devices does not admit of the relatively easy solution that the telephone does and that --

MR. FORBES: Well, if it required a court order similar to wire tapping.

MR. RICHMAN: I explained that I could see many instances where that would be impractical and impossible and would be an impediment. I mean, take for example, -- and now I am saying something which I shouldn't be saying, but this is purely hypothetical -- take for example in the enforcement of narcotics laws, they are investigations where it is not necessarily known when they go out whether or not they will need these devices, it is not known where they'll need them, how much they'll need them, they should be at liberty to use them carte blanche. And that isn't necessarily true of a telephone because that's something that other information has come to you that this telephone, this situation or that -- you have an opportunity then to go get an order and to submit some proof or some justification but you don't have, if you walk into a bar attempting to make a buy of narcotics, not knowing whether you are or not -- you should be ready for it.

You don't know whether you are going to find him in Bar A, Bar B, Bar C, or Bar D, or where he's going to be, or on the street corner.

MR. FORBES: Well that's what I mean by general and very helpful information to the Committee --

MR. RICHMAN: I knew I'd be helpful to you eventually.

MR. FORBES: Well I knew if I kept after you long enough you'd thaw and we'd get some assistance here.

Does any other member of the Committee have questions they'd like to ask of the Attorney General.

MR. THURING: Yes, Mr. Chairman. I was wondering whether we received an answer from the Attorney General with relation to whether or not he would be glad to give us some of the information we requested in a closed hearing, which would assist this Committee in formulating the policy for which it was set up.

MR. RICHMAN: Well, if we could operate on a purely informal basis and I'm sure we could all enjoy each other's confidence, I would be willing to attempt it. I won't go any further than that. I will be willing to attempt it.

MR. THURING: Thank you, sir, and Mr. Chairman I hope we can do that.

MR. RICHMAN: I want to be as helpful to this Committee as I can. I can see where you can do a fine job. I can see quite innocently where you can fall into a good many pitfalls and come up with rather a bad job, and if I can be helpful to you on an informal basis, I will try.

MR. FORBES: Well I think we have illuminated and illustrated where we got off in our difference of opinion earlier by a general type of discussion such as we have gotten into now, the area in which the kind of information we need you gave a specific example, hypothetical, general if you will, of an instance where if this Committee were to recommend legislation and the Legislature was to pass legislation saying that a court order would be required for the use of eavesdropping equipment it would thwart or at least restrain the usefulness in certain hands. Now, as to whether that decision that it can be used should come from a higher police officer or a responsible officer to the man on the beat, or whether the man on the beat can make the decision -- all those, as you can see, and well know, are difficult questions to so write a law that it is workable but at the same time protects the fundamental area of civil rights and individuals where there always can be abuse and, we are not looking for extremities, but I think it is the intent of the Legislature to bend over backward in the civil liberties area. I think that's the general framework that we are going to have to work within so that workable laws and ones that teeth in them for violators, and at the same time don't hamstring law enforcement, that's what we are trying to arrive at, and I want to thank you very much for your assistance here this afternoon. If there are no further questions at this time for the Attorney General, we will adjourn. Just a minute. Mr. Spindel?

MR. SPINDEL: You said that you would allow me to answer the Attorney General on some of the statements that he made. I just have a statement or two as to the facts.

MR. FORBES: All right.

MR. SPINDEL: You stated that the State Police had investigated the information that we had turned over to him at the time of our meeting in his office. At the time you stated that we had mentioned several taps and one of them was the Devine tap, and he said that their reports in effect were negative, they found nothing. I would like to remind the Committee that the former Mrs. Devine, Jr., testified that she had a recorder on the line. Our information also was that there was an additional recorder unknown to her placed on that same line.

I had stated to the Attorney General and to Major Keaton of the State Police that there was police cooperation in the area of West New York, New Jersey, and he stated that the report was negative. I would refer the Committee to sworn testimony before the New York State Legislative Committee investigating the illegal interception of communication where Sergeant Policastro of the West New York, New Jersey, Police voluntarily appeared in the State of New York to give testimony. He stated that he did know Mr. Gris; that he did permit Mr. Gris to put Mr. Gris' telephone line, his office line, in his own home; that he took messages for him and that he received mail for him. He also testified that they did have similar equipment to this, and I submit this to the Committee, this is a trans-

mitter that our information had at the time I talked to the Attorney General, as one of about six photographs of a kit that's used for electronic eavesdropping, that particular unit and that serial number is charged out to the West New York, New Jersey, Police. That photograph was taken while it was in the custody of Mr. Gris. Sergeant Policastro further testified that they have similar equipment and that on occasions he did help Mr. Gris both with the loaning of equipment and in other matters he did assist him.

We have the testimony of a Richard C. Robinson, a former employee of Charles B. Gris, who testified under oath that Mr. Gris gave him an envelope of money and sent him to the Research Products Corporation in Danbury, Connecticut, who was a manufacturer of this equipment and he was instructed to state that he was there to pick up a package for the West New York, New Jersey, Police and pay the envelope with money, which he did, and he returned with the electronic eavesdropping equipment.

Additional testimony that I gave before the Committee was that at the time of that hearing we had checked with the Federal Communications Commission and the West New York, New Jersey, Police did not have the required license to operate this type of equipment. And the statement of the Attorney General that the reports were negative is something beyond my comprehension.

MR. FORBES: Thank you.

MR. RICHMAN: May I say one thing?

MR. FORBES: Yes, I'd like to ask you to, Mr. Richman.

MR. RICHMAN: Just to clarify one thing. I do want to call to your attention that there is, Prosecutor Morss reminds me, an old common law offense of eavesdropping where it is malicious. That does exist in the common law. I know of no instance where it has been enforced. New York State does have an eavesdropping statute, as you know.

MR. FORBES: Yes, but I would like to ask you about the point that has just been raised. You said the report by Major Keaton was negative. How, under those circumstances, could it be negative when the people concerned said they had equipment on their phone and had put it there?

MR. RICHMAN: You apparently are relying solely on Mr. Spindel's testimony.

MR. FORBES: No, Mrs. --- at that time it was --

MR. RICHMAN: That was a tap tester.

MR. FORBES: A tap tester?

MR. RICHMAN: A tap tester, she said it was.

MR. FORBES: And recorder.

MR. RICHMAN: As I recall she said it was a tap tester.

MR. FORBES: And she said she tried to play it back.

MR. CUNDARI: It didn't work after the first time. That's what she said, yes.

MR. RICHMAN: It was on her own phone.

MR. FORBES: Pardon me?

MR. RICHMAN: It was on her own phone. I thought the inquiry was whether or not the phone was tapped by some unauthorized person.

MR. FORBES: Well --

MR. CUNDARI: I'm disturbed about the kit. Was that a kit that was used and operated by the police department of West New York?

MR. SPINDEL: That is owned by the Police Department of the West New York, New Jersey, Police. It's an entire kit which has three transmitters, one receiver --

MR. THURING: Senator, there is just one question for Mr. Spindel. There seems to be confusion in my mind about the communication you said you had with the Attorney General's office. The only communication you had was at the time when you first visited Trenton and spoke to the Attorney General?

MR. SPINDEL: I spoke personally with Major Keaton and the Attorney General, and about two weeks following that, I had requested that a particular name be checked because the information we had at that time was that that individual was a police official of a County in Florida and our information had it that that was a false statement that he had made and that he was here specifically for another assignment, and he was working in the Newark area in cooperation with the constable and a police officer in Newark, and if that name proved false then our file, as it stood, was accurate, and that we would make those files available. After not hearing from Major Keaton for two weeks I called him and asked him if he had heard anything and he said that he had not heard as yet but he would notify me when he did hear. That was the last communication I had with him.

MR. THURING: They were the only two names that you could submit to the Attorney General's office, is that correct?

MR. SPINDEL: I believe there are about five names all told, six names.

MR. THURING: Do you recall any of the other names outside of the two cases cited here?

MR. SPINDEL: In addition to that the other names that were mentioned -- one was a constable in that area, and one was a police official. Sergeant Policastro's name was injected at that time.

MR. THURING: Well that was in conjunction with the West New York case, wasn't it?

MR. SPINDEL: Well, that was tied in with the possible cooperation of police in the tapping of the Devine telephone.

MR. FORBES: Mr. Attorney General, one further question on that. When the reports came back negative, how did that square away with Mr. Policastro's testimony as to the wire tapping in his sworn testimony before the New York Committee?

MR. RICHMAN: I don't recall the details of it now. Major Keaton, I understand, will be before you. I don't really know.

MR. FORBES: All right. Thank you very much. Now if there are no further questions, the Committee would like to express its appreciation to the wittnesses who were here this afternoon. We would particularly like

to express our appreciation to the Attorney General and to Mr. Spindel. His demonstration here this morning was very helpful and illuminating on the subject of wire tapping, and we appreciate it a lot.

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HEARING ADJOURNED UNTIL

WEDNESDAY, SEPTEMBER 26, AT 10 A.M.