

<b>Act Number</b>	<b>Session</b>	<b>Bill Number</b>	<b>Total Number of Committee Pages</b>	<b>Total Number of House Pages</b>	<b>Total Number of Senate Pages</b>
PA 71-68		5080	50	123	101
<u>Committee Pages:</u> <ul style="list-style-type: none"> <li>• <i>Judiciary 1-10</i></li> <li>• <i>Judiciary 16-49</i></li> <li>• <i>Judiciary 56-61</i></li> </ul>				<u>House Pages:</u> <ul style="list-style-type: none"> <li>• 836-949</li> <li>• 1318-1326</li> </ul>	<u>Senate Pages:</u> <ul style="list-style-type: none"> <li>• 822-922</li> </ul>

**H-109**

**CONNECTICUT  
GENERAL ASSEMBLY  
HOUSE**

**PROCEEDINGS  
1971**

**VOL. 14  
PART 2  
449-973**

Tuesday, March 23, 1971

9

MR. GILLIES:

ad

Calendar No. 129, House Bill No. 5407, File No. 113,  
I move pursuant to House Rule 48, the acceptance of the Joint  
Committee's favorable report and passage of this bill.

MR. SPEAKER:

Is there objection to taking this item up without debate.  
Hearing none, we'll treat it as a Consent Calendar item, the  
question is on acceptance of the Joint Committee's favorable  
report and passage of the bill. All those in favor indicate  
by saying "Aye". Those opposed. The bill is passed.

CLERK:

Bottom of Page 2. Favorable Reports.

Calendar 100. HB 5080

MR. SPEAKER:

The Chair recognizes the Chairman on Judiciary Committee,  
Representative Carrozzella from the 81st.

MR. CARROZZELLA:

Mr. Speaker, I move for acceptance of the Joint  
Committee's favorable report and passage of the bill.

MR. SPEAKER:

Question is on acceptance and passage. Would you remark.

MR. CARROZZELLA:

Mr. Speaker, I believe the Clerk has one of several  
amendments.

MR. SPEAKER:

The Clerk please call and provide the Speaker with a

Tuesday, March 23, 1971

10

copy of House Amendment Schedule "A".

ad

CLERK:

House Amendment Schedule "A" offered by Mr. Carrozzella of the 81st. In line 517, after the word "evidence" insert the following: "only insofar as it relates to the crimes set forth in section 2 of this act".

MR. SPEAKER:

Representative Carrozzella.

MR. CARROZZELLA:

Mr. Speaker, I move for adoption of House Amendment Schedule "A".

MR. SPEAKER:

Question is on adoption of House Amendment Schedule "A".  
Will you remark.

MR. CARROZZELLA:

Mr. Speaker, this amendment is designed to assure that any evidence obtained as a result of a duly authorized tap, that the only evidence that can be used in any criminal proceedings is the evidence that relates to the three categories of crimes for which a tap is originally authorized. In other words, Mr. Speaker, the bill says a wire tap can be authorized in the case of gambling, in the cases of the sale of drugs, in felonious crimes of violence. The amendment assures the fact that any evidence other than relating to those three categories cannot be used against the person whose wire is tapped. It is an amendment which goes to the very heart of the many

Tuesday, March 23, 1971

11

ad

objections to this bill, namely the right to privacy. It is an amendment which assures that the evidence we initially start out looking for will be the only evidence that can be used in any criminal proceedings. It tightens up the bill, it is a good amendment, I hope it is adopted.

MR. SPEAKER:

Will you remark further on the amendment. Representative Stevens, from the 122nd.

MR. STEVENS:

Through you sir, to the gentleman who recorded the bill, if he cares to answer a question. Is it the intention of this amendment that if an application for a tap for the specified crime of gambling is obtained and during the course of the tap evidence of the commission of one of the other two specified crimes in this act is obtained, may that latter evidence relating to, for instance, narcotics, which is uncovered during a gambling tap, may that evidence of narcotics be admitted in a subsequent criminal prosecution.

MR. SPEAKER:

Does the Chairman of the Judiciary Committee, the House Chairman of the Judiciary Committee care to respond?

MR. CARROZZELLA:

Through you, Mr. Speaker, to the gentleman from Milford, I would believe and would assume that this would be the case, yes. It would be the same situation as a search warrant where you come upon an article which is open and obvious even though

Tuesday, March 23, 1971

12

ad

that wasn't included in the warrant that could be used as evidence. Yes is the answer.

MR. SPEAKER:

Will you remark further on the amendment. Representative Collins.

MR. COLLINS:

Mr. Speaker, now that we have a bit of legislative intent in this particular amendment, I think that it may be the only one we can support today, but we will do it early, if not often.

MR. SPEAKER:

Will you respond further.

MR. AJELLO:

Mr. Speaker, this amendment is extremely important to those of us who have considered the bill carefully and who find difficulty in supporting it, as I intend to do, I hope eventually this afternoon. And I think it should be made clear as a matter of reference here in our legislative proceedings that it is our intent that other than the purposes which are set forth in the bill, and the purposes for which these taps are obtained, it is the intent of this legislative body that no other use of this information be made, whether it is at a trial, at a collateral proceeding of some sort and especially in the kinds of articles we have seen printed in national magazines, as a result of wire tap activities in the past. If I thought for a moment, and I'm sure that I speak for many of

Tuesday, March 23, 1971

13

our members, that we were opening the door to that kind of an invasion of privacy to the possibility even of any kind of smear or the big lie technique or simply the revelation of a person's private life, which has no legitimate purpose other than to detract from the standing in the community, I would not support any aspect of the bill. So I think that the record should be clear that it is our intent that no unauthorized or improper use of this information be made and that law enforcement officials will bear that in mind in their administration of it. I am sure it is their intent also.

MR. SPEAKER:

Further remarks on the amendment Schedule "A". If not, all those in favor indicate by saying "Aye". Those opposed. Amendment is adopted. The Chair will rule it technical, we may proceed with the bill as amended by Amendment Schedule "A". Representative Carrozzella.

MR. CARROZZELLA:

Mr. Speaker, the Clerk has another amendment.

MR. SPEAKER:

The Clerk will call it House Amendment Schedule "B".

CLERK:

House Amendment Schedule "B", offered by Mr. Carrozzella of the 81st. In line 96, after the word "been," insert the word "or" and after the word "being" delete "or is about to be".

In line 101, after the word "been," insert the word "or" and after the word "being" delete "or is".

ad

Tuesday, March 23, 1971

14

In line 102, delete the words "about to be."

ad

In line 109, after the word "committed," insert the word "or" and delete "or is about to commit".

In line 201, delete "of is about to commit".

MR. CARROZZELLA:

Mr. Speaker, I believe that is a typographical error, that should read "or is about to commit".

MR. SPEAKER:

Clerk please correct that.

CLERK:

In line 201, delete "or is about to commit".

In line 205, after the word "committed," insert the word "or".

In line 206, delete "or is about to be committed".

MR. CARROZZELLA:

Mr. Speaker.

MR. SPEAKER:

I believe that the Clerk completed the reading of the Amendment.

CLERK:

Yes.

MR. SPEAKER:

Representative Carrozzella.

MR. CARROZZELLA:

Mr. Speaker, I move for adoption of House Amendment Schedule "B".

Tuesday, March 23, 1971

15

MR. SPEAKER:

ad

Questions on adoption of House Amendment Schedule "B".  
Will you remark.

MR. CARROZZELLA:

Mr. Speaker, again, this amendment is designed to tighten up and assure a complete right to privacy insofar as lawful abiding citizens are concerned. And here if you read line 96, the bill as is before us says "the tap can be obtained for any violation of gambling, narcotics, felonious crimes of violence that have been or being committed". It then goes on to say "or about to be committed". And a very good question has been raised, what is a crime that is about to be committed. When do we know when this is about to take place. How can the authority that goes before the three court panel get established probable cause for a crime that is about to be committed in the future. What we are saying really, is that that is too wide, that the door is wide open, that this leads to the very thing we are trying to avoid. And what we are saying by this amendment, we are deleting any reference to any crime that is about to be committed in the future because we just can't envision any situation where we can show probable cause for a crime about to be committed. And therefore, the bill would only apply to a crime that has been committed or is being committed now today. I think it is a good amendment and I urge its adoption.

MR. SPEAKER:

Will you remark further on the amendment, Representative

Tuesday, March 23, 1971

16

Collins of the 165th.

ad

MR. COLLINS:

Mr. Speaker, the afternoon is beginning. I rise in opposition to this amendment. In contrary to what the distinguished Chairman of the Judiciary Committee has said, I think that the adoption of this amendment would seriously emasculate the intent of the electronic surveillance and wire tap bill. And the reason is that the proposed amendment would take away any law enforcement protection whatsoever in terms of crimes that about to be committed. And I submit to the Chairman of the Judiciary Committee if this amendment is adopted it will severely restrict and unduly restrict law enforcement officials in gathering evidence in any number of crimes which are not in the active perpetration. And I would ask the members of this body just as a matter of plain ordinary common sense, how are we going to get a wire tap, how are we going to get a wire tap while a crime is in the course of being committed. Doesn't it make more sense to call the police to arrest the perpetrators of the crime while it is being committed rather than getting a wire tap. The intent of wire tap legislation and I think it's pretty much agreed to by all of the people in this House is to assist law enforcement officials in the fight on organized crime. To take out this provision would seriously hamper the very need, the very intent of this particular bill. If the amendment is deleted, we would have absolutely no assistance in the prevention or

Tuesday, March 23, 1971

17

detection of the crimes which this bill is intended to get at. And I would also submit to the Chairman of the Judiciary Committee, who indicates just what does about to be committed mean. I would say to him, the federal law has this provision in it. The federal wire tapping law which has been law for some two years now, carries the exact same provision. It's not deleted in the federal law, it does not appear to have been a substantial problem to the members of the federal bench in interpreting what this means. It's a bad amendment, it would seriously hamper this bill, it would seriously hamper law enforcement officers in carrying out the intent of this bill. I urge its absolute rejection and I move when the roll be taken, it be taken by roll call.

MR. SPEAKER:

Question is on a roll call. All those in favor indicate by saying "Aye". More than twenty percent having asked for it, a roll call will be ordered.

The question pending before us is on Amendment Schedule "B". Will you remark further or should I announce an immediate roll call.

Representative Cretella.

MR. CRETELLA:

Mr. Speaker, I rise in opposition to the proposed amendment to this bill, briefly to point out one factor in addition to that which has already been pointed out as to the difficulty of obtaining a wire tap at the instance that the crime is being

ad

Tuesday, March 23, 1971

18

ad

committed. I point out that in effect a wire tap as it is being used in this bill, has the same effect as a search warrant. It is merely a different method of obtaining evidence, it is a method of searching and rather than searching the premises, you are searching out illegal conversation. Now, it is impossible as we know to obtain a search warrant and know that the evidence we are seeking is going to be there. I point out the same thing insofar as the wire tap is concerned. The wire tap is asked for in the hopes of obtaining the evidence on the crimes specified and therefore, the amendment if adopted, would thoroughly remove this very necessary procedure and I urge that this amendment be defeated.

MR. SPEAKER:

Will you remark further on House Amendment Schedule "B", as offered by the gentleman of the 81st. Representative Bingham of the 157th.

MR. BINGHAM:

Mr. Speaker, I rise in opposition to the amendment. One of the things that should be remembered while enacting the electronic surveillance and wire tap bill, is that we are trying to prevent crime. And if we strike these words "or is about to be committed", we will never be able to prevent crime. I might also add that in the surrounding states, those states which have an electronic surveillance bill, the words "or is about to be committed" are in the bill. For instance, in New York State a bill which has been approved by the highest court of

Tuesday, March 23, 1971

19

that state have the language in the bill. In my opinion, to strike these words from the electronic surveillance bill would be to greatly emasculate the bill and render the bill inoperable and to render the bill ineffectual. And therefore I will vote against this amendment.

MR. SPEAKER:

Representative Carrozzella for the second time.

MR. CARROZZELLA:

Mr. Speaker, for the second time on the amendment, I would disagree respectively with my distinguished colleague from Stamford. This amendment does not, as a matter of fact, make the bill inoperable. As a matter of fact it makes it a better bill. As my distinguished colleague knows, no court in the United States or in this state, has ever held that a crime about to be committed amounts to probable cause. He knows that and I am sure he is quite aware of that fact. How do you say that a crime is about to be committed. This is something that has not yet occurred and how could you therefore go in before the three court panel and establish probable cause that this is about to be committed. This is an impossibility. And I say that the amendment makes the bill a better bill. Now reference was made to the fact that this is contained in the federal bill. That is not a model for the people of the state of Connecticut. I want a better bill than the federal bill and I say that deleting this makes it a better bill. We should delete it, we should adopt the amendment.

ad

Tuesday, March 23, 1971

20

MR. SPEAKER:

Further remarks. Representative Bard of the 145th.

MR. BARD:

Mr. Speaker, I rise in opposition to this bill because I think that if this amendment passes, I don't see how he possibly can use this bill to stop drug traffic. If we had a situation where we suspected that drugs were being brought into Connecticut from a certain point and there was a information that lead us to believe who was doing it, we could tap the wire to find out about these things as they have done in Washington after this bill was passed in 1968. In one instance a wire was tapped and within a six week period, six thousand calls had been made to an individual on drugs. And we would never be able to do this with this amendment if it passes. So for that reason alone I think that we ought to defeat this amendment.

MR. SPEAKER:

Further remarks. Representative Oliver.

MR. OLIVER:

Mr. Speaker, I rise to support the amendment. It is absolutely crucial to the constitutionality of this bill if it is constitutional at all. That is about to be committed, be taken out. I think the United States Supreme Court in New York decided a few years ago, makes it very clear the probable cause under the Fourth Amendment applies to wire tap and I believe there the purpose, the Court stated, the purpose of the probable cause requirement of the Fourth Amendment is to keep

ad

Tuesday, March 23, 1971

21

ad

the state out of constitutionally protected areas until it has reason to believe specific crime has been or is being committed and that is what it said, nothing about what is about to be committed, could be committed, might be committed, should be committed by those evil people. That's nonsense, it's unconstitutional, we need this amendment.

MR. SPEAKER:

Further remarks on the amendment. Representative Stevens.

MR. STEVENS:

Mr. Speaker, there's no question that the entire subject of wire tap is one which the Supreme Court of the United States has never specifically ruled upon. In the catch in the Burger case, one of which is already made reference to, the Supreme Court established a number of elements which should be in a wire tap bill but did not rule as to whether or not it would be constitutional. In the New York case Mr. Oliver has just cited, the Court did not rule upon the specific question as to whether or not a crime is about to be committed. And to answer Mr. Carrozzella's remarks concerning how you would get evidence, let me say to you, suppose there was a reliable informer whose affidavit can be used to establish probable cause in the state of Connecticut today. Suppose you had a reliable informer who brought evidence to the proper authorities that a shipment of narcotics was to be brought into the state of Connecticut. A crime is about to be committed sometime in the next ten days.

Tuesday, March 23, 1971

22

ad

This, if the person was reliable, could justify the issuance of a tap, without having "is about to be" in the bill, there is no way you could ever find when the shipment was coming into this state and intercept it. Furthermore, the entire question as to the constitutionality of "is about to be" was considered by the Judiciary Committee of the United States Senate. They finally decided that the Supreme Court had not prohibited the inclusion of "about to be committed" and therefore you will find in Title 18, Section 251A of the United States Code, crimes that are about to be committed are included in the federal wire tap bill, without having "about to be" in this bill, there is no way that wire tap can assist law enforcement in Connecticut in preventing crimes. If wire tap is to be effective to prevent a crime from occurring, it must have "is about to be" in the bill. If you take it out, it makes it a tighter bill, but a tighter bill for who, certainly not law enforcement in our state.

MR. SPEAKER:

Further remarks on the amendment.

MR. SPEAKER:

Representative Ajello.

MR. AJELLO:

Mr. Speaker, I rise in support of the amendment and I think that the kind of problem that we're trying to illustrate here is summed up very well by some remarks made to the committee by David R. Weinstein, who is the Executive Director of the Planning Committee on Criminal Administration. Referring to the phrase

Tuesday, March 23, 1971

23

ad

that we're considering. It is unclear what it means "about to commit a crime". The slipperiness of the concept of crime about to be committed, leaves open the possibility of the general fishing expeditions will be permitted under the guise of searching for evidence concerning a not quite crime. Such a possibility (inaudible) that the bill will be declared unconstitutional because it may not comply with the United State's Supreme Court's decisions and he sets forth several of them. I think that here in the Constitution State many of us must search our conscience to a great extent to be able to endorse any wire tap bill passing before this body. And I think that we do want it to be as restrictive as possible, that we do want to prevent general expeditions and searches. What speaker before the Judiciary Committee referred also to the possibility with this kind of language in the bill of a searching examination of the activities of certain groups perhaps within a city under the guise of searching for evidence of a crime about to be committed, the police might very well gather substantial amounts of information by use of a wire tap without, in fact, having any more in their minds than a general allegation that there is a traffic in drugs or one of the enumerated purposes here in this bill and less the members think that this is so far fetched, I personally had occasion to see the kinds of investigative reports that are being made constantly throughout our state by police officials delving into every aspect of the operation of certain groups within cities and the question is,

Tuesday, March 23, 1971

24

ad

I think, really whether or not we want to arm the police with that kind of authority in the State of Connecticut. I think that I agree with those who say the concept of crime about to be committed is impossible of definition, that it's merely authorizing the kinds of fishing expeditions that in the wrong hands can lead to disaster and I refer again to the kinds of national publicity that have been published out of transcripts of this kind of thing in Life Magazine and in other publications, the names of which escape me for the moment. I think that we want to be restrictive about this, I don't think that without this phrase the bill is inoperable, quite the contrary, it does what we are directing them to do and it is usable and I think that it is a good amendment and I hope it will be adopted.

MR. SPEAKER:

Representative Votto of the 116th.

MR. VOTTO:

Mr. Speaker, I rise in support of the amendment, though there is some merit in wire tap bill, directing its attention to a preventive tight approach. It is a serious question as to whether or not a bill with the words "about to be committed" will withhold a constitutional test. Well, there is very little body of law to guide us in this area. We do not know quite frankly whether or not the federal wire tap bill is constitutional. So directing attention to the federal level will not in and of itself provide us with a guide line. We do have a certain area of body of criminal law which would be

Tuesday, March 23, 1971

25

ad

somewhat helpful in analyzing this bill. That is in our area of search and seizure and the applications for search and seizure warrants. Our courts in Connecticut have said quite often that a general search is repugnant. General search is not permitted, it requires specificity in the applications in the affidavits to even obtain a search warrant. Now in most legal circles a wire tap is certainly, can be looked upon as a greater infringement or restriction on the privilege given to us under the Fourth Amendment. It's a greater invasion of the right to privacy and one should carefully scrutinize the use that any law enforcement officer or agency will make of this wire tap authority, in order to withhold the constitutionality or any attack on this bill is my humble opinion that our bill is stronger, tighter and safer bill with the amendment.

MR. SPEAKER:

Further remarks on Amendment Schedule "B". Representative Rose from the 69th.

MR. ROSE:

Mr. Speaker, I rise to oppose the amendment. I'm not a lawyer, but it makes common sense to me that if we do adopt such an amendment, we are saying to the State of New York and the criminals who reside in the State of New York, come on over boys, plan your crime, go back over there and commit them. This is exactly what I'm sure would happen. We're surrounded by states that do permit this type of wire tapping and we are going to exclude it and invite in all the criminal elements in

Tuesday, March 23, 1971

26

ad

our sister states. I oppose the amendment.

MR. SPEAKER:

Representative Nevas of the 144th.

MR. NEVAS:

Mr. Speaker, I rise to oppose the amendment. I would point out to those who are concerned about fishing expeditions, that one of the reasons why there was inserted in the bill a limitation of 35 taps a years, was to prevent just that. And it was anticipated that because of the limitation put into the bill, the State Police would be judicious in those applications that they made and very careful to be certain that where they sought this permission, it was absolutely necessary and warranted and they would not go off on fishing expeditions.

MR. SPEAKER:

Further remarks.

MR. COLLINS:

Mr. Speaker.

MR. SPEAKER:

Representative Collins speaking for the second time.

MR. COLLINS:

Mr. Speaker, without going through again each of the comments made by the various speakers on both sides of this particular issue, I would just like to wind up the comments at least for me on this particular amendment, with the fact that the adoption of this amendment will, and I cannot use the words too strongly emasculate the intent of this bill. If we

Tuesday, March 23, 1971

27

take out this particular provision, a provision which presently exists in the federal law, in the New York law and New Jersey law on wire tapping and electronic surveillance, we will be, as one speaker put it, making this a tighter, safer and better bill. But for the criminal, whom this bill is directed. Not for the law enforcement officials, not for those of us who are concerned about the traffic in drugs, in gambling and felonious crimes. I think we all have to take a moment to look and reflect just what we are doing with this amendment. If you support wire tapping as an effective tool in the fight against organized crime, I find it rather difficult to base on rather spacious constitutional grounds opposition to the bill as it presently is written. It is a bad amendment, it would serious hamper the entire intent of this bill and I again urge its rejection.

MR. SPEAKER:

Further remarks. The members be seated and the aisles cleared.

The gentleman from the 29th.

MR. GAFFNEY:

Mr. Speaker, the question for the distinguished Chairman of the Judiciary. Two years ago at this time, this House passed a bill which was later upset in the Senate which caused some outcry. This very clause that we are trying to delete today, the question is, was that clause in that bill.

MR. SPEAKER:

ad

Tuesday, March 23, 1971

28

ad

Gentleman from the 81st care to respond.

MR. CARROZZELLA:

Mr. Speaker, to the best of my recollection, I believe it was and that's one of the reasons perhaps it was defeated upstairs.

MR. GAFFNEY:

Mr. Speaker, that may be true, but if I remember distinctly, it was the distinguished gentleman from the 81st who lead the fight on this floor to put that bill through. It was subsequently a no vote by the Lieutenant Governor that caused the great outcry and I don't think that the Chairman today has outlined sufficiently his reasons for changing his mind, and we submit it and he recently submit it, along with other distinguished members of the Judiciary Committee a bill which included that clause which was subsequently, in my opinion, pressured out of the bill.

MR. SPEAKER:

Further remarks before we vote. If not, will the members be seated. The machine will be open. Has every member voted. The machine will be locked and the Clerk will take a tally. The Clerk will announce the tally.

CLERK:

Total number voting 166

Necessary for adoption 84

Yea 94 Nay 72

Absent and Not Voting 11

Tuesday, March 23, 1971

29

MR. SPEAKER:

Amendment "B" is adopted. The Chair will rule it technical and we can proceed with the bill as amended now by House Amendment Schedule "A" and "B".

Clerk will call Amendment Schedule "C".

CLERK:

House Amendment Schedule "C" offered by Mr. Carrozzella of the 81st.

In line 180, after the word "state," delete the words "so far as".

In line 181, delete the word "possible" and the comma.

MR. CARROZZELLA:

Mr. Speaker.

MR. SPEAKER:

Representative Carrozzella.

MR. CARROZZELLA:

I move for adoption of House Amendment Schedule "C".

MR. SPEAKER:

Question is on adoption of House Amendment Schedule "C", will you remark.

MR. CARROZZELLA:

Mr. Speaker, this I believe, is a technical amendment and should not offer any controversy. If you read line 180, it says the application shall also state so far as possible the basis of the informant's knowledge or belief. We want to make, by this amendment, to make it crystal clear, that the affidavit shall

ad

Tuesday, March 23, 1971

30

state that information without any question and not so far as possible. It's a good amendment, again it helps tighten up a good bill.

MR. SPEAKER:

Further remarks on the amendment. Representative Collins.

MR. COLLINS:

Mr. Speaker, the distinguished Chairman of the Judiciary Committee is correct. We do support this amendment. It is not controversial and it does clean up the bill.

MR. SPEAKER:

Further remarks on the amendment. If not, all those in favor indicate by saying "Aye". Those opposed. Amendment "C" is adopted. It's ruled technical, we may now proceed with the bill as amended by House Amendments "A", "B", and "C".

Representative Carrozzella.

MR. CARROZZELLA:

Mr. Speaker, the Clerk has another amendment.

MR. SPEAKER:

Will the Clerk call Amendment Schedule "D".

CLERK:

House Amendment Schedule "D", offered by Mr. Carrozzella of the 81st.

In line 258, insert after the word "statement" the word "that" and delete the words "as to whether or".

In line 259, delete the word "not".

MR. CARROZZELLA:

ad

Tuesday, March 23, 1971

31

Mr. Speaker.

MR. SPEAKER:

Representative Carrozzella.

MR. CARROZZELLA:

This is another attempt to clear up the language and clear up an inconsistency. In line 258 it says "including a statement as to whether or not the interception shall automatically terminate when the desired communication has first been obtained". But if you go on to read line 275 and thereabouts, it says that the interception shall cease automatically when the desired information has been obtained. The purpose of the amendment is to make both provisions equal. Now I might say in this regard, that once the application is made, the tap is put on and the desired information is obtained, there is no reason why the tap should keep going on beyond that point because the evidence that initially was asked for has been obtained and there is no further reason to go on unless it is for a fishing expedition. Again, the amendment clarifies the inconsistency that presently exists in the bill. It's a good amendment, I urge its adoption.

MR. SPEAKER:

Representative Stevens from the 122nd.

MR. STEVENS:

I am rising in opposition to this amendment and I would state at the outset that I would request that when the vote be taken on this amendment, that it be taken by roll call.

MR. SPEAKER:

ad

Tuesday, March 23, 1971

32

Question is on a roll call. All those in favor indicate by saying "Aye". More than twenty percent having called for, we'll announce a roll call.

Representative Stevens.

MR. STEVENS:

Mr. Speaker, I must rise in opposition to the amendment because I think the distinguished Chairman of the Judiciary is in error when he says there is an inconsistency in this bill. There is a very vital distinction between the section on line 258 in which you proposed to delete the language as to whether or not, and the succeeding section on page 276. The difference being, if this amendment is accepted it will mean that the statement must say, once the desired communication is first obtained, you must stop the wire tap. The succeeding section does not say that. It says upon obtainment of the authorized objective. This means that if we have a ten day authorization for let us say, a felonious crime of violence such as a murder, this would mean that once you obtain some information, first obtain some information from the tap, you would have to cease the tap. That is absurd. Law enforcement should be able to continue the required ten days and obtain accumulative evidence. It could be that the first evidence obtained would not be sufficient for law enforcement to prosecute. This amendment, in my opinion, is nothing but a way that defense attorneys can defeat a wire tap. I say this because defense attorneys utilizing this amendment if it is passed, could argue that

ad

ad

evidence was first obtained when a very little bit of evidence was obtained from the wire tap and subsequent evidence of a substance of nature which showed the details to particulars of a crime would be inadmissible because there was first some minor evidence of the desired objective. I think it's a very bad amendment, it combined with the previous amendments that have passed do seriously hamper any effect whatsoever of this bill against organized crime in our state.

MR. AJELLO:

Mr. Speaker.

MR. SPEAKER:

Representative Ajello of the 118th.

MR. AJELLO:

I am somewhat surprised of the remarks of the distinguished attorney. I think that what he says is not a fair or literal interpretation of what the language of the bill says. When he says that this language can be construed as requiring the cessation of the tap at the time the first information is obtained, that just isn't the case. The language of the bill says when the desired communication, in other words, the bill that we're adopting says, when you've obtained that for which is sought to make a wire tap, then you will stop, because beyond that point there is no logical or reason for continuing a tap except for the purpose of fishing and general gathering of information. So I think it is a very distinct and clear situation and this amendment is necessary.

Tuesday, March 23, 1971

34

ad

MR. COLLINS:

Mr. Speaker.

MR. SPEAKER:

Representative Collins of the 165th.

MR. COLLINS:

It pains me deeply to get up and disagree with the distinguished Majority Leader, a very competent lawyer, but apparently he can't read line 259, 260, I'm sorry. However, line 260 very clearly under the proposed amendment leaves in the phrase "when the desired communication has first been obtained" and lawyers not with standing, words and phrases not with standing, first obtained does not mean when obtained. It means when first obtained, it leaves a gaping and rather obvious hole for any defense attorney, if they're defending against a wire tap. And I would submit to you, Mr. Speaker, and to the ladies and gentlemen in this body, that what we are doing by this amendment is not tying up or making technical changes, we are creating holes that would be large enough for several lawyers to drive trucks through.

MR. SPEAKER:

Let me announce an immediate roll call. Further remarks on this amendment. Representative Bingham.

MR. BINGHAM:

Mr. Speaker, I speak in opposition to the amendment. We have certain safeguards in the bill. We are now again trying to emasculate the bill. When a petition is made or we seek to

Tuesday, March 23, 1971

35  
ad

authorize a tap, a certain time limit is put on this particular tap for a specific purpose. And the specific purpose is to prosecute the particular crimes that we are seeking to prosecute. This authorized objective certainly must be within the discretion of the person conducting the tap and should not be cut off upon the receipt of first evidence and I think again, here we are emasculating a bill of which is designed to prosecute organize crime that which we all seek to prosecute in this state.

MR. SPEAKER:

Further remarks on the amendment. Representative Gaffney from the 80th.

MR. GAFFNEY:

Mr. Speaker, Amendment Schedule D be reread by the Clerk please.

MR. SPEAKER:

The Clerk reread Schedule "D".

CLERK:

House Amendment Schedule "D" offered by Mr. Carrozzella of the 81st.

In line 258, insert after the word "statement" the word "that" and delete the words "as to whether or".

In line 259, delete the word "not".

MR. SPEAKER:

Further remarks on the amendment. Representative Carrozzella.

March 23, 1971

36

MR. CARROZZELLA:

ad

I don't think we are emasculating this bill at all by this amendment. What we're trying to do is make it constitutional. We're trying to make a good bill better. We're trying to conform to the Burger standards and to set the standards for a law enforcement official. We're saying, if you have reason to believe that there is a crime being committed, come in before the court and say what you want to get and then we're saying, what you got what you came in for, stop. There's no reason to go beyond that point unless you want to fish around for other information and that's what we're opposed to. Once you get what you asked for, stop. It's a good amendment, I urge its passage.

MR. SPEAKER:

Further remarks on the amendment. If not, let's vote. The machine will be open. Has every member in the Hall voted. Is your vote properly recorded. The machine will be locked and the Clerk will take a tally. The Clerk will announce the tally.

CLERK:

Total number Voting	161
Necessary for adoption	82
Yes	95
Nay	66
Absent and Not Voting	16

MR. SPEAKER:

Amendment is adopted, the Chair will rule it technical.

Tuesday, March 23, 1971

37

We now can proceed with the bill as amended by Amendment Schedule "A", "B", "C" and "D".

MR. CARROZZELLA:

Mr. Speaker, the Clerk has another amendment.

MR. SPEAKER:

The Clerk will call House Amendment Schedule "E".

CLERK:

House Amendment Schedule "E", offered by Mr. Carrozzella of the 81st.

In line 431, after the word "intercepted" and before the semicolon, insert "under the provisions of this act".

MR. CARROZZELLA:

Mr. Speaker.

MR. SPEAKER:

Representative Carrozzella.

MR. CARROZZELLA:

This is a technical amendment. What it does is tie down the fact that any motion to suppress would be insofar as any provision under the terms of this particular act and by that we mean to include the three judge panel can be questioned and so forth as to whether or not they have probable cause. We just want to make sure that it ties it down to all the provisions of this act. It's a good amendment, I move its adoption.

MR. SPEAKER:

Representative Collins.

ad

Tuesday, March 23, 1971

38

MR. COLLINS:

Well, that makes five technical amendments so far this afternoon to this bill, Mr. Speaker. But again, the distinguished Chairman of the Judiciary Committee is mixing them up very nicely and we will support this one.

MR. SPEAKER:

Will you remark further on Amendment Schedule "E". If not, all those in favor, indicate by saying "Aye". Those opposed. Amendment "E" is adopted. The Chair rules it technical. We may proceed with the bill as five times amended.

MR. CARROZZELLA:

Mr. Speaker, the Clerk has another final amendment.

MR. SPEAKER:

The Clerk will call House Amendment Schedule "F".

CLERK:

Offered by Mr. Carrozzella of the 81st and Mr. Bingham of the 157th.

Add Section 19 as follows:

Sec. 19. This act shall take effect July 1, 1971.

MR. CARROZZELLA:

Mr. Speaker.

MR. SPEAKER:

Representative Carrozzella.

MR. CARROZZELLA:

I move for adoption of House Amendment Schedule "F".

MR. SPEAKER:

ad

Tuesday, March 23, 1971

39

ad

Question is on adoption of Amendment Schedule "F". Will you remark.

MR. CARROZZELLA:

Mr. Speaker, this is perhaps one of the most important amendments that I have to offer this afternoon. If you would read Sec. 15, it says that a report must be made in each January of every year to various people, including this body. I think it's very important, that's a safeguard. The purpose of that section is to make sure that we know as a legislative body, how this bill is going, whether or not it's accomplishing the purpose we have in mind and so forth. If we went with the effective date of October first, the bill would only have been in operation for three months, October, November, December, before report must be made to us in January. Therefore, the reason for this amendment is to start it off July first and get six months experience to the law enforcement officials for which they can then report to us in January and tell us how the bill is operating. I think it's an important amendment because it will assure to us that we will get a good knowledge of how the bill is going and whether it is achieving the objective that we have in mind. It's a good amendment and I hope it passes.

MR. GAFFNEY:

Mr. Speaker.

MR. SPEAKER:

Mr. Gaffney.

MR. GAFFNEY:

Tuesday, March 23, 1971

40

ad

I would say for this side of the aisle that we are able to go along with the distinguished gentleman from the 81st. I would predict on July first the way things are going we're going to have nothing.

MR. SPEAKER:

Will you remark further on the amendment. If not, the question is on adoption of House Amendment Schedule "F". All those in favor indicate by saying "Aye". Those opposed. The amendment is adopted, rule it technical and we can proceed with the bill as amended by Amendment Schedule "A", "B", "C", "D", "E" and "F".

Clerk will call further amendments.

Would the Assistant Clerk please call House Amendment Schedule "G".

CLERK:

House Amendment Schedule "G", offered by Mr. Collins of the 165th.

MR. COLLINS:

Mr. Speaker.

MR. SPEAKER:

Representative Collins.

MR. COLLINS:

Mr. Speaker, I would ask that the reading of the amendment be waived and that I be allowed to summarize in the interest of saving a little time and the Clerk a lot of work.

MR. SPEAKER:

Tuesday, March 23, 1971

41

Is there any objection. Hearing none, would the gentleman  
from the 165th proceed with a summary of Amendment Schedule "G".

MR. COLLINS:

Yes, Mr. Speaker, this amendment and it's rather lengthy  
in nature would very simply and plainly take away the three  
judge panel requirement and submit in its place that any one  
judge of the Superior Court designated by the Chief Justice  
would be sufficient to authorize a tap. It would very simply  
change the three judge panel requirement to one judge of the  
Superior Court. And I would like at this time to move adoption  
of the amendment and then comment on it.

MR. SPEAKER:

Questions on adoption of Amendment Schedule "G". Will  
you remark. Representative Collins.

MR. COLLINS:

Yes, Mr. Speaker, and again in the interest of saving time,  
I would request that under Rule 10 the amendment be printed in  
a journal and moved that when the vote on this amendment is  
taken, it be taken by roll call.

MR. SPEAKER:

The Clerk is directed, in view of the request in  
accordance with Rule 10 to print this amendment in the Journal,  
the next motion stated by the gentleman of the 165th is for  
roll call. All those in favor of a roll call indicate by saying  
"Aye". More than twenty percent having called for it, a roll  
call will be ordered.

Tuesday, March 23, 1971

42

Representative Collins.

MR. COLLINS:

Mr. Speaker, the amendment before us, as I just indicated, this amendment very simply and plainly would substitute one judge of the Superior Court for the three judge panel in the bill as it presently is written. And the reason for this amendment, is because the requirement of the three judge panel is, in my opinion, an unduly burdensome, an unrealistic, an unnecessary requirement. It would be extremely difficult to get three judges together at any given time particularly in view of the fact that a unanimous decision is required. Under the bill as it is written, unanimous consent of those three judges and those three judges only, there is no provision there for the substitution or an alternate or any type of other provision in case one of the three judges should be incapacitated, out of the state, seriously tied up in a criminal murder trial or something of that nature. It would pose a real burden on trying to achieve unanimous consent of three judges. There is little precedent in our law for a three judge panel, in almost every other legal matter, in every other aspect of our law, particularly in criminal law, we have chosen over the years to place our confidence and trust in any one judge of the Superior Court. I submit to the members of this body that there is no rational reason whatsoever for creating an exception in here, in this particular bill. What really might happen with a three judge panel, is that the bill

ad

Tuesday, March 23, 1971

43

ad

would become more unworkable. That its very purpose in achieving some success against the organized crime elements would be forfeited. And I don't have to go into the delay that would become necessary if you had to get unanimous consent of three judges on any particular issue. It's difficult enough to get the consent of one judge in most matters. Our judges are noted for their scrutiny, their careful approach in granting any legal orders, whether it be injunctive, civil, criminal, any other aspect of the law. I would submit that the 1969 Legislature, in this very House, passed the bill that would have only required the approval of one judge. The bill is proposed by the Democratic leadership introduced in the 1971 session at a requirement of one judge. The Republican leadership bill introduced on this very subject only had the one judge requirement. Under the provisions of the federal law, any federal judge, and only one is necessary to obtain an authorization to tap under this proposed bill. I don't know who asked for three judges. I don't know why, some people felt that it was necessary in order to make this bill a better bill, that we made it more restrictive. Who are we trying to help with this bill. Are we trying to help the citizens whose children are ravished by drug pushers, dope peddlers, organized crime, gambling elements. Who are we trying to help, law enforcement officials or the underworld. I submit to you, Mr. Speaker, we have every confidence in the judicial branch and in every judge of the Superior Court in this state. Let's

Tuesday, March 23, 1971

44

ad

help make this very needed bill work. Let's not continue to put up roadblocks in the interest of saying it's a better bill. It's not a better bill, this amendment that I propose to substitute the one judge for the three judge panel would make it a better bill. I urge its adoption.

MR. SPEAKER:

Further remarks on the amendment. Representative Carrozzella.

MR. CARROZZELLA:

I rise to oppose the amendment. I would refer to a bill sponsored by Senator Jackson, myself, which is not this original bill that is before us, did have the three judge panel in it. This is not a new idea and I would submit that that part of that bill became part of the bill before us. We're dealing here with an invasion of a right to privacy. There's no question about that, we're not going to hide that. And the distinguished Minority Leader says we're making it burdensome to have three judges. Mr. Speaker, I'm not particularly moved by that argument, if we do make it a little burdensome, to invade the right to privacy. And I say to you, that certainly three minds, when you're dealing with delicate topic, are much better than one. Three Superior Court judges are much better than one. And I don't want to risk of having a state's attorney find one judge who may be convinced very easily that you can get a tap because believe me, we're invading the right to privacy and we want to make it as burdensome as possible in

Tuesday, March 23, 1971

45

ad

order to invade that right. So I submit the three judge panel is the very essence of the bill before us. And rather than make it less burdensome as the distinguished minority leader would say, I think it would open pandora's box to allow these taps be granted almost at will. The purpose of the panel is obvious. They must decide unanimously and at that point then we know we have a case and then we know there's a need for a tap. That's why the three judges are there. I oppose the amendment.

MR. SPEAKER:

Representative Gillies of the 75th.

MR. SPEAKER: *Rep Gillies*

I rise in opposition to the amendment. I think that the need for the three judges overseeing the administration of this particular bill is a most important asset to the bill. One of the things that we are concerned with is, as the Chairman of the Judiciary Committee has pointed out, is the invasion of rights of privacy. And I suggest that we need not concern ourselves here with the overburden task of the Superior Court judges in being asked to review these particular application. We are talking about 35 wire taps. We're not talking about a day to day activity, we're talking about 35 taps. I submit to you that if it is a little bit inconvenient, then that inconveniency is something that we can and we should live with. I suggest that it makes good sense that another judge be required to look over, in this particular situation, what a

Tuesday, March 23, 1971

46

ad

previous judge has passed upon. I submit that that will make each of the judges a little more careful than perhaps they might otherwise be in granting this particular invasion of privacy.

I urge the rejection of the amendment.

MR. SPEAKER:

Further remarks. Representative Gaffney of the 29th.

MR. GAFFNEY:

Mr. Speaker Just to clear up something, a statement made by the gentleman of the 81st, I have in my hand House Bill 5080, referred to the Committee on Judiciary introduced by Representative Carrozzella, Representative DeBaise, Senator Jackson and Senator Strada which in Section 3 says, "Each application for an order authorizing the interception of wire shall be made in writing upon or application made to a judge of competent jurisdiction". So his original bill did have one judge in it, again the Committee was subject to pressure and drove something out and something I feel very seriously is going on here today, in that we are making it three judges, I feel this is an insult upon the judiciary of this state, because you are questioning the judgment of the judges of this state when you require three of them. You lawyers know as well as I do, that it is almost impossible to get three judges together at one time in this state as they work in various sections of the state. Again, we are emasculating the bill by putting this in there and I think the amendment is an important amendment, it must be passed if it's to be used at all in future. If on July first we are able

Tuesday, March 23, 1971

47

ad

to use this weapon against organized crime, than one judge is necessary to so do. Otherwise, it's not practical.

MR. AJELLO:

Mr. Speaker.

MR. SPEAKER:

Representative Ajello of the 118th.

MR. AJELLO:

Perhaps the gentleman has been away from his practice so long that he's forgotten what the courthouses are like. I submit that in every county courthouse there are numbers of judges, we have, but a few counties something like 35 judges in the superior court. So, I submit that on its face, it's highly impossible to argue that you can't get three judges together, indeed I think that the judges being the kind of men they are would have no hesitation coming together for this kind of responsibility, were we to pass this statute. Again, I say with great reluctance that it is that many of us can support any kind of wire tap bill in this state of Connecticut and I don't care what the last bill said or what a bill said that anybody introduced or anything else. If that's changed the course of people's thinking, changed people's attitudes and I think that events in the last couple of years to which I've already referred today and on other occasions, have caused some of us to examine even more closely the question of wire tap. Thank God that we have the caliber of men in the Superior Court that we do have, because they are a group of great

Tuesday, March 23, 1971

48

ad

integrity and competence by and large. But is it not inconceivable to the members of this house, that one judge could be so prosecution minded that he would become a target for all of the state's attorneys to bring this kind of application and he would give them less than an impartial consideration. If you think that's impossible, I submit that you are ignoring history and human nature being what it is. This is not any attack on any individual judge of the Superior Court at the present time, but we have no way of knowing what the future brings in terms of individuals or people who might be appointed and that's what we have to consider in adopting legislation. I, and many of the other attorneys who have represented people in this kind of situation, have had experiences with one man, one judge applications, particularly at the Circuit Court in matters concerning constitutional requirements and applications to vary them or to do things that are not constitutionally permitted normally, except in unique circumstances. I submit that allowing one judge to be the sole decider of this type of application is a serious mistake. One that automatically lends itself to abuses, one that I should think make the judges themselves very uncomfortable in this kind of situation. I could not, and I suspect that many people who are prepared to vote for this bill, as I am, I could not support a bill which would allow one judge to issue these applications or these orders rather upon application because of experiences I myself have had and I'm absolutely convinced that more than one judge

Tuesday, March 23, 1971

49

ad

is necessary.

MR. SPEAKER:

Further remarks. Representative Dice.

MR. DICE:

Mr. Chairman, I respectfully ask the majority leader and also the Chairman of the Judiciary Committee whether they have ever had experience at trying to get three judges together while a crime is going on, in view that we passed the previous amendment requiring in certain circumstances the tap of it gone while crimes are going on. I'm wondering if they'd been in the courthouse and requested three judges to get together while a crime has been going on.

MR. SPEAKER:

Further remarks. Representative Gaffney speaking for the second time.

MR. GAFFNEY:

Mr. Speaker, in answer to the gentleman from the 118th, it is my understanding it is a preselected panel of three judges, one of which may be in New London County, one in Hartford County, and one down in Fairfield County. Now, I ask you, is it easy to get those three judges together, impractical, very impractical. And secondly, as we noted earlier, the federal bill and the New York bill, one judge panels, both New York and the federal bill. Now, it has worked well there. I have information on how well it has worked in stopping organized crime in New York. I could read this for an hour, but it is unimportant at this time

Tuesday, March 23, 1971

50

ad

except to say that this three judge panel is impractical. Again I would say to the majority leader, that this does not apply of course to the Circuit Court and the Common Pleas Court, as I believe he indicated earlier.

MR. SPEAKER:

Gentleman from the 118th.

MR. AJELLO:

Mr. Speaker, I reject the idea that we're here deciding what is convenient for the judges of the Superior Court. What we're talking about is the liberties, the basic freedoms, the constitutional rights of the people of this state, and I believe that they're entitled to the maximum protection. There is no reason why a judge of the Superior Court, not that I think they want, must leave his office at 5 o'clock at night, must not be made available for this kind of hearing, indeed I think it's their obligation and responsibility, I think that they would make it their business. My observations about the Circuit Court were simply experiences that I have had there that have lead me to the conclusions I reached. I am well aware of what the bill says.

MR. SPEAKER:

Representative Avcollie from the 94th.

MR. AVCOLLIE:

Mr. Speaker, it would appear to me that Representative Gaffney has not only been absent from his practice of his law office, but his legislative office, if he reads the bill

Tuesday, March 23, 1971

51

ad

as he's indicated. I am reading line 44 through 47 which indicates that a panel of judges or panel means any panel of three Superior Court judges specifically designated by the Chief Justice. It doesn't say the language that Mr. Gaffney has put on the record. I would ask him either to point to the lines that he's quoting or withdraw. I personally come here with mixed emotions. At this point I don't know I'm going to vote on this bill, but I know if we reduce the safeguards from three judges to one, I will definitely vote no.

MR. SPEAKER:

Representative Bingham of the 157th.

MR. BINGHAM:

Mr. Speaker, in any discussion of electronic surveillance, whether it be the American Bar Association standards of minimal justice or whether it be the federal bill or the New York bill, one judge is sufficient. We have in the State of Connecticut a constitutional court known as the Superior Court and the Superior Courts in the centuries have been the guardians of the people. It is an affront to the court itself, not just to the single judge that we're talking about, but it's an affront to the Superior Court of the State of Connecticut to say that you may use discretion in sentencing a person who has committed murder, that you may use discretion in sentencing a person who has committed (inaudible) That you may sit through a trial and makes rules and decisions during the trial which may well affect the liberties of the person on trial, and

Tuesday, March 23, 1971

52

ad

then deny that judge the right to sit in an application for an electronic surveillance in this state. I think the amendment is a good amendment, I think the bill requiring three judges is an affront to our judiciary.

MR. SPEAKER:

Further remarks on the amendment.

MR. GAFFNEY:

Mr. Speaker, for the third time, if necessary to answer Representative Avcollie.

MR. SPEAKER:

If the gentleman cares to respond to a question, we'll allow him to speak without the unanimous consent.

MR. GAFFNEY:

I would just say, Mr. Avcollie, that the language you read is exactly what I am talking about.

MR. SPEAKER:

Will anyone further remark. Representative Blumenthal from the 56th.

MR. BLUMENTHAL:

Mr. Speaker, I rise in favor of this amendment and I think what we forgot here are the safeguards that are in this bill and the further safeguards that have been put in this bill by the biggest amendments that have been passed. And I think we all realize that time is of the essence in getting a tap

Tuesday, March 23, 1971

53

ad

if in fact we live up to the stringent requirements of this regulation. I also know, especially living in a very, in one of the smaller counties of the state, that to get three Superior Court judges in either Windham or New London county, would be quite a chore. I think what we've done is we've taken a tool to fight organized crime, say a hammer and we made it out of rubber and plastic so it won't be of any good. I think a one judge should be authorized to issue this order for tap.

MR. SPEAKER:

Representative O'Neill of the 52nd and Representative Camp.

MR. O'NEILL:

Mr. Speaker, I too rise in opposition to this particular amendment. In all due respect to the judges of the Superior Court, it seems to me, yes, they have the right to sentence. Yes, they have the right to correct during a trial, but no, they do not have the right without any testimony to make a decision on who shall be wire tapped or who not shall be wire tapped. It does seem to me that three brains are always better than one. There was only one brain in the world, whichever God you believed in and that was the Supreme brain, there's 177 in this room and I'm sure we'd have discussion on any issue that presents itself in this floor, whereas one person to make one judgment does not seem to me logical or constitutionally right. Therefore, I oppose this amendment.

MR. SPEAKER:

Tuesday, March 23, 1971

54

ad

Representative Camp of the 163rd.

MR. CAMP:

Mr. Speaker, through you please, a question to Mr. Carrozzella, which is as follows. It's not entirely clear to me whether this panel is to sit in effect during a year or whether it is going to sit until another panel is appointed. It seems to me that really relates to which side of this issue you're on. It says that a panel shall sit "from time to time to hear applications", which sounds like they're going to hear all the applications that come before them. Now if that is the case, then it seems to me it is very very difficult to get these three special three appointed judges together. If on the other hand, the members who want to get a wire tap, they go in and ask for another panel to be appointed or for somebody else to take somebody's place on the panel, then you have a little more freedom in who is going to be there and who is available. May I have an answer to that question, please.

MR. SPEAKER:

The gentleman understand the question.

MR. CARROZZELLA:

Through you, Mr. Speaker, that was quite a question. I would try to respond this way by referring to the bill and we have intentionally left it wide open insofar as the panel is concerned because if you will read the definition in line 45, it says panel means any panel of three Superior Court judges specifically designated at any time. In vision, Mr. Speaker,

Tuesday, March 23, 1971

55

ad

what's going to really happen and I've discussed this with the Chief Court Administrator's Office. He will appoint a panel to sit here in Hartford and the State's Attorney that desires a tap will come up to Hartford, the panel will be here and he'll be able to obtain a tap if he has the evidence. I respectfully also submit through you, Mr. Speaker, that if there's a judge not available, all the Chief Justice has to do is pick up the phone and appoint someone else. The bill gives him full latitude. So there's not this big burden to have these three judges there. They'll be there and they'll work and do the job that the bill asks them to do.

MR. SPEAKER:

I'll remind the members that there have been 13 speakers thus far on amendment "G". Representative Camp of the 163rd.

MR. CAMP:

I'm happy I asked the question because I don't think it is quite as clear as Mr. Carrozzella says. It seems to indicate to me a panel and it says from time to time. I'm happy to have this legislative history on the record.

MR. SPEAKER:

Representative Collins, speaking for the second time.

MR. COLLINS:

Mr. Speaker, just prior to the vote, I would just summarize what I think is our purpose in reducing the three judge panel to a one judge panel. I think it's been made perfectly clear here the rather obvious difficulty where by lawyer or layman,

Tuesday, March 23, 1971

56

ad

whoever happened to speak on it, of getting three judges together, in contrary to the Judiciary's Chairman expression of intent that it can be several panels at any one time. I think the language very clearly contradicts that interpretation. The Chairman of the Judiciary Committee indicated that he spoke to the Chief Court Administrator about this. It doesn't do much good because the Chief Justice is the one who appoints, not the Chief Court Administrator. But I do think that substituting one judge and that could be any judge in the Superior Court designated by the Chief Justice, would make this a far more workable bill. And again, not to drag the arguments that we've heard on the last 4 or 5 amendments, all through the mill again, but what is our intent in passing a wire tap or electronic surveillance bill. I think it's obvious that we all want to maintain that somewhat delicate balance between the protection of society from organized crime and the right of privacy that every individual possesses under our constitution. And if we go to either extreme, it becomes a rather inartful, unworkable and quite plain and simply, bad legislation. The majority leader indicated that he wanted to provide maximum protection against any invasion of the right to privacy. A little interpretation of that would require a 35 Superior Court panel to make them all work. We are looking, plain and simply to come up with something that is workable, that will assist law enforcement officials in their day to day

ad

problems of combating organized crime in the state. We are not trying to make their job more difficult, we do have every confidence in the members of our judiciary. We are not throwing up constitutional problems by reducing the three judge panel to one. On the contrary, the three judge panel is somewhat unique in that under state and federal wire tap laws, no other state requires this. I submit to you, the question as put by Representative Dice, is extremely proper and right to the heart of the point. How are you going to get three judges together while, as we have amended the bill already, the crime is being committed. Do we have some proxy, some magic power to make a unanimous consent among the judges while the crime is being committed. I submit, Mr. Speaker, that the failure of this amendment to pass will water down further an already watered down bill. I urge support for the amendment.

MR. SPEAKER:

Further remarks on the amendment. If not, will the members be seated and will the aisles be cleared and we'll proceed with the vote. The machine will be open. Has every member voted. Is the vote recorded in the fashion which you wish? The machine will be locked and the Clerk will take the tally.

The Clerk will announce the tally.

CLERK:

Total number voting	163
Necessary for adoption	82
Yea	68
Nay	95

Tuesday, March 23, 1971

58

Absent and Not Voting 14

ad

MR. SPEAKER:

Amendment is lost.

Clerk will call Schedule "H".

MR. STEVENS:

Mr. Speaker.

MR. SPEAKER:

Representative Stevens from the 122nd.

MR. STEVENS:

Mr. Speaker, I move adoption of House Amendment Schedule "H", would request the Clerk read it please and also request that it be printed in the journal according to Rule 10 and that when the vote be taken, it be taken by roll call.

MR. SPEAKER:

The three motions are noted. First in accordance with Rule 10, it will be printed in the journal, secondly, will the Clerk please read the amendment, then we'll get to the question of a roll call.

CLERK:

In line 71, delete the word "or" and insert a coma.

In line 72, delete the period and after the word "violence" insert the words "or conspiracy to commit any of the foregoing".

MR. SPEAKER:

Question is on adoption of this amendment, which the gentleman of the 122nd has moved at the same time he has asked for a roll call. All those in favor of roll call, indicate by

Tuesday, March 23, 1971

59

ad

saying "Aye". Sufficient number having ordered it, I'll announce a roll call vote.

Speaking on the amendment, Representative Stevens.

MR. STEVENS:

Mr. Speaker, the bill as presently before us without this amendment specifies three offenses for which you may make an application for a wire tap. Those three are gambling, narcotics crimes which are violations of 19-480 of the General Statutes, and felonious crimes of violence. The amendment which is now before the House would add "or conspiracy to commit any of the foregoing crimes". This amendment does not add any new crimes to those listed. It merely says that one who conspires to commit those crimes also may have a wire tap authorized for interception of his telephone calls. For the benefit of those who are not members of the Bar, let me just briefly define what a conspiracy is under our criminal code which will become effective on October first of this year. Section 53A-48 of the Connecticut General Statutes indicates that a person is guilty of conspiracy when with intent that conduct constitutes a crime be performed, he agrees with one or more persons to engage in or cause the performance of such conduct, and anyone of them commit an overt act in pursuance of such conspiracy. The addition of this amendment would allow law enforcement in the state of Connecticut to use electronic surveillance on those persons who conspire to commit the crimes of gambling, drug offenses and felonious crimes of violence. If any of you in this House agree

Tuesday, March 23, 1971

60

that electronic surveillance is needed in Connecticut to apprehend those people who commit crimes, why not also include those who plan crimes. Without conspiracy the real thrust of this bill is lost. Law enforcement in Connecticut does not need this act to apprehend the rapist, the mugger, or criminals of that type. Those persons commit crimes in the open where they are witnessed by other citizens who will come forward. What we are doing is trying to give our state police and our state's attorney an effective tool to combat organized crime in the state of Connecticut. People who are engaged in organized crime do not commit the crimes overtly. They plan them. They use the telephone to furtherance their plan. Conspiracy is a necessary element, if you want this bill to work against those who are behind the scenes. The inclusion of conspiracy is a necessity if our state is not to become a sanctuary for organized crime. This has been recognized in other jurisdictions, the federal law includes conspiracy to commit any of the specified offenses and I wish the members would listen to these statistics from our adjoining states because I do think they have an impact upon what we are considering.

In the sister state of Rhode Island, which adopted an electronic surveillance law in 1969. Their law includes conspiracy. To date 39 defendants in the state of Rhode Island have been convicted as a result of evidence obtained from a wire tap. Of these 39 cases, 30 of the convictions were for the crime of conspiracy. In the state of

ad

Tuesday, March 23, 1971

61

ad

Massachusetts which adopted this effective January 1, 1970 and included conspiracy. To date they have had 7 criminal convictions as a result of electronic surveillance. Of the 7, 6 were for the crime of conspiracy. The state of New York has had conspiracy since 1929 when they first adopted a wire tap bill. In New Jersey, which adopted this amendment in 1969, 70 cases utilized electronic surveillance and resulted in the following arrests: narcotics 12, loan sharking 3, receiving stolen goods 6, gambling 266, conspiracy was a factor in every single one of these cases. In 1969, the state of New Jersey electronic surveillance resulted in 5 arrests for conspiracy to commit murder and 4 to the murders. Those intended victims, I'm sure, are glad that New Jersey legislature saw fit to include the crime of conspiracy in their electronic surveillance law. Now why should our state enact a law that is weaker than those states around us. Those states which are doing their utmost to attack organized crime. Perhaps we sit back and think Connecticut does not have organized crime. It exists in New York, New Jersey, Rhode Island and Massachusetts, why are we immune. If you really want to witness, if you really want an electronic surveillance law, and one which would get at the people behind the scenes, it must have the crime of conspiracy included. I would ask your support for this amendment.

MR. SPEAKER:

Further remarks on the amendment. Representative Carrozzella.

Tuesday, March 23, 1971

62

MR. CARROZZELLA:

*Chairman*

ad

Mr. Speaker, I would rise in opposition to the amendment. Once again, I would point to the members on the other side that we're dealing here with a very delicate right. The right to invade one's privacy. And you know, you talk about the crime of conspiracy, as the lawyers on the other side know, you're talking about a very vague crime, very loose crime, a crime that's very easy for the state to prove beyond a reasonable doubt. And this is the way they get the fellows that they don't have real evidence on, on a second count. Now to say here to open the door to conspiracy, crimes to conspiracy, involving these three elements, I say, is to open up pandora's box, and we might just as well say that we can have a wire tap in almost any case. Now I say here we have to deal very delicately with this right to privacy. We've got to keep this as tight as possible and I would point out to some of the remarks that were given to my committee at the time of the public hearing. And I would quote from that, I have, and I think I have to say I have a kind of personal hesitancy about wire tapping as a matter of policy. Simply because of the intrusion for the right of privacy but, if in the considered judgment of this committee and the legislature, it is an essential in the public interest, then as a citizen I want the most restrictive and the most limited bill that can be turned out until after you've had some experience with the subject matter. And I reiterate here, we're taking a big step on this

Tuesday, March 23, 1971

63

ad

bill. Let's go easy, let's restrict and let's limit it, let's see how it works out and then after you can do other things if you think it's necessary. But I say, let's go easy, let's crawl before we walk. I think this is a bad amendment and I hope it is defeated.

MR. SPEAKER:

Further remarks on the amendment. Representative Bingham of the 157th.

MR. BINGHAM:

Mr. Speaker, I think the Chairman of the Judiciary Committee misunderstands the amendment. It's not a general conspiracy that we're seeking, it's a conspiracy to commit the crimes set out in the bill. When he spoke against the amendment, it is my understanding that he speaking generally against conspiracy. Now, I'd like to point out that the constitution of the United States places no limitation on the kinds of offenses during investigation which searches and seizures are made. And under a proper circumstance of search made for example be upheld incidentally to a traffic offense. We do have enumeration of offenses in this bill, but we are seeking is to be able to prosecute a person who commits a conspiracy to commit the crimes. Now, the American Bar Association project on minimum standards of criminal justice states that there should be specific crimes set out when we are seeking an electronic surveillance order. However, it says that conspiracy of course must be included in the list

Tuesday, March 23, 1971

64

ad

of crimes which are permitted to be tapped. Now certainly the American Bar Association is cognizant of the individual right of the citizens of the United States and certainly anybody on this side of the aisle is cognizant of the individual rights of the citizens of the United States. But conspiracy is a terrible crime, conspiracy to commit murder or any of the crimes set out in the bill should be one of the crimes permitted for a tap in this order. Therefore, I support the amendment.

MR. SPEAKER:

Representative Berberick from Norwich and the 62nd District.

MR. BERBERICK:

Mr. Carrozzella refers to the right of privacy (inaudible) on both the amendments we have voted on previously and although I also recognize the right of privacy, I think there's another right here. That's the right to be able to walk down the street in fear that you are not going to be attacked, the right to see that your daughter is going to grow up, that she won't be subjective to drug abuse, things of this nature. There's another right, another right that I think many of the people here have forgotten about, this wire tapping isn't going to be used on the public at whole and the public deserves this right, this right to have freedom and I feel that this amendment that we have before us now will go a long way to establish that right.

Tuesday, March 23, 1971

65

MR. SPEAKER:

Representative Gillies of the 75th.

MR. GILLIES:

Mr. Speaker, I rise in opposition to this amendment. I think it is as the Chairman of the Judiciary Committee has pointed out, the area of conspiracy is one that is easy to charge and easy to prove. And I think that we are moving in a very delicate area here. One of the difficulties with the whole concept of wire tap is that you don't see the person that is making the statements. You know in the old western movies that we all recall, there used to be a smile when you say that partner. And the reason it was said was simply because you could see the person who was making the statement and by his countenance determine whether or not he was really serious in what he was saying. There is no such safeguard when you are listening on the other end of a telephone. You don't know whether the person is merely pumping his statement, whether he is saying something to impress the other person on the other side or whether, in fact, he is involved in some form of conspiracy. And I think because it is so easy, as has been suggested, by Mr. Stevens, a number of convictions, charges made and convictions received would indicate that when you charge a person with conspiracy, it may be a little easier to establish than the actual perpetration of the particular offense. I suggest, Mr. Speaker, that this is a bad amendment and would urge its rejection.

ad

Tuesday, March 23, 1971

66

MR. SPEAKER:

Further remarks on the amendment. Representative Ajello from the 118th.

MR. AJELLO:

Mr. Speaker, speaking in opposition to the amendment, it's all very well to say things which I'm sure the gentleman does from a deep sense of personal conviction that we're concerned about making the streets safe, and we are indeed, and we should be. But those of us again, who have the advantage or disadvantage, however you might want to look at it, of standing up in courts and in other places representing people who have become embroiled with the tangled web of the law, know that the phrase conspiracy has become in the hands of many prosecutors, a catch-all, a tool if you will, to be used when all else fails. Again I speak from personal experience knowing of factual situations which I of course will not go in to here in public. However, I can assure the members that there are many instances where the evidence which was sought to be obtained when an arrest was made is not obtained in sufficiently strong measure to assure that the proper charge can be maintained and a conviction can be obtained. In many of these instances, and it has happened to my clients, the prosecutor lodges a charge of conspiracy. It is to this kind of fishing around to which we object and if he speaks a certain attitude when we say that the end justifies the means, we can do anything to make the streets safer, anything to whom, to

ad

Tuesday, March 23, 1971

67

ad

the person who is accused and taken to a jail and has no right or means to defend himself, it is very important. And this is why we have the constitutional safeguards. And that attitude brings to mind a bit of doggerel that hangs in a column on a wall of my office and it says this: Hang them all you say, that's what you would do. Hang them all, but remember this, they're going to hang you too.

MR. SPEAKER:

I understand the gentleman has an announcement which he'd like to make.

MR. AJELLO:

The Congress in Washington, as we understand, just completed action on a resolution concerning the 18 year old vote and we have, the committee has reported out a resolution which will enable, we hope, Connecticut's legislature be the first to react and to act upon the subject of the 18 year old vote in terms of ratifying the constitutional amendment. We have agreed among the leaders to take this matter up at the conclusion of the present bill which is before us and to act on it today.

MR. SPEAKER:

Are there further remarks. Representative Pearson of the 128th.

MRS. PEARSON:

Mr. Speaker, for clarification, if I may ask the proponent of the amendment a question. If there were people talking on a tapped line, would this be conspiracy, perhaps the

Tuesday, March 23, 1971

68

conversation would go like this: I will meet you at the pool hall or play cards for 25 cents a game. Are we conspiring to gamble. Is this Reno or Ritchfield, Connecticut, are we card playing or playing conspiracy. Or perhaps, if we were to say: Let's rock the establishment, or let's play some rock and roll music, or let's throw some rocks at the Capitol. Could this be considered conspiracy?

MR. SPEAKER:

Does the gentleman care to respond?

MR. STEVENS:

No, the law of conspiracy as I tried to explain it before requires that an overt act occur in further to the crime conspired to be committed.

MR. SPEAKER:

Further remarks on the amendment. Representative Cassidento.

MR. CASSIDENTO:

With respect to Mr. Stevens remark, I have, myself, prosecuted cases where the alleged overt act was a telephone call. It is an overt act.

MR. SPEAKER:

Further remarks. Representative Stevens.

MR. STEVENS:

Mr. Speaker, to clarify the purport of this amendment and to comment on Representative Cassidento's remarks, a telephone call in furtherance of a conspiracy which had a previous

Tuesday, March 23, 1971

69

conspirator's meeting might be an overt at that. My answer was to Representative Pearson's question as to whether or not an initial phone call would constitute a conspiracy. My answer still is no, not unless there was some overt act after that. But to get back to the amendment itself, I think that this amendment is really the crux of whether or not we are to have a meaningful wire tap bill in the state of Connecticut which will be effective against organized crime. As I said before, wire tap is not going to apprehend a rapist or someone who commits a crime out in the open where there are witnesses. The only real reason that I can understand it for having wire tap legislation, is to get at those people who do not commit crimes where there are witnesses. People who plan crimes, people who are behind the scenes in organized crime. These are the men who use the telephone to conspire and have other individuals carry out the criminal act. What's the sense of passing this law if you don't want to get at those who are planning the very crimes that you seek to prohibit, felonious crimes of violence, conspiracy to commit narcotics offenses or gambling. Let me give you, what I submit is an extreme example but I think a meaningful one. What if two people are conspiring to commit a murder. Don't we want to stop this before the attempt takes place. If an informer comes in with information that there may be a conspiracy in this state to murder a high official. Don't we want to be able to get an electronic surveillance on this person. I don't think there is

ad

Tuesday, March 23, 1971

70

ad

anybody in this room who wouldn't want to. But by keeping conspiracy out of it, it's exactly what you are doing. To pass an electronic surveillance law without conspiracy is meaningless and further evidence of the intent to have a wire tap bill in the state of Connecticut that's a wire tap bill in name only.

MR. SPEAKER:

Further remarks on the amendment. If not, will the members be seated. Will the aisles be cleared. We'll vote on Amendment Schedule "H". The machine will be open. Has every member voted? Is your vote recorded in the fashion you wish? The machine will be locked. The Clerk will take a tally. The Clerk will announce the tally.

CLERK:

Total number voting 161

Necessary for adoption 82

Yea 72 Nay 89

Absent and Not Voting 16

MR. SPEAKER:

The amendment is lost. The Clerk will call Amendment Schedule "I".

CLERK:

House Amendment Schedule "I", offered by Mr. Gaffney.

In line 12, following "(2)", insert the words "'oral communication' means speech;".

In line 13, before the word "'intercept'", insert "(3)".

In line 15, delete "(3)" and insert in lieu thereof "(4)".

Tuesday, March 23, 1971

71

In lines 28, 33, 39, 44, 50 and 54, delete "(4)", "(5)", "(6)", "(7)", "(8)", and "(9)", and insert in lieu thereof "(5)", "(6)", "(7)", "(8)", "(9)", and "(10)" respectively.

In lines 14, 18, 40, 49, 55, 64, 74, 82, 86, 89, 93, 116, 121, 130, 146, 150, 196, 214, 225, 232, 247, 249, 252, 278, 300, 326, 331, 333, 339, 343, 362, 398, 414, 428, 442, 503, 513, 538, and 539, after the word "wire", insert the words "or oral."

MR. SPEAKER:

The gentleman from the 29th.

MR. GAFFNEY:

Mr. Speaker, is everybody clear on the amendment or would they like it read again. I move adoption of the amendment.

MR. SPEAKER:

Questions on adoption of House Amendment Schedule "I" offered by the gentleman from the 29th, Representative Gaffney.

MR. GAFFNEY:

Mr. Speaker, I would ask that it be printed on Rule 10.

MR. SPEAKER:

So ordered.

MR. GAFFNEY:

And I would move now for a roll call.

MR. SPEAKER:

Question is on a roll call. All those in favor indicate by saying "Aye". More than twenty percent having ordered, we'll try again.

Representative Gaffney.

ad

Tuesday, March 23, 1971

72

ad

MR. GAFFNEY:

Mr. Speaker, my sword has been dulled by the amendments that we have put through this afternoon. We are getting ready, getting near to passing a wire tap bill which I believe puts on impossible limitations. But this amendment I offer for whatever it is worth at this time and it is commonly known as the bug. Today, organized crime is a sophisticated operation. Years ago, many years ago, they used letters. They wrote things, but then as crime fighting became more effective, they stopped the written communication and went to the oral communication, the telephone. Today we are authorizing the telephone tap, or I hope we shall. And I think we should also authorize the bug. The reason being that organized crime is so sophisticated that they'll drop the phone and use the method that was used in Appalachia, the personal meeting. I think in order to make an effective wire tap bill, this has to be in here. I don't believe this bill will be effective even as passed, but it will be just that much better just a little bit better if it has the bug in it.

MR. SPEAKER:

Further remarks on the amendment. Representative Carrozzella from the 81st.

MR. CARROZZELLA:

Mr. Speaker, I rise in opposition to the amendment. You know, Mr. Speaker, I don't know what it is with the members on the other side, this preconceived notion to just do away with

Tuesday, March 23, 1971

73

the right to privacy. This was discussed in our committee, the bill that was originally drawn had oral communication. And incidentally, by oral communication for the members of the House, we mean the bug, the bug that's put into your living room or into your bedroom or into your office. This is what we are talking about by oral communication. And as I said we discussed this in committee and we said once again, Mr. Speaker, that we're dealing here with a very delicate area, the right to privacy. And finally after this discussion, we agreed to limit this sensitive balance to the telephone. Not to the bug that can be placed in your living room, your bedroom, your office, because this was in our opinion and in the opinion of the committee, going beyond the bounds that we wanted to go at this time and we felt really it would serve no useful purpose and that it almost obliterated a person's right to privacy in their own home. I think it is a bad amendment, I think it opens the door again, I think it should be defeated.

MR. SPEAKER:

Representative Bingham from the 157th.

MR. BINGHAM:

Mr. Speaker, I think the opponents to this amendment misunderstand the enemy. The enemy is organized crime. If we limit the bill to a telephone tap, I think it takes little imagination to understand that those members of organized crime will quickly proceed to some other method of communication. Thereby tying the hands of law enforcement.

ad

Tuesday, March 23, 1971

74

officials, tying the hands of the people of the state of Connecticut to prosecute vicious crimes which are being committed in this state. We all know that there is increasing sophistication and organized crime and this increasing sophistication has increased throughout the years. The amendment is a good amendment, the person who proposed the amendment understands that if we limit this bill to wire tapping on the telephone, soon organized crime will then proceed to another means of communication rendering this bill unworkable, rendering this bill useless which obviously many people in the Hall of this House wish to do.

MR. SPEAKER:

Will you remark further. Representative Gillies of the 75th.

MR. GILLIES:

Mr. Speaker, I look at my calendar and I see it's 1971, still sometime before 1984. I would suggest that the next session we will come back here and we will be told that the bug is no longer effective and it is necessary that each house be equipped with a television screen, equipped with some simple monitoring device so that we can observe. I think, Mr. Speaker, that we have got to get back to the original precept we are moving in the direction of taking away rights of privacy and I think the bug is an insidious device which there is no control over and I urge the rejection of this amendment.

MR. SPEAKER:

ad

Tuesday, March 23, 1971

75

Representative Connors of the 160th.

MR. CONNORS:

You talk about the telephone. You don't need the telephone. With all the electronic set-ups they have today, they don't have to go near your house. They can be 3, 4, 5, 6, 8 blocks away. As far as what we're talking about, this discussion is really getting disgusting.

MR. SPEAKER:

Representative Oliver from the 104th.

MR. OLIVER:

I would suggest what is often said in jest has profound implications and I think Mr. Connors has put his finger on the very issue now. Indeed, if we adopt this amendment we are going to run contrary notions (inaudible) and I think we're going to do something that is not only repugnant to the Constitution of the United States, which is much discussed, but gentlemen contrary to the Constitution of the State of Connecticut, which we also took an oath to uphold and I know that we hadn't ought to do that today.

MR. SPEAKER:

Representative Ajello of the 118th.

MR. AJELLO:

Mr. Speaker, speaking in opposition also to this amendment, I wonder whether or not Representative Bingham's remarks, if I may be parenthetical interrupt myself, call to mind the remarks of that imminent jurist Pogo, who says we have met the

ad

Tuesday, March 23, 1971

76

ad

enemy and he's us. I wonder whether or not this amendment as seriously offered or intended as it might appear on its face, it seems to me that the proponents must know that this kind of thing is not susceptible of definition or of practicality or of even actual use in the field. It seems to me that I can't conceive offhand of a situation where you can present with sufficient specificity to the panel, be it 1, 3, or 10 members an instance of a conversation which can be anticipated as to its place, as to its content, as to the parties to it, then would lend itself to an application and the issuance of any sensible order. So I submit this may look nice and it may sound nice and it may be grand stand politics, but I don't believe that this is even susceptible of practical application and I think that the amendment should fail.

MR. SPEAKER:

Will you remark further on Amendment "I". Representative Collins from the 165th.

MR. COLLINS:

Mr. Speaker, let's take this particular bill and let's take this amendment out of the arena of politics right now. I don't think that anyone of us standing here in support of an honest to goodness electronic surveillance bill are doing it to further our political career or to further any type of political overtones which was just suggested. We are doing it, doing it in good conscience because it is necessary. It's a necessary part of a sound and logical approach to fight

Tuesday, March 23, 1971

77

on organized crime. Mr. Speaker, the bill that we have submitted early in this session, the bill submitted by the Democratic leadership, the federal law, the New York law, all have oral communication within the province of the wire tap concept. Opposition to this amendment is just one more step that we seem to be taking in this House today, to take a necessary and vital bill for the protection of society in general and emasculating it piece by piece. We wind up, Mr. Speaker, without oral communications at a total and absolute loss. Once organized crime discovers that they can't be bugged, that we can't use any information obtained through that source, all they have to do is stop using the telephones and hold meetings like they held in New York several years ago. What we are doing here, there is no relationship to political thoughts at all. If there is relationship to an honest and we think an effective attempt to give the people of this state something that they deserve, assistance to law enforcement officers, assistant to judges and the courts in general in overcoming what is getting to be an increasing problem. I support the amendment.

MR. SPEAKER:

Further remarks before we vote. Representative Bingham.

MR. BINGHAM:

Mr. Speaker, I would like to point out that when Representative Carrozzella, in the quiet of his study, drafted House Bill 5080, he put in the Bill, intercept means intentional

ad

Tuesday, March 23, 1971

78

overhearing of a recording of oral communication through the use of any electronic, mechanical or otherwise device. I support that thought, I support the amendment.

MR. SPEAKER:

Representative Carrozzella speaking for the second time.

MR. CARROZZELLA:

Mr. Speaker, and to that I would merely answer, thank God, for the public hearing system of the State of Connecticut and the committee system of the State of Connecticut, because they pointed out how bad that would be if we were to pass that bill. Let me answer one remark that was made by the gentleman from New Britain who said, or the distinguished minority leader I'm sorry, who said that if organized crime knows that we can't put a bug in the living room or rather that we can't put the bug in the living room, that all of a sudden they're going to find another way to communicate. Now Mr. Speaker, you and I know that the basis for which organized crime can exist is the telephone and that's the quickest means of communication and as a matter of fact, the only means of communication. So I say to you, Mr. Speaker, that if we did away with organized crime using the phone, we're doing away with organized crime. This is a bad amendment, it should be defeated.

MR. SPEAKER:

Ready to vote. The machine will be open. Has every member voted. Is your vote recorded in the fashion you wish. The machine will be locked. The Clerk will take a tally.

ad

Tuesday, March 23, 1971

79

ad

CLERK:

Total number voting 163

Necessary for adoption 82

Yea 59 Nay 104

Absent and Not Voting 14

MR. SPEAKER:

The amendment is lost. Clerk will now call House Amendment Schedule "J".

CLERK:

House Amendment Schedule "J", offered by Mr. Cretella of the 99th.

In line 45, after the phrase "any panel" insert the words "or panels."

MR. CRETELLA:

Mr. Speaker.

MR. SPEAKER:

Representative Cretella of the 99th.

MR. CRETELLA:

Mr. Speaker, when the question on creating a one judge panel to authorize wire taps came before the house, I was in favor of the one judge rather than a three judge panel. During the course of that debate, it was pointed out that the bill as written might invasion the Chief Justice appointing a panel which would be available in New Haven where there would be three judges sitting at one time, another one in Hartford, another one in Fairfield, etc. The Chairman of the Judiciary

Tuesday, March 23, 1971

80

Committee indicated that that's what he felt the bill stated. I feel that there is some doubt as to that interpretation, my own interpretation envisions that there would be only one three man panel in operation at all times and since the judges move, as we know, from county to county during the course of the year it would be difficult to get the three judges together. The purpose of my amendment is to merely clarify and make crystal clear that there could be more than one three man panel in operation at any one given time and this would facilitate and help what I feel has been a, was a good bill before we adopted the last seven amendments. I urge adoption of this amendment for the purpose as stated.

MR. SPEAKER:

Representative Carrozzella from the 81st.

MR. CARROZZELLA:

Mr. Speaker, it is indeed a pleasure to rise and speak in favor of a good constructive amendment from the other side. I wholeheartedly support the amendment.

MR. SPEAKER:

Questions on adoption of the amendment, will you remark further. Representative Gaffney.

MR. GAFFNEY:

At this time I would like to remind the sharp tongue gentleman from the 94th, Representative Avcollie, that maybe

MR. SPEAKER:

Question is on acceptance to Amendment "J". Will you

ad

Tuesday, March 23, 1971

81

remark further. Representative Avcollie.

MR. AVCOLLIE:

I support the amendment. I can't remember being in agreement with Representative Gaffney, and I'm certainly not in agreement with him on this bill. His original illusion to this sentence indicated that the panel must be picked from separate counties. No matter how many times he stands up, he talked about Tolland County, New London County, Hartford County, and the fact is that this section permits the judges from any single county, I think the Chairman has pointed out very well.

MR. SPEAKER:

Will you remark further on the amendment. Representative Ajello?

MR. AJELLO:

Just to underscore the fact that we're all willing to consider in the light of clear reasoning and thinking, a worthwhile amendment offered for proper purpose. We will support this amendment and hope that it encourages the gentlemen to more carefully consider some of these other.

MR. SPEAKER:

Will you remark further.

MR. COLLINS:

Mr. Speaker, only to say the actions of the majority leader completely contrary to the statements so far today.

MR. SPEAKER:

I don't dare comment on that. Questions on adoption to

ad

Tuesday, March 23, 1971

82

ad

Amendment Schedule "J". All those in favor indicate by saying "Aye". Those opposed. Amendment "J" is adopted. We can now proceed on the bill as amended by Amendments "A" through "F" and "J". Are there further amendments Mr. Clerk?

CLERK:

Clerk has House Amendment Schedule "K", offered by Mrs. Pearson of the 128th.

MRS. PEARSON:

Mr. Speaker, I move adoption of the amendment.

MR. SPEAKER:

Question on adoption of Amendment Schedule "K".

MRS. PEARSON:

Would the Clerk please read the amendment.

MR. SPEAKER:

Clerk call Amendment Schedule "K".

CLERK:

House Amendment Schedule "K".

In section 4, delete subdivision "(6)" and renumber subdivisions "(7)", "(8)" and "(9)" as "(6)", "(7)" and "(8)" respectively.

Delete section 8 and renumber sections "9" to "17" inclusive, as "8" to "16" respectively.

MRS. PEARSON:

Mr. Speaker, I move pursuant to Rule 10, printing of the amendment in the journal and I ask that the vote be taken, that it be taken by roll call.

Tuesday, March 23, 1971

83

ad

MR. SPEAKER:

Questions on a roll call. All those in favor indicate by saying "Aye". Less than twenty percent having called for it, no roll call will be ordered. Questions on adoption of Amendment Schedule "K". Will you remark.

MRS. PEARSON:

I feel I must bring this to your attention and I feel that we must have the safest, most reasonable bill that we can have, and I think we're all in agreement that we must fight crime effectively. But I do feel that we must protect the people's sacred right to privacy. I feel that really no man is infallible and experience has shown this to be true, that there are lawyers and doctors and clergy that are really not paragons of virtue. Doctors could sell illegal drugs, lawyers could engage in illegal practices. This wire tap bill really would be worthless unless surveillance of these people are included in the bill. After all, we're all equal and associated and declared. Under Article first of the Constitution of the state of Connecticut, it says that no man or set of men are entitled to exclusive (inaudible) or privileges from the community. Mr. Speaker, there should be no exemptions at all from this bill. This is very clear. This is our state Constitution. These are the basic rights of our constitution. The minute you start messing with the constitution, I feel you are going to get into trouble. People of the state of Connecticut should actually vote on this amendment as it is a

~~Tuesday~~ March 23, 1971

84

ac

constitutional amendment. The drafters of our constitution wrote it to protect themselves from each other as well as from the king. Mr. Speaker, we are exempting telephones that are assigned to specific people. I can visualize a number group, tapping and using a clergy's phone to promote gambling. At the lawyer's office, when he leaves for court, his secretary could call in bets or conspire or so forth. These would be privileged phones and they could be abused. No matter here today, who stands up and says that he is not privileged, I don't believe this is so. Will the lawyer's home phones also be exempt. I do not particularly care what the surrounding states have in their wire tap laws, I also want a better bill than the federal bill. We do not know if the federal bill is constitutional. Tell me where, where in the State Constitution does it say that anyone should be exempt from anything. As I said, I feel that no man or no set of men are entitled to any exclusive public privileges while other men are placed in a position of being discriminated against because of their lack of money but political influence. Just because somebody has chosen a certain profession, or had enough money to pursue that profession, there is really no reason why he should be accorded any special privileges that are denied the vast majority of citizens of our state of Connecticut. I said before, we must fight crime effectively and I feel that the only way that we can accomplish this is to make sure that no group of individuals can grant themselves any special (inaudible) from

Tuesday, March 23, 1971

85

criminal prosecution.

MR. SPEAKER:

Will you remark further on the amendment? Representative Sullivan of 130th.

MR. SULLIVAN:

Mr. Speaker, in regard to this proposed amendment, I would respectively point out through out to the gracious lady from Stratford, that while there may be some here who think that there are times when lawyers should be under investigation or perhaps indictment, the common law privilege for communication between attorneys and clients is not for the purpose of protecting lawyers, it's for the purpose of protecting the individual who had been accused of a crime. It is to give those persons who are accused the opportunity to prepare their defense to the fullest. The only way that this can be done is to allow a client to talk to his attorney in complete confidence about all the fact there involved in a particular circumstance. Now reference has been made to the constitution, but I would also respectfully point out that we operate under the common law which is all the laws that have been carried down to us long before the Constitution of the United States. I think the question can best be summed up from the case in 112 Connecticut by our own Supreme Court where it says the underlying reason for the attorney-client relationship and its privilege is the professional assistance would be little or no avail to the client and you can substitute the word

ad

Tuesday, March 23, 1971

86

defendant there if you would, unless his legal advisor were put in possession of all the facts relating to the subject matter under inquiry litigation and which in the indulgence of the fullest confidence the client could communicate. That's why it is necessary.

MR. SPEAKER:

Further remarks on the amendment. Representative Carrozzella from the 81st.

MR. CARROZZELLA:

I too must rise to speak in opposition to this amendment, in addition the bill provides for a privilege for doctor-patient, the communicant and his priest, rabbi and so forth. And these are privileges that have been respected and come down from 300 years of our common law. Obviously if the communicant could not communicate with the knowledge that whatever he says to the priest is in the strictest of confidence, he's not going to do so. Obviously if a patient could not go to the doctor and disclose all and everything, he's not going to do so and therefore not get the treatment he needs. It's a bad amendment, I think it flies in the face of all the privileges that we here should respect insofar as these three categories are concerned. I hope the amendment is defeated.

MR. SPEAKER:

Representative Stolberg from the 112th.

MR. STOLBERG:

I find the ladies arguments quite convincing. I think

ad

Tuesday, March 23, 1971

87

the sanctity of privileged communications that we've offered in these three cases are fundamentally the sanctity of privileged communications between any two human beings. I not only suggest that we support the amendment, but I would suggest according to our rules that all attorneys at law, clergymen and practicing physicians disqualify themselves from voting on this question.

MR. SPEAKER:

Representative Oliver.

MR. OLIVER:

Mr. Speaker, with all due respect to the gracious lady from Stratford, following along the lines of my brother at the Bar, Mr. Sullivan, and going beyond that, I must oppose this amendment. I would suggest maybe I'm the only one who misheard this when the Clerk read it, but as I understand it **only** eliminated subsection 6 of Section 4, is that not correct, Mr. Clerk. It did not repeal Section 8. Did it delete Section 8.

MR. SPEAKER:

Will the Clerk reread that section.

MR. CLERK:

I'll reread the entire amendment.

MR. OLIVER:

Well, my observation was correct, I was only one who misheard it then. And thus admitting I will just identify with the remarks of Mr. Sullivan.

ad

Tuesday, March 23, 1971

88

MR. SPEAKER:

Further remarks on the amendment. Representative Ajello from the 118th.

MR. AJELLO:

Speaking in opposition to the amendment, I'm not an apologist for being an attorney, I'm quite proud of it. I think I do my clients a good service and I think that they need me when they come to me. I'm very pleased to be able to say that I practice law and make no apologies for it. However, to get to another point, I think that the Representative explained it quite well, including his citation of cases, so that I won't delay the issue as to who is being protected by this kind of thing, it's the client, not the attorney. And again, to Representative Stolberg's point, I would say that the privilege which he doesn't seem to understand is not the attorney's privilege, it's the client's privilege and therefore if there are any clients here who have that problem, they should disqualify themselves, the attorneys are not concerned.

MR. SPEAKER:

Is there anyone left who is not yet disqualified. Representative Pearson for the second time.

MRS. PEARSON:

Mr. Speaker, I just feel very strongly what I said about our constitution. I do not care about the common law, I don't care about any law. All I'm telling you about is our state Constitution and when you start fooling around with this, I

ad

Tuesday, March 23, 1971

89

feel that you're going to be in trouble. I raised some questions about the telephones, but I don't think it was answered and I do feel that this in violation of our state Constitution and you can't show me where in the state Constitution it says that anybody is privileged.

MR. SPEAKER:

Questions of adoption of the amendment. All those in favor indicate by saying "Aye". Those opposed. The amendment is lost.

Clerk will call the final amendment.

CLERK:

House Amendment Schedule L. Offered by Mrs. Pearson of the 128th.

Section 8, line 329, delete "physician", and insert "psychologist and psychiatrist".

In line 30, delete "attorneys at law or".

MR. SPEAKER:

Representative Pearson.

MRS. PEARSON:

Mr. Speaker, I move the adoption of Amendment and I ask that when the vote be taken on the amendment, that it be taken by a roll call.

MR. SPEAKER:

Questions on a roll call. All those in favor, indicate by saying "Aye". With one exception noted, the motion for a roll call is lost. Representative Pearson.

ad

Tuesday, March 23, 1971

90

MRS. PEARSON:

Mr. Speaker, this is my second attempt to amend the bill. I do, and I will acknowledge the fact now, that the first amendment is lost, that there is a section in our state statutes that does say, Section 52-146, that clergymen, that they shall not disclose confidential communication made to him in his professional capacity in any civil and criminal case. I also acknowledge the fact that in Section 52-146C this is private communication between psychiatrists and psychologists, but not a medical doctor and still not a lawyer. Now, if I may prove my point on the doctor. In the case of Zyner versus Zyner, the Supreme Court of Errors stated "in this state information acquired by physicians in their professional capacity has never been privileged". This rule still prevails. And the Supreme Court of Errors, State of Connecticut versus Reed, on a murder case "defendant's objection to cross examine on his statements to a doctor regarding the planning of a crime on the ground they were confidential" was overruled. In this state, there is no privilege between physician and patient thus stated. State of Connecticut versus Hennis, Supreme Court of Errors "no physician and patient relationship in Connecticut, is there any extension of confidentiality." I think that we go along with our statutes that points our psychologists and psychiatrists, I do not believe our state statutes says that a doctor, a medical doctor shall be privileged and I feel that these cases so point that out. As far as the lawyer goes, in the ABA

ad

Tuesday, March 23, 1971

91

ad

code of professional responsibility under ethical consideration, the obligation to protect the confidences and secrets obviously does not include a lawyer from revealing information when required by law. Also, a lawyer may reveal confidences and secrets when required by law or court orders under Section C. Also, the intention of his client to commit a crime and the information is necessary to prevent the crime, he can reveal this information. I still do not believe that a lawyer should be exempt or a medical doctor. I will concede since the first amendment has failed on the two forms of doctors that I mentioned and on the clergy, but I would hope that you would adopt this amendment.

MR. SPEAKER:

Further remarks on the amendment. Representative Coatsworth from the 76th.

MR. COATSWORTH:

Mr. Speaker, during the last, the argument concerning the last two amendments, it seemed rather confusing perhaps, that the lawyers in the House argue for a special client relationship, client-attorney relationship, with proper safeguards to prevent disclosure of information. That client-attorney relationship is indeed necessary in this state and probably the main reason for why it is necessary, is because it protects the client from self-incrimination. And I ought to ask, Mr. Speaker, whether any lawyer in this House would care to remark on the logic of this bill which takes away that

Tuesday, March 23, 1971

92

right of self-incrimination, the right not to testify against yourself, whether it be in a lawyer's office or a public telephone.

MR. SPEAKER:

Would you remark further on the amendment. If not, all those in favor, indicate by saying "Aye". Those opposed. The amendment is lost. Unless the Clerk has further amendments the question now is on acceptance and passage of the bill as amended by Amendments "A" through "F", and "J". Gentleman from the 81st, Representative Carrozzella.

MR. CARROZZELLA:

Mr. Speaker, the motion has already been made for acceptance and passage as amended. We started the debate on this long ago, and I think many of the reasons for and reasons against the bill have already been discussed. But with your indulgence, Mr. Speaker, and the indulgence of the members of this House, I would like to give a couple of reasons as to why I think this bill is necessary. The answer to the question of why a wire tap bill. Mr. Speaker, I am convinced that if we are to make any significant attack at organized crime in the state of Connecticut, we need a wire tap bill. Now you know, and I know that organized crime is controlled by the big men. The big men at the top who are insulated and who insulate themselves by the little men at the bottom. We have the little bookie on the corner who makes and gets the action and then he in turn must phone it in to the big man who is really making the

ad

Tuesday, March 23, 1971

93

ad

money, who is really the heart of the syndicate. We have the little drug pusher on the corner, who is selling the drugs to your children and to mine, but in order to make the buy, he must contact the fellow who has the means and the accessibility to the drugs to sell to him. And the testimony we received at our committee, was to a man, to the fact that without this bill, without a wire tap bill, we could not get to that man, because he is so well insulated, because he hides, because he may be the man who is in the next office to yours, a respectable man on the face of it, but really the man behind the man who is doing the harm. Now in furtherance of this, I would point out to the members of the House that the Judiciary Committee travelled to Washington back in April 1970 and we were pleased at that time to receive some information from Mr. Thomas Flannery, U.S. Attorney for the District of Columbia and he told us a little story about a fellow by the name of Slippery Jackson and he said that there was no question in the minds of his investigators, in the minds of the police that this man was involved in narcotics from head to toe, but that there was no way that they could get any evidence on him whatsoever. And then they passed the crime control act back in 1968 and with the evidence that they had which wasn't really evidence, they finally got a wire tap and put it on Slippery Jackson's telephone. Startling results, Mr. Speaker, they found that over five thousand calls a month came into this man relative to the sale of narcotic drugs, five thousand calls a month.

Tuesday, March 23, 1971

94

This is really a man behind the scenes. The man they couldn't get, but with the help of wire tap, they were able to not only indict him, but seventy-two others, who were the pushers, plus three other people from the state of New York. That's a good reason why wire tap, and I think you could follow that reasoning right down to the State of Connecticut. Operation Eagle, just back in June 1970, where a wire tap lead to the indictment of some 137 people, right here in this state they used it, on the federal level. That's another good reason why wire tap. And so finally, Mr. Speaker, I would say that we have here a bill which I think accomplishes its purpose, but on the other side, we still have to worry about the fact that we are invading the privacy, invading privacy on that angle. I would submit here, that the bill before us, tries to maintain this delicate balance. It says yes all right, on the one hand, a wire tap is necessary, there is no question. But on the other hand, we have strictest requirements under the bill that make this invasion into privacy be kept in balance with the ends we are trying to achieve. Very briefly, I will go into some of the qualities of the bill which make this a very restrictive bill. I would point out that the bill can only be supplemented by the State Police, the local police will not get into this insofar as the implementation is concerned. There is a three panel court and in addition, I think there's one factor that really makes this bill a restricted bill. It limits the number of taps to 35 a year. You might say, well,

ad

Tuesday, March 23, 1971

95

what happens when we get to the 36th, if we really need it.

ad

We didn't get this number out of the air, we questioned the witnesses that appeared before our committee on how many taps they could practically put into effect during the course of the year. Captain Bishop said anywhere between 35 and 50 and we're probably not even going to get to the number. So we put a limit in here to 35 is the maximum number of taps that is allowable under this bill per year. I'm sure on the one hand we are invading privacy, but we're saying, we're only going to do it in 35 cases and you can rest assured, that this limitation the authorities are not going to come before the three panel judge on any small minor gambling case, or any small minor drug case. They're going to come in to get the big guy, and that is what this bill is going to do, because it is going to force them to come in and get the big guy and that's what we intend to do about this bill. In conclusion I'm going to say that there's a lot of objection to this bill and I can understand it. We say we're going into a dangerous area, we're invading privacy, so forth, anybody has the right to privacy and it seems that this is so, and it's a hard problem, but bear in mind this, that in addition to the right of privacy, the law abiding citizens of this state have a right to live in it without fear. They have a right to live without the knowledge that someone is selling drugs to their children on the corner, if we can achieve that. They have the right to live, they have the right to stay alive, so you balance these rights on the one

Tuesday, March 23, 1971

96

ad

hand with the right to privacy on the other, believe me, I'm going to give up a little bit of that right to privacy to get these rights, because these are as important, if not more important. I submit this bill is a good bill, as I will say now on the floor, I think it's going to be the best bill in the United States, because it is so tight and it does affect the right to privacy. And I think it's better than the federal bill too. It's a good bill, it accomplishes our purpose, but at the same time we have kept in mind the right to privacy. I hope the bill passes.

MR. SPEAKER:

Further remarks on the bill as amended. Representative Ajello of the 118th.

MR. AJELLO:

Mr. Speaker, I rise in support of the bill contrary to what some of you might have thought by my earlier remarks and I do so with a certain reluctance because of the very nature of it. For many years I was opposed to this type of legislation and I think that perhaps philosophically I still am opposed to it. But I've become convinced as I said the last time we considered a wire tap bill in this House, the police officials, the state's attorneys feel that this will be an effective weapon in combatting organized crime. The organized traffic in narcotics alone, to me, would justify this kind of extreme measure. So that I simply would like to call upon the State's attorneys and the state police today, those who are charged with the use of

Tuesday, March 23, 1971

97

ad

this statute, to use it wisely and to use it properly and to use it within the confines of our legislative intent as it certainly has been expressed here this afternoon at some length. The potential for evil in a bill of this kind is unlimited. I think fortunately we have devised the most restrictive kind of bill with the most safeguards that can practicably be put into a bill. We had some disagreements on what the necessities of the bill are, but in any case, I hope that this bill will be a useful tool. And I say to them in the event that we find that kinds of abuses that have occurred in the past in other jurisdictions with the use of wire taps, that I would certainly be one of the foremost among those who would fight to repeal this very bill at the next possible opportunity.

MR. SPEAKER:

Representative Collins from the 165th.

MR. COLLINS:

Mr. Speaker, I rise reluctantly to support this bill, and my reluctance is not because I am concerned as the Judiciary Chairman was that we might have failed to maintain that delicate balance between the right of privacy and the concern that we all have for the drug pushers, the organized crime operators that we all know exist in the state of Connecticut. My concern is the other way. I think that with some of the amendments that we've passed today and with the rejection of certain other amendments, we've produced an extremely watered down version of a wire tap and electronic surveillance bill.

Tuesday, March 23, 1971

98

ad

So watered down, in fact, that it is far less effective and far less operative than the federal law or any of the existing state laws which surround the state of Connecticut. But operating under the adage that some bill, even if it is not what you want, is better than no bill at all. I must concur with the remarks of the Chairman on the Judiciary Committee about the need for some type of wire tap legislation. Those of us who have been here a few years recall that former Governor Dempsey, back as early as 1965 appointed a committee on gambling and one of their recommendations of that distinguished committee was for a specific enactment of a controlled wire tap legislation. At that time they said that they believed a controlled wire tap law with proper safeguards had a definite and necessary place in the field of law enforcement and could be used effectively to close a large loop-hole in the criminal apprehension and procedure. I'm afraid, Mr. Speaker, that we have not taken very great strides for closing that large loop-hole. I still think that there are several aspects of this bill which keep that large loop-hole in existence. However, without wire tap legislation, without any type of bill, it would be almost impossible to get the evidence necessary to convict organized criminals. The problems of fighting organized crime elements is not in identifying who they are but in proving to a judge and jury that there has been a violation of a law. Wire tapping, such as we have here in this bill, does not make law enforcement in the organized crime area easy. It does,

Tuesday, March 23, 1971

99

ad

however, make it possible. I think it is significant that in the period between 1965 and 1970 in Connecticut, a 5 year period, serious crime increased 110 percent. In 1969 there was one serious crime committed in this state every seven and a half minutes. On the federal level we have equally glaring statistics, although much more recent, since the 1968 federal law was adopted, court authorized wire tapping was applied on 309 occasions, most of which were taps on telephone wires, 60 percent of those taps involved the legal gambling and 20 percent involved narcotics traffic. As a result of the federal law, in just 2 years, a total of over 900 arrests was made, 500 persons indicted and 100 convictions obtained. I would point out to the gentleman from the 81st who was so proud about Operation Eagle, which was conducted in this state, that it was conducted under the federal law, which in my opinion is a substantially better law than the one we're enacting today. That particular operation might not have occurred under the law that we have, or about to consider today. I think, Mr. Speaker, the foregoing is impressive evidence that wire taps under court supervision with proper safeguards, do achieve results. We've seriously handicapped our crime fighting forces by our failure over the last 5 years, since it was first recommended to adopt carefully regulated wire tap legislation in Connecticut. And I don't have to go into the 1969 fiasco when we passed a bill in this House and it lost upstairs by the tie breaking vote of the then Lieutenant Governor against the bill. The proposed

Tuesday, March 23, 1971

100

ad

legislation that we have before us does not give free reign to law enforcement officials to undertake indiscriminate wire tapping. What it does it to permit the use of wire taps under proper court supervision. It is in my opinion no different than permitting search warrants under court order. Wire tap legislation does not do away with the right to privacy. In fact strongly regulated wire tap legislation with severe panalties for violation is greater protection for the innocent than no legislation at all, and that is one of the main reasons I stand here in support of this bill today. Those who argue that wire tap legislation under limitations, no matter how strict would be abused, failed to understand all power can be abused and we must and we should rely on the proper safeguards that are built into this bill and on the discretion that we invest in the judiciary. I think we all agree that we have to strike the proper balance between privacy and justice. But I think it's also worth to know that the freedom of the individual is quite valueless if he can be made the victim of the law-breaker. The threat to our society from organized crime is sufficiently great to necessitate the passage of this bill. I think it's time, long overdue time for the passage of this bill, weak though it may be and I move that when the vote be taken, it be taken by roll call.

MR. SPEAKER:

Questions on a roll call. All those in favor indicate by saying "Aye". Sufficient number having ordered it, a roll call

Tuesday, March 23, 1971

101

will be called for in the Hall of the House.

Mr. Clark of the 14th.

MR. CLARK:

Mr. Speaker, I listened to much of the testimony here today and heard the word emasculate a good many times during the testimony and from what I can see, one definition of emasculate is deprive of virility and the other one is to expurgate that which is offensive, though I think by some of the amendments and some of the action we took here today, we have in fact, expurgated somethings that were offensive. I think the intention of the wire tap, we'll all agree is to help our law enforcement officers to prevent the rise, the continued existence of organized crime which is more than creeping in, it's running in and I think we should pass this bill.

MR. SPEAKER:

Representative Bard of the 145th.

MR. BARD:

Mr. Speaker, I rise to support the bill. I think it is a weak bill, but I think sometimes it is good to vote and get a bill like this in to show how weak it is. I think in the coming years we will be changing this bill to a point where it will work. I don't think the organized crime will be running in here, in this state, I think it will be galloping in. But I think half a loaf is better than no loaf at all, but I hope that in the coming years, we'll be able to change this bill so that it will work.

ad

Tuesday, March 23, 1971

10:

MR. SPEAKER:

Gentleman from the 9th, Representative Klebanoff.

ad

MR. KLEBANOFF:

Mr. Speaker, I rise in opposition to this bill and I do so regretfully, because of the tremendous work that I know the Chairman of the Judiciary Committee and the majority members of the committee did. I don't think it is a weak bill. I think it's a bill that has many safeguards, but I still feel it's legislation that violates the rights of the individual. The freedom of the individual is invaluable, but it is made worthless if the individual is made a victim of the law. I don't want to waste any more time and go into the different aspects of the bill, but there are two very serious questions here which no one in this chamber can answer, and that is if you have a legal tap and a person goes into a dwelling, and the language of this bill permits that, even though many people say that a person doesn't have to go into the dwelling to tap, but we have that language in the bill, or if a legal tap is made and certain information is heard over the phone, does this become a lawful basis for an officer to go into court and apply for a search warrant for an unrelated crime. For example, suppose the officer goes into a dwelling and sees certain objects which are illegal, can he go back claiming that he was lawfully on the premises and apply for a search warrant and arrest other people, we don't know, but these are very very serious questions. The

Tuesday, March 23, 1971

103

ad

right of an individual in his home is sacred. We are violating that right and I just hope we are not doing so because we are saying to ourselves, it's being done anyhow, let's just legalize it and let's legalize it with safeguards, then it is okay, because this is not the rationale for any legislation to be adopted here.

MR. SPEAKER:

Representative Stolberg.

MR. STOLBERG:

Mr. Chairman, I rise to speak against this bill. I think the bill could have been improved with an amendment which I did not submit. It was an amendment designed after one that we heard earlier, an amendment that would have described in detail the type of equipment that could have been used in legal wire taps and that equipment described would have been a suction cup, a string and a tin can. I think seriously though, that when Sam Irvin is concerned about privacy in all walks of life in this country, I think there is cause for concern on the part of all of us. When we have what seems to be proliferation already of illegal wire taps, I think we should be concerned indeed. Now, the proponents of this bill, I think have two very justifiable concerns. One, is a concern with organized crime in the state of Connecticut, the second is with the very disastrous increase in drug traffic in our state. I would submit that neither of these areas is one that can be found indigenously in the state of Connecticut. Organized

Tuesday, March 23, 1971

104

crime has tap roots outside of this state and certainly it would be difficult for me to conceive of any major heavy drugs originating in the state of Connecticut. Thus, we have an apriori judgment that state lines are being crossed. Federal authorities already have a federal wire tap authority which they can use in such cases. The problem which has been discussed at length in our caucuses and before the committee is that we do not have cooperation among federal, state and local authorities. And I would suggest that this is the area that demands legislation. We should do everything in our effort to bring about greater cooperation among the various law enforcement agencies already in the field. It has been suggested that this bill has been emasculated, that the heart has been cut out of it, it is meaningless, I hope those of you on either side of the aisle who think this is the case will consistently vote against the bill. Your debate during the amendments certainly lead us to this conclusion. I don't think however, that the bill is emasculated, I think the bill as it is now before us, represents an intense concern on the part of the committee and the Chairman of Judiciary to provide the safeguards that they feel are necessary. It is my judgment that they do not go far enough, I feel that this bill is not what it would be if some of the amendments were passed a leap into 1984. I feel it is unfortunately a very small step with all of the safeguards and everything else, a very small step. I feel it is an unfortunate regrettable small step toward

ad

Tuesday, March 23, 1971

105

ad

frightening totalitarianism that is so vividly described in 1984 which was already referred to.

MR. SPEAKER:

Representative Gormley from the 142nd.

MR. GORMLEY:

Mr. Speaker, reluctantly I will support this bill as it has been changed. On every roll call vote on the amendments, I was on the losing side and I am proud of that because I wanted the strongest and the best bill enacted to fight and put an end to organized crime. While our friends on the opposite side of the aisle had the votes to put their amendments through and defeat ours, this does not mean that they have come up with a better bill. We need a wire tapping bill. The local police want it, the state police want it, the courts want it. And even though this watered down bill is not what I wanted, I will vote for it.

MR. SPEAKER:

Further remarks on the bill. Representative Pearson from the 128th.

MRS. PEARSON:

Mr. Speaker, for the record I would like to ask a few questions to the proponent of the bill, if I may.

MR. SPEAKER:

Please proceed.

MRS. PEARSON:

In Section 4, line 227 and 228, I would like to know.

Tuesday, March 23, 1971

106

MR. SPEAKER:

ad

The gentleman from the 81st is not in his chair. Can I ask that be passed, could you hold until he comes back.

I believe the next person was Representative Griswold of the 109th.

MRS. GRISWOLD:

Mr. Speaker, I rise briefly to oppose this bill. There are very few laws before us which are clearly and in all respect in the public good. This bill provides an excellent example of wares we must weigh, the advantages against the disadvantages before making a final decision. We must be able to predict the overall effect to this legislation on our society before determining how we will vote. It has the advantages of additional weapon in the arsenal of our crime fighters and it has the advantages that we are told it is necessary to control organized crime. The disadvantages which weigh heavily with me are that there is an easy abuse of possible by enforcement officers, but the most important to me is that it does invade the privacy of an individual. Former Attorney Ramsey Clark analyzed the utility of wire tapping in his recent book "Crime in America" and I would like to quote briefly, "privacy is the basic individuality, to be alone and to be let alone, or to be with chosen company to say what you think or don't think, but to say what you will is to be yourself". Mr. Speaker, I have heard a great deal this afternoon about emasculation of this bill. I rise to oppose this bill,

Tuesday, March 23, 1971

107

that privacy be protected and by so doing, you might say we are afeminizing this bill.

ad

MR. SPEAKER:

Representative Pearson. Representative Carrozzella, she has a number of questions she would like to pose to you.

Please proceed.

MRS. PEARSON:

In Section 4, line 227 and 228, there's not more than 34 orders authorizing interception, so forth. My question is, my number one question is, whose going to keep count?

MR. SPEAKER:

Gentleman from the 81st care to respond?

MR. CARROZZELLA:

Well, if you will note on another section of the bill, through you, Mr. Speaker, each tap has to be recorded with the Chief Court Administrator and I assume that he will be able to keep count.

MR. SPEAKER:

Further questions.

MRS. PEARSON:

Ye. I'm still not too sure about the answer, I guess he will count then. Are our warrantless taps or emergency taps permitted, emergency that could intercept communications for 48 hours without a warrant and investigations?

MR. SPEAKER:

Does the gentleman from the 81st care to respond?

Tuesday, March 23, 1971

108

ad

MR. CARROZZELLA:

Through you, Mr. Speaker, the answer is no.

MR. SPEAKER:

Representative Pearson.

MRS. PEARSON:

Thank you. In Section 5, line 262, 263, would you please define for me "any device".

MR. SPEAKER:

Representative Carrozzella. Question is a definition of "any device".

MR. CARROZZELLA:

Any device certainly would be meant to include any device which is used in putting a wire tap on a telephone wire.

MR. SPEAKER:

Representative Pearson.

MRS. PEARSON:

Then I take it that that does not mean a bug or any other type, just specifically the wire tap on the telephone.

MR. SPEAKER:

Does the gentleman care to respond further.

MR. CARROZZELLA:

Through you, Mr. Speaker, the answer is yes.

MRS. PEARSON:

Thank you, Mr. Speaker. If I may comment.

MR. SPEAKER:

You may proceed.

Tuesday, March 23, 1971

109

ad

MRS. PEARSON:

I really believe since organized crime personalities actually suspect that they are really under surveillance, that the effects of this wire tap bill probably will be very negligible. It may just touch them a little quicker. Where is really the commission to encroach on another person's rights. I move that the bill, or I would request that the bill go back to committee for a little regressing, I think we have had so many amendments on it today, that really it needs a little more input of quality. We must fight crime effectively, but this bill is really cracked far worse than the liberty bell. I think lawyers sometimes fight bills with holes in it, so they know where these loops and holes are so that they can defend their own clients and I feel that this could tend to create work for them. I don't feel that we should really tamper with this bill, I do feel we should walk very softly with it, very serious bill, deal with the First Article of our state Constitution as I pointed out before and I think that we have to hit crime, but we must have an effective bill and a sound bill to protect all the privacy and personal freedoms. Proof of what I say, I think what we really have to do is look at New York which has limited wire tap and eavesdropping for years. They have had much organized crime, as about much as any city in this country and it hasn't stopped their crime from coming to our state. If we really want to do something about crime in the streets, I feel we must get at it at the roots, which

Tuesday, March 23, 1971

110

ad

is poverty and which is ignorance. But really not right legalizing wire tap. I feel the bill, with my amendment, or amendments, would have been a good bill. Without it, ugh. I would really hate to see this bill become a starting point. And year after year, see this bill expanded.

MR. SPEAKER:

Representative Connors of the 160th.

MR. CONNORS:

I'll be very brief. I tell you one thing, the people who are fooling around being honest, they have nothing to worry about. We're after syndicated crime and we got our share of it. As far as going into people's homes and tapping their private conversations, no, this bill does not cover that at all. Now the only people that are afraid is the syndicate. It is not the average person, the average person is not afraid.

MR. SPEAKER:

Representative Tudin from the 42nd.

MR. TUDIN:

I just wanted to make one comment. I was quite pleased to hear that Mrs. Pearson did think that we should spend a little bit more money with the people and I assume that she figured we should have some money for the DCA.

MR. SPEAKER:

Representative Beck.

MRS. BECK:

Mr. Speaker, I rise to support this bill because I

Tuesday, March 23, 1971

111

ad

believe that at this point the existence of organized crime has had a significant impact upon the attitude of our society toward the ability of its law enforcement officials to carry out their responsibilities. This is only one tool, it is not going to solve the problem, but I do believe from my reading, that this tool will have an impact upon organized crime and the reason that I am willing to support this legislation is because I think that in the end, when we talk about individual liberties and individual rights, that this is only possible when a society supports its institutions of law and knows the institutions of law can protect it. And if we look back to the McCarthy period of the fifties, I think we find that the attitude of society at that time, was so distrustful and so uncertain about our sense of direction and confidence in our elected officials that it did severe damage which lasted well through one decade and more. And this was not a matter of legal safeguards, it was a matter of the attitude of a whole society at that time. And I believe that this piece of legislation has built in the kinds of safeguards such as a three member panel of Superior Court judges, which is designed at least to do the most that a thoughtful state can do to undertake a difficult piece of law enforcement. It is our responsibility to evaluate the impact of that legislation one year from now and I certainly feel that we should and I think that having built in these safeguards, it is important for us to take this step to see to it that society believes that we

Tuesday, March 23, 1971

112

ad

have tried to protect their rights through one more device, with an attitude on the part of our public officials which is protective of individual rights and not destructive about them. And if our society changes its attitudes, then no tool can save our society in and of itself.

MR. SPEAKER:

Representative Lavine from the 73rd.

MR. LAVINE:

Mr. Speaker, I rise late in the afternoon with the full realization that we've all sat here and listened to many pros and cons about this bill. I realize also that the Committee Chairman has labored long and hard to put in what is considered to be effective safeguards for this bill. The founders of our nation established the protection of the Fourth Amendment because they had seen homes subjected to unlimited invasion and search by the authority of general warrants and writs of assistance. They sought to assure that such unlimited searches and general warrants would never be repeated. Government officials were to be allowed only specific warrants describing, and in the words of the Fourth Amendment, "the places to be searched and the things to be seized". The basic constitution guaranteed to the inviolability of the citizens home to unreasonable search and seizure and the constitutional right to privacy would slowly but insidiously be undermined if wire tapping became common and acceptable. And let me interpellate, at this time, we have heard comments from this chamber which

Tuesday, March 23, 1971

113

ad

indicate that there is thinking that it should be expanded and that there is thinking that we will be coming back another time to draw up perhaps conspiracy and perhaps some other areas. An essential difference between totalitarian state and the free society is that the totalitarian state seeks to deprive the citizen of his privacy by trying to observe all his movements, words and even thoughts. Fear and insecurity permeate every aspect of life and as we say in our own constitution, the pursuit of happiness. Let me just talk for one moment to this question of safeguards. Who is safeguarded in this bill? Are the people who are using the phone and are not the people who are after named in the wire tap order, the people who are being safeguarded. How about the people who are calling in on this phone. Are they safeguarded? Now this may seem like just minor minor points, but in New Jersey, where the federal task force went in, this information became public property and many many names were named in the print, including many legislators who had done nothing other than make an innocent phone call. But what they considered to be an innocent phone call. We've just had a little item in the New York Times which I think is relevant to what we are talking about. A justice aide in the Erwin hearing, and these are the hearings on what is going on between the military and other groups who are putting people under surveillance, a justice aide said that he felt that they had a right to put senators under surveillance. More than that, there has been indication in the testimony that this information

Tuesday, March 23, 1971

114

ad

has been leaked. This information has been leaked to magazines. What safeguards do we have to this. Well, let me call your attention to the words of the bill. This is on 355, Section 9, "duplicate recordings may be made by the applicants for his use or for the disclosure pursuant to the provisions of Section 16 of this investigation". Now the original is sealed, but duplicates are made and duplicates are available and information will become public. I ask you to consider these things when you consider voting on this bill. I think that the intent of the bill which is to get gamblers, narcotic dealers is adverbial. I question whether we have used all the remedies that we have at our disposal before coming down with the infringement of the Fourth Amendment. I think we should be putting our money in the courts, we should be putting our money in the police department, we should be putting our money in crime fighting, not in making constitutional changes before it's a proven case that it is needed.

MR. SPEAKER:

Further remarks. Gentleman from the 104th.

MR. OLIVER:

Mr. Speaker, with the indulgence of the House, I will be very brief. I rise to oppose the bill, I want it clear that all the members know why, short of constitutional issues, and I'll oppose the bill on constitutional issues, but short of constitutional issues, why they too can oppose the bill, and that is simply because it is not necessary. Under the current

Tuesday, March 23, 1971

115

ad

federal act, Title 18, United States Code, Section 25-16, specifies the crimes for which federal wire taps may be made, supplemented also by Title 18, Section 1955, recently enacted, I would like to give you some of these crimes and if that bill is constitutional, then we don't need to do it. Of course if that bill is not constitutional, then what we do today in passing the bill would be a nullity, but let us assume that wire tap could be constitutional. Then under the federal act you can tap for robbery, extortion, murder and kidnapping. You can tap for bribery of public officials and witnesses, bribery in sporting contests, transmission of wagering information, injuring an officer or juror, obstruction of criminal investigation, kidnapping, assault, these are just some examples I am giving to you. Embezzlement, very important, one of the main things we are talking about today, manufacture, importation, receiving concealed, buying, selling or otherwise dealing in narcotic drugs, marijuana or other dangerous drugs, extortion of credit transactions, the very heart of organized crime or any conspiracy to commit any of the foregoing including numerous ones I did not indicate. I don't believe it is necessary for us to pass a law. The federal government has a law, the federal government's law has not been contested by the United States Supreme Court, perhaps we ought to wait until the United States Supreme Court has ruled an appropriate case. When we undertake impugn constitutional liberties I think we ought to tread lightly if we tread at all. I do not believe

Tuesday, March 23, 1971

116

ad

there is any imperative upon us to day to take this action and thus I think we can have the luxury of awaiting the determination on the federal act. We can leave the responsibility to federal government to get involved in the telephone communication, common carriers by communication, they would encompass, I believe every telephone company in the state. I think there is no need whatsoever to pass this bill on the grounds short of the constitution. I for one will oppose it also on constitutional grounds.

MR. SPEAKER:

Further remarks. Representative Coatsworth from the 76th

MR. COATSWORTH:

Mr. Speaker, I understand also that the hour is late, the time has elapsed since the beginning of this hearing and during the time that this bill has been considered, I have been one of those who urge that we hurry up the consideration of this bill for a final vote. I rise in opposition to House Bill 5080 and would speak against the passage of this bill today. It is incumbent upon those who favor wire tapping to demonstrate the need for such legislation. The proponents of this bill have argued that certain safeguards will protect the public. They have alleged this bill meets federal constitutional standards, they have argued that wire tapping will aid in the prevention of crime, the intention of criminal activity and in the apprehension of criminals. They have further argued that wire tapping will impair the activity of organized crime. But,

Tuesday, March 23, 1971

117

Mr. Speaker, the proponents of the wire tapping bill have failed to adequately document their case. Their claims of apprehending criminals through the use of electronic surveillance have been sadly unsubstantiated, the proponents of this bill have asked this Assembly to threaten the privacy of the citizens of this state without real cause or justification. There are several states which presently allow wire tapping. In all of these states, with wire tap laws, the crime of murder and the incidence of murder is higher, the ability of police agencies to detect crime and prevent it or apprehend criminals, these rates are all lower than those in Connecticut. The federal government currently has the power to wire tap anywhere in this country, yet crime rates have soared 148 percent since 1960. New York which has been the cultural center for organized crime syndicates for decades has practiced wire tapping since 1892 with no measurable decrease in organized criminal activity. For what purpose then, for what purpose do we pass this bill. For what reason do we needlessly threaten the privacy of our citizens. There is an urgency today, Mr. Speaker, to protect the citizens of this state from the onslaught of an ever rising criminal activity. These crimes take the form of murder, burglary, auto theft and other crimes of violence. They post a serious, if not vital threat to the security of our citizens and the people of this state demand and indeed deserve protection. And yet, during this crisis period in criminal activity, what do we offer the

ad

Tuesday, March 23, 1971

118

ad

people of this state but the cruel hoax of wire tapping. Wire tapping will not solve the crime in our streets. Wire tapping will not protect the citizen in his home nor the merchant in his place of business. It will not therefore, convince our citizens of our tough stance on crime, the citizens of this state have asked for substantial measures from its political leaders to protect them from the ravages of crime and we offer instead a flashy device called wire tapping, an empty answer to genuinely concerned people. So our citizens will look to the police agencies to find a remedy for their needs and they will find in 1902 we spent 9 percent of this government's budget for police agencies and this figure has decreased over time to 3.5 percent. They will discover that our police agencies are understaffed and underpaid and we offer wire tapping. And a serious proposal to deal with crime in Connecticut must by definition increase the number of policemen and increase the salaries in training of policemen. Our police agencies cannot protect our citizens without meeting these priorities. Mr. Speaker, as Senate Clerk of the Corrections Committee, I have witnessed first hand horrible inadequacies of our prison system, the public is aware of the horror of the Seym Street Jail and the problems faced by Meriden School for Boys. The physical plant of almost our entire correction system is over 100 years old. The adult rehabilitation programs and juvenile training centers continue to be more dream than reality and as a consequence, we constantly pledge our courts and our prison system. Our

Tuesday, March 23, 1971

119

ad

answer to the people of this state will be measured in the public eye in years to come and our answer today seems to be wire tapping. The courts of this state have recently faced the problem of having no facilities to send criminals to, the courts themselves are behind in the disposition of criminal cases. Parole officers are increasingly overburdened and we ignore the calapse of our system of criminal justice and instead pass wire tapping. If we are serious, and I believe that we are, in our attempt to alleviate the constant threat of crime, we will not be captured by this array of electronic gadgetry, we will instead take heed of the public's plea for relief from crime and pass bills of substance to deal with this threat. Mr. Speaker, there was a time in this country and in this state, there was a time when legislators were seriously concerned about individual rights and I would ask this Assembly, and ask the members of this Assembly to consider the dangers inherent in any wire tap bill, the doors that we have opened and find no means to close, the threat to all our citizens in the passage of this bill. Mr. Speaker, I think seriously, any serious attempt to control crime, the only answer is to face what we all know, to correct the problems of our correctional systems, to modernize our police forces and pay scales for policemen and do the difficult work that must be done to make an impact on crime in this state. I will not take any more time of this Assembly, it is commonly known that I have introduced 27 amendments to this bill, knowing that this House would not

Tuesday, March 23, 1971

120

ad

be served by the introduction of those amendments and realizing that those amendments would merely obstruct the orderly flow of business of this House, I have asked the Clerk to withdraw those amendments. I would ask the help of the members of this House in defeating this bill.

MR. SPEAKER:

Further remarks. Representative Avcollie from the 94th.

MR. AVCOLLIE:

Mr. Speaker, I wouldn't attempt to expand upon the remarks of Representative Coatsworth. I think he has covered the scene. But I do feel that those of us that will vote against this bill, as I will, owe the people of the State of Connecticut an explanation. We owe them an explanation because this has been made a popular cause, a household word, just like God, motherhood and the flag and now we can add wire tap. Not because the people came to us, Mr. Speaker, but because some of the political figures in this state made it an issue. This is why some sit here silent today that spoke against it two years ago. The constitutional question hasn't changed not one bit. The implications of this bill haven't changed, not one bit, but some will not speak today because they feel it was a political issue. Some will not speak today because they are afraid of the votes back home. I hope that those who vote for this bill, and I'm sure it will pass, will remember the flag of organized crime that they waved over this House when the Governor's budget comes on this floor. I hope they'll put their money where their

Tuesday, March 23, 1971

121

ad

mouth is with regard to better police, better law enforcement agency training facilities, better pay, better equipment, in other words, better tools with which to fight crime because right now the police are fighting organized crime in this state and they're doing a darn good job of it on a pretty low budget and this gimmick of a wire tap is not going to help them. If we're doing such a poor job, I can't understand why our courts are so overcrowded with criminal cases. I will oppose this bill because I don't think it is the last resort, I think we are doing a good job, we can do a better job if we'll put some money into our police departments, give our policemen some confidence, give them some cooperation between agencies and lastly, Mr. Speaker, I am not concerned about the phrase emasculation of the bill, I am more concerned about emasculating the Constitution of the United States. For these reasons I vote no.

MR. SPEAKER:

Will the members please be seated, will the aisles be cleared. We will proceed with the vote by Amendments "A", "B", "C", "D", "E", "F" and "J". The machine will be open.

MRS. PEARSON:

Mr. Speaker.

MR. SPEAKER:

Representative Pearson.

MRS. PEARSON:

Mr. Speaker, I'd like to call a point of order.

Tuesday, March 23, 1971

122

ad

MR. SPEAKER:

State your point of order.

MRS. PEARSON:

Mr. Speaker, I'd like to be consistent and in my personal opinion I believe that the attorneys present are in conflict of order by voting and in so voting on this bill, I request that their vote be disqualified, reason being on the fact because the bill preserves their right of exemptions.

MR. SPEAKER:

I would respectfully say to the gracious lady, the time to raise a point of order is before a vote is in fact in process. I think that the institution is better served if a point of order is raised before people, in fact, have voted, and therefore, in view of the fact that I don't feel that your point of order was timely, I'm not going to rule on it.

MRS. PEARSON:

May I make one other comment.

MR. SPEAKER:

I'd have to know the nature of it before I can respond.

MRS. PEARSON:

Well, I just wanted to comment in Manson's Legislative Manual, I'm not questioning your point, but I was under the impression that proper time as I thought was, was to raise a point of order questioning the right of the member to vote on account of interest, is after vote had been recorded and before the results are announced.

Tuesday, March 23, 1971

123

ad

MR. SPEAKER:

In our rules the time set forth in the rule for raising this point is in fact before a vote. Our rules further state that nations go into effect only when not inconsistent with our rules and I would think the point set forth in nations in that particular case be inconsistent with our own rules and therefore out of order at this time.

Has every member voted. Is your vote properly recorded. The machine will be locked and the Clerk will take a tally.

The Clerk will announce the tally.

CLERK:

Total number voting 161

Necessary for passage 82

Yea 108 Nay 53

Absent and Not Voting 16

MR. SPEAKER:

The bill as amended is passed.

Will the Clerk please call the proposed amendment to the federal constitution.

CLERK:

Favorable report of Joint Standing Committee on Government Administration and Policy, Senate Joint Resolution No. 66, the Resolution modifying the proposed amendment to the Constitution of the United States, relating to extending the right to vote to citizens 18 years of age or older.

**H-110**

**CONNECTICUT  
GENERAL ASSEMBLY  
HOUSE**

**PROCEEDINGS  
1971**

**VOL. 14  
PART 3  
974-1450**

Thursday, April 8, 1971

20.

tions.

MBS

MR. SPEAKER:

Is there objection? Hearing none, it is so ordered.

THE CLERK:

Page 9 of the Calendar. Disagreeing Action. Calendar No. 100, Substitute for House Bill No. 5080, An Act Concerning Wiretapping and Electronic Surveillance as amended by House Amendment Schedule "A", "B", "C", "D", "E", "F", and "J". We have before us Senat Amendment Schedule "D", copies are on your desk.

JOHN A. CARROZZELLA, 81st District:

Mr. Speaker, I would move for adoption of Senate Amendment Schedule "D".

MR. SPEAKER:

Question on acceptance and passage of the bill, amended by House Amendment Schedules "A", "B", "C", "D", "E", "F", and "J" and Senate Amendmqt Schedule "D".

THE CLERK:

Copies are on your desks.

JOHN A. CARROZZELLA, 81st District:

Mr. Speaker, this is a minor amendment which was passed in the Senate, which would change the from 7 to 15 in number of days, within which the evidence can be submitted upon the making of the application. So it lengthens the number of days within which the evidence can be obtained. It is a good amendment, a good bill. I move adoption of thos amendment.

Thursday, April 8, 1971 21.

FRANCIS J. COLLINS, 165th District:

MBS

Mr. Speaker, I rise in support of the amendment. Contrary to the expression of the Chairman of Judiciary Committee, I do not think this is a minor amendment. It is a rather significant amendment and it was suggested, quite frankly, by the State Police, who have indicated that the seven day period to establish probable cause would be almost impossible to comply with in that to complete the requirements, exhaust all investigative means within that time, would be a rather impossible and almost unattainable task. The amendment, I do think, makes the bill more workable and I would urge its adoption.

ROBERT KING, 48th District:

Mr. Speaker, I rise to oppose the amendment. Not with the thought in mind that my observation is going to make the slightest difference in the action of this House. But only on the desire, on my part, to be consistent. I oppose the wiretap bill, to which this is an amendment. And for reasons, Mr. Speaker, that were very troublesome to me then, and remain troublesome to me now. Very frankly, I think the time has come when this state needs this type of legislation. But in moving to this type of legislation, Mr. Speaker, it seems to me that any one who is familiar with the constitutional history of this country and of the history of this country, should be painfully aware that in taking this step we are giving up a little bit of our rights. Maybe some will regard it as a lot of our rights. The right to have our privacy. The right to have it protected

Thursday, April 8, 1971

22.

MBS

by the Constitution. And when we pass this bill, as we have, that right, to a certain extent, has been eroded. Now, Mr. Speaker, as I say, I think the time has come when we are in the position where we have to take this action. But I think when we take that action, we should do so in this body, we should do so in a clear, strong voice and avoid political wrangling and devoid of bickering. We have not done so on this bill. It has been a political issue from beginning to end. The public has a perfect right to be confused. If there is a need for this type of legislation, which, indeed, there is, this House, this Assembly, ought to be in the position to say so, clearly and unequivocally. If it has become a political issue, then, Mr. Speaker, we should not consider it and it has become a political issue and so, as I say, to be consistent I'm going to oppose the amendment.

IRVING J. STOLBERG, 112th District:

Mr. Speaker, I think this is a slightly bad amendment to a totally unnecessary bill. I should thank the Senate for, once again, giving us a chance to mull on this matter. Neither side of this issue is happy with the bill. I still have not heard one shred of empirical evidence in statistics on how a bill like this can deal with organized crime and drug traffic. I still have not heard the argument met on why state legislation is necessary on this matter when there is no organized crime in the state of Connecticut and no drug traffic in the state of Connecticut that does not have tap roots outside of the state

Thursday, April 8, 1971

23.

thus enabling appropriate federal wiretapping rather than a proliferation.

MBS

MR. SPEAKER:

Are there further remarks? If not, the question is on acceptance and passage as initially amended by the House by House Amendments Schedule "A", "B", "C", "D", "E", "F", "J" and further amended by Senate Amendment Schedule "D".

ROBERT OLIVER, 104th District:

Mr. Speaker, point of information. Isn't the question before us Senate Amendment Schedule "D"?

MR. SPEAKER:

Question before us is acceptance and passage as amended initially in the House and further amended by Senate Amendment Schedule "D". The specific question before us is Senate Amendment Schedule "D".

ROBERT OLIVER, 104th District:

May I press my point of information? Don't we first vote on Schedule "D"?

MR. SPEAKER:

That's what we are doing, sir.

ROBERT OLIVER, 104th District:

Then we will have the chance to discuss the bill as amended by all the amendments?

MR. SPEAKER:

There will be a motion on the main bill subsequent to acceptance and passage...the chamber's will on "D".

Thursday, April 8, 1971

24.

ROBERT OLIVER, 104th District:

Thank you, Mr. Speaker.

MR. SPEAKER:

Will you remark further on Senate Amendment Schedule "D"? If not, all those in favor will indicate by saying aye, those opposed? The amendment is passed.

JOHN A. CARROZZELLA, 81st District:

Mr. Speaker, I now move for acceptance of the joint committee's favorable report and passage of the bill as amended by the various House amendments and by Senate Amendment Schedule "D".

MR. SPEAKER:

Question is on acceptance and passage as amended by House Amendments Schedules "A", "B", "C", "D", "E", "F", and "J", and further amended by Senate Amendment Schedule "D" and adopted in the House in concurrence. Will you remark?

JOHN A. CARROZZELLA, 81st District:

Mr. Speaker, we are now about to pass what I consider to be a most significant piece of legislation. There is organized crime in the state of Connecticut. There's no question about it. It's in New Haven, it's in Hartford, it's in Bridgeport, it's all over the state of Connecticut. And this bill will help combat organized crime. There's no question about the need for the bill because without this bill we cannot significantly wage a war against organized crime. No question about that. Now, what...when a remark was made that neither side was

MBS

Thursday, April 8, 1971

25.

MBS

happy about the bill. It's a good bill. It's one of the strictest bills in the United States. I'm happy with the bill. I think it is a good bill and I think the other side thinks it is a good bill, as well. And finally this is not a political issue. This is a people issue. We are doing something here today that's going to help the people live in this state without fear. That's what we are going to do. It's not a political issue. We are trying to help the people live in this state without fear. To do away with organized crime. I submit it's a good bill, I move its passage.

MR. SPEAKER:

Will you remark further?

IRVING J. STOLBERG, 112th District:

Will the gentleman yield to a question through the Chair?

MR. SPEAKER:

Will the gentleman please state his question?

IRVING J. STOLBERG, 112th District:

The question is, I would like to know where in the Chamber was suggested that there's no organized crime in the state of Connecticut?

MR. SPEAKER:

Would the gentleman from the 81st care to respond?

JOHN A. CARROZZELLA, 81st District:

It was my understanding that the gentleman from New Haven had made reference to the fact that there was no organized crime in the state of Connecticut.

Thursday, April 8, 1971

26.

MBS

ROBERT OLIVER, 104th District:

Mr. Chairman, would it be possible for me to clarify for the distinguished Chairman of Judiciary what the statement was?

MR. SPEAKER:

Will the gentleman please proceed? You have the floor, sir.

ROBERT OLIVER, 104th District:

I believe the statement was as probably heard by most of the members heard here, that I suggested that there is no organized crime in the state of Connecticut that does not have tap roots outside of the state of Connecticut and thus is susceptible most appropriately to federal rather than state wire-tapping. Thank you.

CARL R. AJELLO, 118th District:

Mr. Speaker, I rise in support of the bill and the comments have been made largely upon the bill. I would like to just point out a couple of things that I think are significant in our actions here today and that were significant in our actions originally on the bill. Many of us, myself included, especially perhaps, have felt very strongly in the past about the question of adopting any kind of a wiretap bill. We have voted for it in response to pleas from the law enforcement people, the state's attorneys, the state police, and what have you, to the effect that this was a necessary and indispensable prerequisite to their continuing fight against organized crime. We've responded to this by doing what our instincts and our wishes tell

Thursday, April 8, 1971

27.

us not to do and that is by voting for a wiretap bill. I think it is very significant that here in this General Assembly, which has the greatest tradition of any of this type of body for free and open debate without limitation. I've been hear ten years and I've never seen debate limited on any subject and I think it is a tradition that we intend to continue. We are here in the Constitution State, one of the cradles of freedom and democracy in the entire United States. And yet we find many of us doing what our conscience dictates not to do and that is to vote for a bill which abridges the basic freedoms of certain citizens of the state in response to what we think is a greater public need. Now, my remarks this morning are simply to indicate to the members, to the people of the state, to the Governor and to whoever else may consider this matter further, that we do this out of a consciousness and obligation to what we consider to be our duty. It does us, this General Assembly, and this House of Representatives, a great disservice to say that we are assisting organized crime, to say that we have not done our duty or to imply that we have done less than that which is traditional and that which is our responsibility and our obligation. I reject that kind of remark, I said it at the time, and I would hope that we would receive no further insults of that type from either the executive or any other source because we feel strongly about what we do here. We do not intend to engage in that kind of colloquy. We do intend to do our duty and no amount or kind of epithets or unreasoned remarks will

MBS

Thursday, April 8, 1971

28.

dissuade from that purpose.

FRANCIS J. COLLINS, 165th District:

Mr. Speaker, as much as I strongly disagree with the intent of the remarks made by the Majority Leader, I do not intend to pursue this matter further and rehash all of the arguments on many of the aspects of this bill which we debated a week and a half ago. It is our position that we will vote in favor of the bill, as amended, with all of the concerns, comments, remarks that were made in good faith and honesty on the floor of this House a week ago. We will support the bill in its present form reluctantly.

ROBERT OLIVER, 104th District:

Mr. Speaker, I shall oppose the bill but I wish to congratulate the Majority Leader, the gentleman from the 118th, who stated much more dispassionately what I intended to say but which I will not say today because I don't think it will add to the proper concern in viewing by the people of the state of Connecticut on this bill.

MR. SPEAKER:

Will you remark further? If not, the question is on acceptance and passage as amended by House Amendment Schedule "A", "B", "C", "D", "E", "F" and "J" and as further amended by Senate Amendment Schedule "D" in concurrence. All those in favor will indicate by saying aye, all those opposed. The bill, as amended, is passed.

THE CLERK:

MBS

**S-77**

**CONNECTICUT  
GENERAL ASSEMBLY**

**SENATE**

**PROCEEDINGS**

**1971**

**VOL. 14**

**PART 2**

**474-956**

April 6, 1971

Page 8

SENATOR CALDWELL:

On Page 1, Cal. No. 106 and 113 may they be held, may we take up Cal. No. 129; on page 2, may we hold Cal. No. 144, 148, 150, 155 and take up 154, 160 161 and 162. On page 3, may we hold Cal. No. 163 and 166 and take up 164, 167, 169.

THE CLERK:

Clerk is ready to proceed to the Order of the Day. Page 7, please. CAL. NO. 141 File No. 188-186. Favorable report of the joint standing committee on Judiciary. Substitute House Bill No. 5080. An Act Concerning Wiretapping and Electronic Surveillance. Amended by House Amendment Schedule A, B,C,D,E,F AND J. Clerk has numerous Senate Amendments.

SENATOR JACKSON:

Mr. President, I move acceptance of the joint committees favorable report and passage of the bill, as amended by House Amendments Schedule a,b,c, d,e,f and J.

THE CHAIR:

Senator Jackson, will you remark and I know that you will explain the House Amendments, to get the matter properly before us.

SENATOR JACKSON:

It was my understanding, Mr. President, that the bill as printed in the file 188 includes all of the House Amendments. So that we are operating under the bill as printed in File 188, so I do not believe there is an necessity to explain the individual amendments.

THE CHAIR:

I think you are correct. Will you remark?

April 6, 1971

Page 9

SENATOR JACKSON:

I understand that there are amendments, Mr. President.

THE CLERK:

Clerk has numerous amendments. First of which is Senate Amendment A offered by Senator Lieberman.

SENATOR LIEBERMAN:

Mr. President, I move adoption of the amendment. Will the clerk please read the amendment?

THE CLERK:

In section 11, line 408 after the word, than, delete the word, ninety, and insert the words, one hundred fifty.

SENATOR LIEBERMAN:

Mr. President, this is one of three amendments to this bill that I will introduce this afternoon. This is what probably could really be called a technical amendment. The other two are more substantive. I want to say before remarking on this amendment simply that, I believe that the Judiciary Committee has done about as good a job as could be done with any wiretap bill that I've ever seen. I want to make it also clear, from the beginning I am opposed to all forms for wiretapping for reasons that I will express when we get to the debate on the substance of the bill, itself.

What the three amendments I am presenting, I believe, go a ways towards making this even a better wiretap bill and that is to say, a bill that protects constitutional rights that are in jeopardy. This particular amendment is a technical one. It is in the section that requires notice to a person whose phone has been tapped, within 90 days after the tap is removed and then allows an extension of that 90 day period for an additional 60 days

April 6, 1971

Page 10

upon order of the proper authority. In the last line, the wording is, but in no event shall the notice be made later than 90 days after the termination of the period of an order of or extensions thereof.

It seemed to me that what was intended here, was that it should read, 150 days. That is to say, the original 90 day period plus the extension of 60 days and therefore, it would be in no event shall notice be later than 150 days after the expiration of the surveillance. I move adoption of this amendment, Mr. Chairman, and ask that when the vote is taken it be taken by roll call.

THE CHAIR:

Question is on adoption of the amendment. Will you remark further?

SENATOR JACKSON:

Mr. President, I rise in opposition to the amendment. I'll reserve my remarks for the bill as a whole but I believe that we have come forward with what I consider to be a well balanced bill. A bill which gives our police the proper tools and also which has many safeguards so that the constitutional liberties are not infringed.

On this particular amendment, the bill as written, gives 90 days after the conclusion of the tap and it is the opinion of the committee that this would be the maximum amount of time that would be allowed. The 60 day extension would apply if the court panel decided within one week after the conclusion of the tap that they were going to release the information then, the prosecuting attorney could come in and ask for an extension up to but not exceeding 60 days. The sum total would be, that, you would have 90 days from the conclusion which would be the absolute maximum.

THE CHAIR:

Question on adoption. Will you remark further? If not, there's been a

April 6, 1971

Page 11

motion for a roll call vote on the amendment. All those in favor of a roll call vote say, "aye". Opposed, "nay". The ayes have it. A roll call vote is ordered on Senate Amendment Schedule A.

The following is the result of the roll call vote:

Those voting Yea were:

SENATORS ODEGARD

LIEBERMAN

PETRONI

DINIELLI

SENATORS CIARLONE

MACAULEY

RUDOLF

MONDANI

Those voting Nay were:

SENATORS FAULISO

BURKE

PAC

ROME

HAMMER

CUTILLO

MURPHY

GUNTHER

DOWD

STRADA

POWER

DENARDIS

FINNEY

SENATORS SMITH

JACKSON

ALFANO

EDDY

ZAJAC

SULLIVAN

CASHMAN

CALDWELL

RIMER, JR.

DUPONT

IVES

HOULEY

Those absent and not voting were:

SENATORS BLAKE, BUCKLEY, CRAFTS

April 6, 1971

Page 12

THE CHAIR:

Whole number voting	33
Necessary for passage	17
Those voting yea	8
Those voting nay	25
Those absent and not voting	3

The amendment is defeated.

SENATOR LIEBERMAN:

Will the clerk read the amendment?

THE CLERK:

Senate Amendment Schedule B. In section 3, line 152, after the semi colon delete the words (10) if it is reasonably, delete line 153. In line 159 delete the words, secrecy of its execution exists; In line 159 re-number (11) to (10). In line 164, re-number (12) to (11). In section 5, delete lines 259 to 263, inclusive. In line 264, delete the words, secrecy of its execution; In line 264, re-number (11) to (10). In line 278, after the word, carrier, delete the comma and the words, landlord, custodian. In line 279, delete the words, or other person. In line 283, after the word, carrier, delete the comma. In line 284, delete the words, landlord, custodian, or person. In line 286, after the word, carrier, delete the comma, the word landlord and the comma following. In line 287, delete the words, custodian or other person.

SENATOR LIEBERMAN:

Mr. President, I move adoption of the amendment. I am troubled by the invasion of privacy and what I believe is the unconstitutionality of the concept of wiretapping generally. But, I'm particularly disturbed and I hope

April 6, 1971

Page 13

it's not deemed to be too strong, if I say, frightened, by the concept of secret entry that is involved in the section of the bill that I try by this amendment to eliminate. The bill as it is worded now, allows the court to give the applicant for wiretap permission to enter private places and premises in order to install an intercepting device. It further allows the court to direct that a custodian or landlord or other person associated with the dwelling places cooperate with the state authorities in placing this tap. It further directs that these cooperating persons can be paid for their services. I simply believe in the sanctity, if you will, of a man's private dwelling place. And I think to allow secret entry as this bill does, is a terrible invasion of that right to be left alone, that right to privacy that I thought was essential in our society.

I'm troubled also, by the notion that the custodian and the department house may be literally paid to let some outside person into the apartment without the knowledge of the person owning the apartment. I think we've come to a bad day in our history if our state begins to sanction invasion into private property of that kind. And so, I move adoption of this amendment and again, I ask that when the vote be taken, it be taken by roll call. I neglected to say one thing, Mr. President. I'm sorry. I've checked with the phone company, at some length, and I'm informed that this is a wiretap bill in other words, this has to do with surveillance on the telephone and telegraph equipment. And that it is almost never necessary to enter a private dwelling place to tap a phone or telegraph. That can be done either on lines that are outside the dwelling place or at the central headquarters of the phone company. And so, I think quite unnecessarily, we open up in these sections of the bill, a real spectre that we really don't have to open

April 6, 1971

Page 14

up at all and I move adoption of the amendment. And agains, ask that when the vote be taken, it be by roll call.

THE CHAIR:

Question is on adoption of the amendment schedule B. Will you remark?

SENATOR JACKSON:

Mr. President, I rise in opposition to the amendment. I think Senator Lieberman remark of when he contacted the phone company it almost never would be required is, the crux of the problem. Counsel for the Judiciary Committee also checked with the phone company and they said they could not guarantee that they would have some instances in the instance of an apartment house, where they might not have to go in to private property in order to a effectually tap. The vast majority of the cases, can be done right in the phone company headquarters or on the pole outside the house.

I would also point out to the members of the circle, this would only be done if the three court panel of Judges, found that it would be absolutely impossible to do in any other manner. So, I urge rejection of the amendment.

SENATOR MACAULEY:

The reason this is in here, it covers situations where you have private apartment houses, private hotels, private motels and any other situation where you have a private switchboard. You do need permission to answer on to these premises, they are private pemisies. I fail to see how it could be done from outside the premises where you do have a switchboard an interior switchboard. To do it that way, would only make available to the listener every incoming call or outgoing call to the entire premises. I think what we are interested in here, is in limiting the extent of the wiretap to the extent of the information that may be taken off of a wiretap. And this

April 6, 1971

Page 15

division is to strengthen that, not weaken it. For that reason, I think particularly for its protection rather than the other way around.

SENATOR LIEBERMAN:

Mr. President, I wish that it was so clear as to indicate that the problem aimed at by these sections was a private switchboard but, it seems to me, the language as it stands, allows the state to enter into private dwelling places, mine, yours and anyone else's and perhaps I should say that, again, we're thinking about these premises belonging to a gangland characters or other unmentionables but under our system of course, we're talking about people about who have not been convicted of any crime and against who there is merely some suspicion. So, I stand firm on my desire to have this amendment passed.

THE CHAIR:

Will you remark further? If not, there has been a motion for a roll call vote on Senate Amendment Schedule B. All those in favor a roll call signify by saying, "aye". Nay. The more than 20% wish a roll call. A roll call vote is ordered on Senate Amendment Schedule B.

THE CLERK:

The following is the result of the roll call vote:

Those voting Yea were:

SENATORS CIARLONE

SENATORS LIEBERMAN

BUCKLEY

MURPHY

PETRONI

DUPONT

DINIELLI

MONDANI

DENARDIS

HOULEY

April 6, 1971

Page 16

Those voting Nay were:

## SENATORS FAULISO

BURKE  
 JACKSON  
 ALFANO  
 EDDY  
 ZAJAC  
 CRAFTS  
 GUNTHER  
 CALDWELL  
 DOWD  
 STRADA  
 POWER  
 FINNEY

## SENATORS SMITH

ODEGARD  
 PAC  
 ROME  
 HAMMER  
 CUTILLO  
 CASHMAN  
 MACAULEY  
 RIMER, JR.  
 RUDOLF  
 IVES

Those Absent and not voting were:

SENATORS BLAKE, SULLIVAN

## THE CHAIR:

The results of the roll call vote:

Whole number voting	34
Necessary for passage	18
Those voting Yea	10
Those voting Nay	24
Those absent and not voting	2

The amendment is defeated.

## SENATOR LIEBERMAN:

Mr. President, I picked up two on that one maybe on this one I'll pick

April 6, 1971

Page 17

up two more. Clerk has another amendment.

THE CLERK:

SENATE AMENDMENT C offered by Senator Lieberman.

In section 9, line 354, after the word, use, insert the words, in accordance with the provisions of the order.

SENATOR LIEBERMAN:

Mr. President, I move adoption of the amendment. Here again, I'm attempting to limit what I think is an extraordinary invasion of potentially a constitutional right, and really our free society. Let me read the line as it exists now, because it is a brief one: Duplicate recordings that is recordings of the tap may be made by the applicant for his use or for disclosure pursuant to the provisions of section 16. Now, the section it concerns to me is the first part. Duplicate recordings made by the applicant and for his use. I don't understand, really, what that means. I think it opens up all sorts of possibilities for the use of recordings of private conversations made by state authorities and the attempt of my amendment is simply to say for his use in accordance with the order granted by the court. In other words, there could be no potential as distant as it might seem for misuse of private conversations.

So, Mr. President, I move adoption of the amendment and agains ask, that when the vote be taken, it be taken by roll call.

THE CHAIR:

Question is on adoption of the Senate Amendment Schedule C. Will you remark further?

SENATOR JACKSON:

Mr. President, I rise in opposition to the amendemt. I believe that the

April 6, 1971

Page 18

wording speaks for itself. I believe that we have to have some trust in the procedural safeguards that are going to be built into the bill throughout the entire bill and I believe that the language is very clear and no indiscriminate use will be made of the duplicate recordings.

THE CHAIR:

Will you remark further? If not, the motion was made that there be a roll call vote. All those in favor of the roll call say, "aye". Opposed, "nay". The ayes have it. The roll call vote is ordered immediately in the Senate on Senate Amendment Schedule C.

THE FOLLOWING IS THE ROLL CALL VOTE: THOSE VOTING YEA:

SENATORS CIARLONE

SENATORS LIEBERMAN

HAMMER

BUCKLEY

cashman

petroni

dowd

rimer, Jr.

DUPONT

DINIELLI

MONDANI

DENARDIS

Those voting Nay were:

SENATORS FAULISO

SENATORS SMITH

BURKE

ODSGARD

JACKSON

PAC

ALFANO

ROME

EDDY

ZAJAC

CUTILLO

CRAFTS

MURPHY

GUNTHER

MACAULEY

CALDWELL

STRADA

RUDOLF

April 6, 1971

Page 19

SENATORS POWER

IVES

HOULEY

FINNEY

THE CHAIR:

Whole number voting	34
Necessary for passage	18
Those voting Yea	12
Those voting Nay	22
Those absent and not voting	2

The amendment is defeated.

THE CLERK:

SENATE AMENDMENT SCHEDULE D, OFFERED BY SENATOR ROME:

SENATOR ROME:

Will the clerk please read the amendment?

THE CLERK:

In line 131 delete the word, seven and insert in lieu thereof the word fifteen.

SENATOR ROME:

Yes, by way of explanation, I think this speaks for itself. But, we're suggesting that in the maize of paper work that's attended to the bill and the requirements that we set forth in the Judiciary and the bill, that a period of fifteen days is more reasonable than a period of seven. The people who are going to have to work with it or this kind of legislation including the commissioners office, indicate that this is a more reasonable period.

I move adoption of the amendment.

SENATOR JACKSON:

Mr. President, I rise in opposition to the amendment. I think that the

April 6, 1971

Page 20

seven days is a reasonable time. In view of the limited number of taps that are authorized during any calendar year, I think that any tap that is applied for and which is granted will be of such importance that the state police will be moving immediately to implement the tapping order. I think any extension of the seven day period would lead to the possibility of having stale evidence.

SENATOR IVES:

Mr. President, I rise to support the amendment. And to read a very short paragraph from the letter from the state police I received yesterday.

The seven days to establish probable cause should be removed. It would be almost impossible to complete within the requirements to exhaust all investigating means within the time limit allowed. So great are the safeguards and requisites of the bill that the mere quantitative requirements would take several days to draft.

This says, to me, Mr. President, if we don't change the days from seven to fifteen and they also inform me by way that it also takes five to ten days to complete the investigative period. Then, in effect, when we pass the final wiretap bill, we'll have a bill that the state police cannot use.

This is an important amendment and when the vote is taken I request a roll call vote.

SENATOR MACAULEY:

Mr. President, the seven day period I think, anyone who has read this bill or is in anyway familiar at all with police investigation, realizes that investigation gathers facts in different sources, they have to be correlated. They have to be drawn into reports. They have to be reviewed by Supervisors They have to then, make up a plan of attack. Under this bill, apply then to

April 6, 1971

Page 21

the Attorney General who then, has to make up his mind. And then, under this bill, they have to somehow empanel three judges, three specified judges, who may be engaged in trials or may be sick or may be anywhere in the State, and trying just to get three Senators together specified Senators at any particular time is difficult enough. Trying to get three judges together and all of this done within the seven days is an impossibility. I think that this fifteen day period is an extremely difficult, would be an extremely difficult task. But, at least, it has a little bit more reasonableness to it than putting a seven day impossible provision in this statute.

THE CHAIR:

Will you remark further?

SENATOR EDDY:

Mr. President, this is an important amendment and I think the members here who plan to vote for this bill finally, should consider this seriously.

And if you are concerned, about safeguards, and careful police work, you're asking the police in seven days to do the impossible. And it may lead to some sloppy work and eliminate many of the safeguards that we're trying to build into this bill. Give them fifteen days. They need it. Vote for this amendment.

THE CHAIR:

Will you remark further? If not, a motion has been made voting be by roll call. All those in favor of a roll call vote signify by saying, "aye". Opposed, "nay". More than 20% having voted. A roll call vote is ordered in the Senate, on Senate Amendment Schedule D.

THE CLERK:

The roll call vote is as follows:

April 6, 1971

Page 22

Those voting Yea were:

SENATORS ODEGARD

ROME

HAMMER

CRAFTS

GUNTHER

PETRONI

RIMER, JR.

POWER

DENARDIS

SENATORS PAC

EDDY

ZAJAC

CASHMAN

MACAULEY

DOWD

RUDOLF

IVES

FINNEY

Those voting Nay were:

SENATORS FAULISO

BURKE

ALFANO

LIEBERMAN

SULLIVAN

MURPHY

STRADA

DINIELLI

HOULEY

SENATORS SMITH

JACKSON

CIARLONE

CUTILLO

BUCKLEY

CALDWELL

DUPONT

MONDANTI

THE CHAIR:

The results of the roll call vote:

Those voting 35

Necessary for passage 18

Those voting Yea 18

Those voting Nay 17

April 6, 1971

Page 23

Those absent and not voting 1

The amendment is carried and is ruled a technical amendment.

THE CLERK:

Clerk has Senate Amendment Schedule E offered by Senator Macauley.

In line 256, after the word, statement, delete the word, that and insert as to whether or not.

SENATOR MACAULEY:

Mr. President, I move the adoption of the amendment.

THE CHAIR:

Will you remark?

SENATOR MACAULEY:

Mr. President, members of the circle, my intent to be inserted here is that which was in the bill when it came out of the Judiciary Committee where much thought was given to this. This bill has so many restrictions in it, as to what is required in order to obtain a wiretap and there listed in numerous pages here and also what is required of the judges, three judges findings. The statement as it now reads, states that, the intersection shall automatically terminate when the desired communication is first obtained. The communication is singular.

Now then, let us see what the practical effect of that is. If we are dealing with for instance, a drug situation, where we are trying to tap a man one step up or two steps up from the actual pusher on the street. If we are required to stop at the first desired communication that would mean the first communication that was going to be a sale.

Now, we want our police to be thorough. We do permit in the act a detailed motion to suppress and there are many other motions that are supreme

April 6, 1971

Page 24

court as being permissible. I think that, the police should be allowed to make a careful investigation and since there is such a short time period for an existing tap, the court should have the authority under all the information presented to it, to decide whether this particular instance the police should stop when the first communication has been obtained or whether the police should have the authority to continue on. For instance, in the drug situation to go on and perhaps pick up further pushers or further people involved or take a situation of gambling. The first bet may be just a simple bet where they were required to stop there. They probably wouldn't be able or perhaps difficulty in showing a business of gambling where they were permitted to continue on in a certain specific instance, they could show that this was a business where they would have many men gambling  
Inaudible.

I think this is a restriction which is entirely unnecessary. We do have three Judges and a great deal of information required before a tap can be issued. A great deal of information that the judge has to make, the three Judges have to issue an order and take into consideration and rule on their thoroughly familiar with this entire matter. Before the tap is issued, before the permission for the wiretap is issued. I think the Judge should have the discretion otherwise I think what we are doing is unduly binding and restricting effective police work in using what little we have given them by this bill.

THE CHAIR:

Question is on adoption of Senate Amendment Schedule E. Will you remark?

SENATOR JACKSON:

Mr. President, I rise in opposition to the amendment. I think that the

April 6, 1971

Page 25

bill as it's presently printed spells out very clearly, the tap shall cease when the required evidence has been obtained. When the prosecuting authorities go in and request the tap, they know what they are looking for and they say what they want to get. I submit, once they have found it, that they should stop the tap.

THE CHAIR:

Will you remark further? Has there been a motion for a roll call? If so, I don't recall it. Thank you, Senator Macauley.

The motion has been made. There will be a roll call vote on Senate Amendment Schedule E. All those in favor of a roll call vote say, "aye". Opposed, "nay". The ayes have it. A roll call will be ordered.

THE CLERK:

The following is the roll call vote:

Those voting yea were:

SENATORS ODEGARD

SENATORS ROME

EDDY

HAMMER

ZAJAC

CRAFTS

CASHMAN

GUNTHER

MACAULEY

DOWD

RIMER, JR.

RUDOLF

POWER

IVES

FINNEY

Those voting nay were:

SENATORS FAULISO

SENATORS SMITH

BURKE

JACKSON

PAC

ALFANO

April 6, 1971

Page 26

SENATORS CIARLONE

SENATORS LIEBERMAN

CUTILLO

SULLIVAN

BUCKLEY

MURPHY

CALDWELL

PETRONI

STRADA

DUPONT

DINIELLI

MONDANI

DENARDIS

HOULEY

## THE CLERK:

The result of the roll call vote:

Whole number voting	35
necessary for passage	18
Those voting yea	15
Those voting nay	20
Those absent and not voting	1

The amendment is rejected.

## THE CLERK:

SENATE AMENDMENT F offered by Senator Rome.

In line 96, after the word, been insert and delete, or, and after the word, being insert, or is about to be, In line 100 after the word, been, insert. In line 101 delete the word, or and after the word, being, insert or is about to be.

In line 108, after the word, committed, insert ", " and delete, or, and after the word, committing, insert, or is about to commit.

In line 199, after the word, committed, insert ", " and delete , or, and after the word, committing, insert, or is about to commit.

In line 203, after the first word, committed, insert, :. ", and delete, or,

April 6, 1971

Page 27

and after the second word, committed, insert, or is about to be committed.

SENATOR MACAULEY:

Mr. President and members of the circle, this is a very important amendment as to this bill. The bill as it presently reads applies only to crimes that have been committed or are being committed. What we are after, in a wire tap bill, are crimes that are about to be committed. Because the crimes that have been committed, I think, are really not important as far as wire-tap is concerned. It may be useful, yes. But the ones that are being committed, well, the police already know. For instance, let me take the case of dope peddlers. The police already have a pretty good idea of whose is actually on the street corner doing the peddling. But, if they pick them up, within an hour you have just as many more out there, because business is so lucrative. What we are trying to get at, is the man above, one step above. The man who actually does the distributing to the actual dope pushers. And the man above him, the man in charge. We are after the people off the line. This is the only way an effective attack against the dope problem or any of these other problems can be accomplished through a wiretap bill.

Now, as far as these people up the line are concerned, they have not yet committed a crime that the police or anyone else knows about. And they don't know that any crime is being committed. But, they do know, for instance, that the guy on the corner is a peddler and they tap his line. The fellow up above, the person they are after, they are hoping that they will get the man who is about to commit a crime. He is the guy that is going to make the arrangements to deliver the dope or something of that nature. And it is a crime about to be committed. Is really the jist of this bill. Without this I think, the bill has really been emasculated.

April 6, 1971

Page 28

Now, I might remark that these words were in the original bill as it came out of the Judiciary. In which, a great deal of thought was given, at that particular time. These words are not words just invented. They are in every wiretap bill that has been inactive or has ever been proposed, really in this country, Federal or State. Because, this is the very essence of a wiretap bill. The essence of it, is to get after the man above. The man who hasn't yet, that the police know about, committed a crime or will commit a crime. But, they are after him. They are after the one who is about to commit the crime. This is the man one step above, two steps above, three steps above and so forth. The people up the line. These are the people who we really need to get after. This is the whole purpose of the bill.

THE CHAIR:

Question is on the adoption of the amendment. Will you remark further?

SENATOR JACKSON:

Mr. President, I rise in opposition to the amendment. I think we are opening a Pandora's box if we are to leave the words, or is about to commit, in the bill. I think that we have a great constitutional question that would develop. Just what do we mean and what is the definition or it about to be. I think that the language of the bill, as printed, which deals with crime, which has been or are being committed, are sufficient. We don't want to have the police dealing in suppositions or vague suspicions that something is about to happen in the near or distant future. So I think that, we should leave it to the language of the bill as written which states, has been or is being. And I think, this will give an adequate tool to our police.

April 6, 1971

Page 29

THE CHAIR:

Will you remark further?

SENATOR HAMMER:

Mr. President, through you, may I ask a question of Senator Jackson?

THE CHAIR:

Proceed.

SENATOR HAMMER:

The fact that the wording of the law, in the bill is, when a crime has been committed or is being committed. Doesn't that give a certain attitude at each end of the actual commission of the crime?

SENATOR JACKSON:

If I understand your question correctly, Senator Hammer. You more or less, in some crimes, such as, gambling you have a continuing operation. Is this what you mean?

SENATOR HAMMER:

Yes.

SENATOR JACKSON:

You have something that is going on in a book making parlor. The calls are coming in on a continuous basis. So this would be clearly encompassed in the, is being as well as the, has been committed phraseology.

THE CHAIR:

WILL you remark further?

SENATOR MACUALEY:

I question the remarks before about the constitutionality of this. I stated before, the words are in every other wiretap bill, including the Federal.

April 6, 1971

Page 30

I ask you, to bear in mind, a statute that's going to be very strictly construed. And back, in the further end of the statute, there is provisions to surpress. It is going to be very strictly construed, if the motion to surpress is granted. None of the evidence, of course, can be used. And I can't see how they're going to get around reaching a man up the line and having the police come in and justify that they knew that this man was committing a crime. At the time, that they made an application for a wiretap. It's an impossibility.

SENATOR HOULEY:

Mr. President, I'm not an attorney but, I'm going to question this, on the basis of what I think is common sense.

Mr. President, a young boy in a W.T. Grant or a five and ten cents store, is about to steal a pocket knife. Now until he steals that knife, he really hasn't committed a crime or has he? And bringing it down to this bill, I think, when we get to a point, Mr. President, to start to question one's motives and try to peer into one's mind and say that someone is about to commit a dastardly deed. Until such a time as the deed is done. I don't see where there is a crime. And on that basis, I think this amendment is absolutely superflous, Mr. President.

THE CHAIR:

Question is on the amendment. Will you remark further?

SENATOR BUCKLEY:

Mr. President, I think that the reason given by the proposers of this amendment, do not hold any water. Senator Macauley was speaking about trying to catch people up the line. Now, if they are not committing a crime, I don't know who is, in the chain.

April 6, 1971

Page 31

THE CHAIR:

Will you remark further?

SENATOR MACAULEY:

In the way of an explanation, if I might? What the police would know in this situation is, that the guy on the corner pushing the dope is committing the crime. They do not know who or where he is getting this. At the time the application is made and this is what we are talking about, now. What they want to do, is tap his phone to find out the person who is selling it to him, distributing to him and up the wire, so to speak, the person who goes to him, and so forth. At the time of the application, they do not know who the person is. They do not know that he is committing a crime. They don't know that a crime has been committed. They do not know for sure. Because, perhaps the man has switched sources in between times. The only way this bill will be effective, is to put in about to be. For example, if someone were planning to blow up this capitol, there is no crime committed until they actually get the explosives or maybe blow up the capitol, then we are in the process of having a crime committed. But while they're discussing it, planning it, of course, no crime is then being committed. That is available to wiretap, under this law.

THE CHAIR:

Question is on passage of the amendment. Will you remark further?

SENATOR BUCKLEY:

I remain unconvinced that somebody is conspiring, that's a crime of conspiracy. That still is a crime.

THE CHAIR:

Senator Macauley, it would have to be by unanimous consent, unless by way

April 6, 1971

Page 32

of explanation. Still you would have to have the consent of all. I assume no one will object.

SENATOR MACAULEY:

Crime of conspiracy is not one of the crimes listed in this bill.

THE CHAIR:

Will you remark further? If not, I will try your minds there having been no motion to a roll call vote. I don't mean to urge it. Just nudging you a little.

SENATOR MACAULEY:

I did mean to ask for a roll call vote, on every amendment. I'm sorry.

THE CHAIR:

A motion has been made for a roll call vote. All those in favor say, "aye". Opposed, "nay". The ayes have it. A roll call vote is ordered in the Senate. Proceed.

THE CLERK:

The following is the roll call vote:

Those voting yea were:

SENATORS ODEGARD

SENATORS ROME

EDDY

HAMMER

ZAJAC

CRAFTS

CASHMAN

GUNTHER

MACAULEY

DOWD

RIMER, JR.

RUDOLF

POWER

IVES

FINNEY

April 6, 1971

Page 33

Those votin nay were:

SENATORS FAULISO

SENATORS SMITH

BURKE

JACKSON

PAC

ALFANO

CIARLONE

LIEBERMAN

CUTILLO

SULLIVAN

BUCKLEY

MURPHY

CALDWELL

PETRONI

STRADA

DUPONT

KINIELLI

MONDANI

DENARDIS

HOULEY

THE CHAIR:

The results of the roll call vote on Senate Amendment Schedule E:

Whole number voting	35
Necessary for passage	18
Those voting yea	13
Those voting nay	22
Those absent and not voting	1

The amendment is defeated.

If I may have the unanimous consent, it's highly irregular but Senator DeNardis has asked to be recognized for the purpose of an introduction, of some young people who must leave shortly. If there's no objection, I'll recognize Senator DeNardis.

SENATOR DENARDIS:

Thank you Mr. President, perhaps for just a moment in the midst of this heavy debate, I would like to recognize some people from Hamden, with a girl

April 6, 1971

Page 34

scout troop from the Town of Hamden. Will the Senators rise and give them their usual warm welcome?

THE CHAIR:

Nice to have you here today.

If all Senators have had a seventh inning stretch, the Clerk will please proceed with the next amendment.

THE CLERK:

SENATE AMENDMENT G offered by Senator Macauley.

In line 72 delete the period and insert in lieu thereof after the word Violence, or conspiracy to commit any of the foregoing.

SENATOR MACAULEY:

I move the adoption of the amendment. This does what Senator Buckley suggested. It puts the conspiracy into the act. The reason for this is, obvious. My arguments that I made prior to this, on the last amendment, apply here simply that, we can't afford to wait until the people actually buy the dynamite or blow up the capitol. The same way with the drug situation. Conspiracy means, they are planning to do it. Not actually doing it, which is the only way we can get the man up on the top.

THE CHAIR:

Question is on the adoption of Senate Amendment Schedule G.

SENATOR IVES:

Mr. President, before I forget, I would move that when the vote be taken it be taken by roll call.

Mr. President, when the wiretap bill passed the house, it was jokingly referred to, as the water tap bill. And one of the major reasons that this ~~bill was~~ this bill was, because, it does not include conspiracy.

April 8, 1971

Page 35

Our neighboring states who had wiretap for a longer period of time, Rhode Island, for example, had 39 defendents arrested under wiretap, of which 30 were for conspiracy. Massachusetts which hasn't had it as long, had 7 cases and 6 charged with conspiracy. 85% of all the arrests in the State of New York have been through conspiracy. The Federal Law says, any conspiracy to commit any crime or the foregoing offenses without conspiracy will end up with a wiretap bill, basically in name only. And this is the heart of the bill.

To convict organized crime, conspiracy is a necessity to be included.

SENATOR JACKSON:

Mr. President, I rise in opposition to the amendment. There are many items in the Federal Bill, as Senator Ives has alluded to which are not in our bill. The bill which is before us today, has built into it, far more safeguards that individual liberties then either the New York State Bill or the Federal Bill. This was done deliberately, because of the great consequences of misuse of this great power. I submit that the inclusion of conspiracy again opens the door far too wide. We have the three specific crimes, which are itemized. I think that the law enforcement officials have been given, with this bill, adequate tools to go against the gambling, the drug selling and felonious crimes of violence. I do not think it is necessary or adviseable for us to also include conspiracy to do any of those crimes.

THE CHAIR:

Question is on the adoption of the amendment. Will you remark further?

SENATOR FAULISO:

I yield to the lady.

April 6, 1971

Page 36

SENATOR HAMMER:

Thank you. Just for a question, as usual, Mr. President. Is there some specific definition of, Conspiracy? That is accepted in the law, that is, that could be explained or defined in perhaps two or three lines, and not in the usual lawyers way.

THE CHAIR:

Despite that conard. Is your question addressed to S<sup>enator</sup> Jackson?

SENATOR HAMMER:

Yes.

SENATOR FAULISO:

I was going to refrain from engaging in the debate of the amendments. And was going to save my amunition on the bill, proper. But rather than be hypicritical, I voted no consistently because I'm against the concept.

A conspiracy is a confereration or an association of people, in which the law construes the commission of a crime. I'm against this amendment because, after 30 years in the practice of law and most of it in the Criminal Court, this is the most abused tool in the arsenal of tools in the possession of the prosecution. And those of us who are in the courts, on a daily basis, invariably see in every substance of crime, the crime of conspiracy thrown in for good measure. So much abuse is taking place in this area, that courts from time to time, have said to the prosecution, don't use this tool.

Now, when we site the example, perhaps which Senator Macauley expressed suppose there were a group of people that said, we want to set fire to the Capitol. We have the crime of arson. That's a substitutive crime. The

April 6, 1971

Page 37

difficulty with conspiracy is, that when you present a conspiracy, you present a group of people who may be just on the proliferic. And as long as that Judge is convinced at least in his mind, prima facially, then the Bars are all down and the heresay evidence comes in. And this is the difficulty. Heresay evidence is used widely, in the crime of conspiracy. And this is the very weakness, if this is added to the bill. And it doesn't add to this bill one iota. It weakens the bill because conspiracy then is abused and has been abused down through the years. And if you please, over a century in the Criminal Court.

THE CHAIR:

Question is on adoption of the amendment. Will you remark further?

SENATOR MACAULEY:

I will say, just for Senator Hammer's benefit. To put it in non-lawyer talk. Referring to my group of people, planning to blow up the Capitol. They were planning the crime and they went out and bought the dynamite, that would be conspiracy. Under this statute, under the bill as it reads now, I think they would have to actually blow up the Capitol before it would fit.

THE CHAIR:

Question is on adoption of the amendment. Will you remark further? If not, a motion has been made that the vote be by roll call vote. All those in favor of a roll call vote signify by saying, "aye". Opposed, "nay". The ayes have it. A roll call vote is ordered in the Senate. Senate Amendment Schedule G. All being present, no announcement is necessary. Proceed.

THE CLERK:

The following is the roll call vote:

April 6, 1971

Page 38

Those voting yea were:

SENATORS ODEGARD

EDDY

CRAFTS

GUNTHER

RUDOLF

IVES

SENATORS PAC

ZAJAC

CASHMAN

MACAULEY

POWER

FINNEY

Those voting nay were:

SENATORS FAULISO

BURKE

ALFANO

CIARLONE

HAMMER

SULLIVAN

MURPHY

PETRONI

RIMER, JR.

DUPONT

MONDANI

HOULEY

SENATORS SMITH

JACKSON

ROME

LIEBERMAN

CUTILLO

BUCKLEY

CALDWELL

DOWD

STRADA

KINIELLI

DENARDIS

Those absent and not voting Senator Blake

THE CHAIR:

The result of the roll call vote:

Whole number voting 35

Necessary for passage 18

April 6, 1971

Page 39

Those voting yea	5
Those voting nay	30
Those absent and not voting	1

Senate Amendment Schedules G offered by Senator Macauley is rejected.

THE CLERK:

SENATE AMENDMENT SCHEDULE H offered by Senator Macauley:

In line 44 after, seven, and lines 45 and 46 delete, panel of Judges, or panel means any panel or panels of three Superior Court Judges, and insert in lieu thereof, Judge of Competent Jurisdiction, means any Judge of the Superior Court.

In line 63, after A delete, panel of Judges, and insert Judge of Competent Jurisdiction.

In line 76, after a delete panel of judges and insert Judge of Competent Jurisdiction.

In lines 143 and 166 delete the words, panel of judges, and in lieu thereof insert the word, Judge.

In lines 192 and 193 delete the words, panel of Judges, by unanimous vote and insert in lieu thereof the word, Judge.

In lines 196, 232, 253, 309, 312, 317, 320, 348, 350, 352, 366, 386, 389, 397, and 454 delete the word, panel and insert in lieu thereof the word, Judge.

In lines 227 delete the word, panels and insert in lieu thereof the word, Judges.

In lines 232, 254, 348, 390, delete the word, its and insert in lieu thereof the word, his.

In line 305, delete the words, panel which, and insert in lieu thereof

April 6, 1971

Page 40

the words, Judge who.

In lines 402 and 403 delete the words, approved unanimously by the panel, and insert in lieu thereof the words, to a Judge of Competent Jurisdiction.

In line 445, delete the word, panel, and insert in lieu thereof the words, issuing Judge.

SENATOR MACAULEY:

I move the adoption of the amendment. What this amendment does is, change the panel of judges to one judge. Under this bill, which applies only to telephone communications or telegraph not to any other kind of bugging. The police have to make their investigation within a very limited time and I believe that amendment passed, within 15 days. They have to convince the State's Attorney. They have to set out and obtain information which is of a great detailed nature requiring many pages here. And then have to round up a panel of specified judges. Now, putting this into practical effect, it can only be done in a courthouse where there are a large number of judges. Trying to get three judges, together within this short period of time, I think, would be not only an impossibility but, would be an extremely burdensome task upon the courts. With the amount of information required and what the judge has to find, we would have I can envision here, easily, a couple of hours minimum, in the way of a hearing.

If the Judge, who happens to be on the panel and certainly with three judges, one or more will be, in the middle of a trial, if one is in the middle of some other very important pressing business, it means impractical effect that, for the most part, the courthouse will shut down for the morning.

April 6, 1971

Page 41

If a Judge is on vacation, and isn't available in that particular court-house, and has to come from another part of the State, getting these Judges together would mean a shutting down of any business that Judge may have been engaged in, in another part of the State and allowing for trial time, perhaps for the whole day.

In a period of time, when we are trying to alleviate the congestion in our courts, this is certainly not the way to do it. Now, with the restrictions and what is required in this act, to obtain the applications and with the findings of the Judges has to make, A superior court judge, one superior court judge should adequately be able to handle it.

Now, I think that, in the interest, purely with the safeguards in this bill, I think that this is a burdensome type of procedure to impose upon the entire Judicial system. I don't think it affords any protection or any more protection than you would have with one Superior Court Judge, in the nature of what they have, what the state police have to provide in the way of information in order to obtain the tap. And what the Judge has to find in order to grant the order.

There are many more protections in this bill than there are in any other wiretap bill in existence, today. The mere fact that, you have three Judges here, I think, is just extremely burdensome. I think really, is an injustice imposed upon our Judicial system for those courts that will be tied up for a morning or a day because of this.

SENATOR ROME:

Mr. President, I rise to oppose the amendment. This is a very difficult area of legislation that we are dealing with. The Judiciary committee labored hard and long with all of the arguments pro and con for wiretap

April 6, 1971

Page 42

legislation. We have a difficult balancing act here. Where we're balancing the interests of society in preserving order with justice against the interest of individuals.

Now, I think, the Judiciary committee properly reported out a bill, which adequately safeguards and balances those interests in the way that the three Judge panel provides for. I think the tree Judge panel, is an important addition. We have 35 Judges in the Superior Court. There are bills in to increase that number. It doesnot appear to me, to be a difficult task, to find three judges, who can, in an objective way, determine the validity of the request for a wiretap situation. I feel very strongly about the addition of the three judge panel and I oppose this amendment.

THE CHAIR:

Will you remark further?

SENATOR JACKSON:

Mr. President, I rise in opposition to the amendment. Senator Macauley has indicated there are many safeguards built into this bill. And this is one of the great safeguards which has been incorporated to the bill, as printed.

The fact that, you're going to have three superior court judges that make the decision and make it unanimous, I think, aids not only the law enforcement officials but also the people of the State. Because I think, it will give the people the feeling that everything possible has been done before any wiretaping has been ordered by the three court judge panel.

I would also add that, in the larger metropolitan areas, you have six or seven judges, Superior Court Judges, sitting in one time, here in Hartford and also in the other and some of the other counties. The fact that you're

April 6, 1971

Page 43

going to have a severe number, limiting number of wiretaps, is also going to mean that, if you're going to have something that is that important, to have a wiretap issued, you're going to be able to get the three judges together.

I would urge that this amendment be defeated.

SENATOR HAMMER:

Mr. President, I rise to oppose this amendment. Very strongly oppose this amendment. There are many people, like me, who were on the fence about this bill. I happen to have a strong aversion, if I may make an understatement, to organized crime and the way it preys on the little people of our State and our Country.

On the other hand, I am also a strong supporter of constitutional rights. But, the section of this bill, which provides for the three judge panel, is a safeguard which to me, made it possible for me to vote for this bill.

I do oppose this amendment.

SENATOR FAULISO:

Mr. President, the lady is not only perceptive but <sup>segsious</sup> segatious. I might remark that the reason for the three judges is, because of the again, the abuse, the evil that exists under the present system. Too many times it has been discovered that, police go to certain judges who are receptive and avoid other judges who scrutinize an affidavit. So I think, in this particular manner, the committee should be complimented, because it does give strength to the bill.

SENATOR PETRONI:

Mr. President, through you, to the gentleman from the 5th, Senator Jackson. Is there any other situation where a three panel court is necessary to issue an order for a warrant?

April 6, 1971

Page 44

THE CHAIR:

The answer is no. The mike wasn't on too well.

SENATOR CRAFTS:

Mr. President, members of the circle, I think someone should speak here on behalf of the law enforcement agencies and those who are charged with the responsibility of apprehending those law breakers that we are considering in this wiretapping bill.

I do not present myself, here, as an Attorney or a defense counsel or an active police officer. However, I do have in my background, quite a lot of experience in assisting the state police department, in Southeastern Connecticut. And the City Police Department in the area of New London. I would like to tell you that, there are no three judges available for many of those law enforcement officers. And, I think, that this amendment is definitely necessary if, we're going to help the law enforcement agencies of this State. Thank you.

THE CHAIR:

Will you remark further?

SENATOR ROME:

Mr. President, this is a very small state that we live in geographically. There is not a courtroom in the State of Connecticut that is more than one and a half hours away from Hartford. I think that this is one of the safeguards one of the balances that we must preserve. In the interest of preserving society's determination to protect the individual without destroying itself. I think this is important for this bill.

SENATOR MACAULEY:

April 6, 1971

Page 45

This is not the same bill that came out of Judiciary. It is a much stronger bill. Therefore, the strength init has been strngthened much more than that which was contemplated when Judiciary put in the three judge requirement.

I might point out that, it doesn't say three Judges. It says three specified Judges. Which is the problem. When you talk about specified judges, it's true. You might find three Superior Court Judges at any one particular time. But when you say, three specified judges, that's when you run into the rough. You're running into the situation where the specific judges you are looking for is in the middle of a trial, one is on vacation or one is way up in Hartford and has to come down to Bridgeport or vice versa. This is the problem here. We don't require three court judges only in exxtremely unusaual circumstances of which, I can't recall any right now. And with the order coming out of this thing, I can presee that with one judge, with what he has to decide, it's going to take days to come out with an order. With a panel, I think, we might run into weeks before we get an order coming out.

SENATOR JACKSON:

Mr. President, I do not believe that there is any restriction on the number of panels that can be appointed. As it has also been pointed out, geographically, we are in position where our law enforcement officers can get to Hartford in a matter of an hour or an hour and fifteen minutes, driving time. I think that anything that is this important, deserves this extra safeguard. I did not mean to be abrupt to Senator Petrone, in answering his question but, I also do not feel that there is any other provision that ~~goes so against our traditional respect for our privacy.~~

April 6, 1971

Page 46

And, I think that we are taking a great step if we do enact a wiretap bill, here, this afternoon. And, I myself, want to make sure that every possible safeguard has been built into that bill.

THE CHAIR:

Will you remark further?

SENATOR MURPHY:

Mr. President, I feel quite strongly that if there is a wiretap bill, as Senator Fauliso and others have said, it has to be a panel of three. And as to the practical questions and problems that Senator Macauley has raised, I merely indicate that, the appointing authority, I'm sure, will take into consideration any Judge's vacations and where there court assignments are, when he designates who is on the panel. And as far as, how many Judges are in Eastern Connecticut, I think that if he designation will be a panel that are in the same area, at the same time. So that, should the State Police make application, they will be available to them. Thank you.

THE CHAIR:

Question is on the adoption of the amendment. Will you reamark further? If not, all those in favor of a roll call vote signify by saying, "aye". Opposed, "nay". A roll call vote is ordered in the Senate on Senate Amendment Schedule H.

THE CLERK:

The following is the roll call vote:

Those voting yea were:

SENATORS ODEGARD

SENATORS CRAFTS

GUNTHER

MACAULEY

IVES

April 6, 1971

Page 47

Those voting nay were:

SENATORS FAULISO

SENATORS SMITH

BURKE

JACKSON

PAC

ALFANO

ROME

EDDY

CIARLONE

LIEBERMAN

HAMMER

ZAJAC

CUTILLO

SULLIVAN

BUCKLEY

MURPHY

CASHMAN

CALDWELL

PETRONI

DOWD

RIMER, JR.

STRADA

RUDOLF

DUPONT

POWER

DINIELLI

MONDANI

DENARDIS

HOULEY

FINNEY

Those absent and not voting Senator Blake

THE CHAIR:

The result of the roll call vote:

Whole number voting 35

Necessary for passage 18

Those voting yea 5

Those voting nay 30

Those absent 1

The amendment is defeated.

April 6, 1971

Page 48

THE CLERK:

SENATE AMENDMENT SCHEDULE I, offered by Senator Macauley.

Delete the words, the date of issuance and substitute therefor, the effective date.

SENATOR MACAULEY:

Mr. President, I move adoption of the amendment. This is a housekeeping one, I would say. It simply to make the bill a little more readable and to make some sense out of it. If you will look at lines 274 and 275, the length of the tap is ten days not succeeding the date of the issuance of the order. Now, if you go to the beginning of the section, Section 11, the order has to say the date of issuance of the order and its effective date. What this amendment does is, is what I think, was intended when the bill was written. If the order has, a date of order and it has an effective date, obviously the ten days should begin with the effective date. The issuance of the date of issuance of the date of order, in the general course of things is, when the secretary of the Judge types it. By the time it gets to the police with holidays and mails or what have you, whatever method of delivery, there is bound to be a delay of sometime or other. It just clarifies the situation here. Because, actually the order doesn't need an effective date if what you're talking about for the ten days is to run from the date of its issuance. Simply stated, we have the problem that of getting the order to the police but, there is a further problem that there is often times danger involved in placing a wiretap. There is also a certain amount secrecy involved. You don't want to broadcast to whoever wire your're going to tap. The police, I would assume would need sometime for not any other reason than to protect their own lives in placing the order, placing the tap.

April 6, 1971

Page 49

Simply to make this section read, the way I think it was intended to read, in order to make sense. This amendment is in order.

THE CHAIR:

All those who understood that explanation signify by saying, "aye".

SENATOR JACKSON:

Mr. President, I rise in opposition to the amendment. I believe that the bill as written, stating the date of issuance is satisfactory to serve the interest of both the State. I would also indicate that on any wiretap application that the State Police could perhaps have one of the troopers available to hand carry the orders around without the necessity for using the mail. I think that the fact that you do have the ten day from the date of issuance requirement, will mean the State Police will just have to expedite every possible way the implementation of the tap. So I would urge that this amendment be defeated.

THE CHAIR:

Will you remark further?

SENATOR MACAULEY:

Am I to be lead to believe that I didnt make myself clear? With the way it reads now, with the time to place the tap, with the time of its typing and delivery and soforth, it's very easily conceivable that ten days will exxpire for the police even have the tap on the line. It would seem to me, this ten day period is a very short period in that, I believe, that the other acts which are in existence, the shortest period of time is thirty days. So we are limiting it, here, to ten days but at least, I think that the police should have ten days or at least ten days from the effective date of the order. It doesn't seem to make much sense, to have an effective

April 6, 1971

Page 50

date of the order, if the ten days isn't run from the effective date but rather from the date that the Judge's secretary types it.

THE CHAIR:

Will you remark further? A motion has been made that there be a roll call vote. All those in favor of the roll call vote signify by saying, "aye" Opposed, "nay". The ayes have it. A roll call vote is ordered in the Senate.

THE CLERK:

The following is the roll call vote:

Those voting yea were:

SENATORS ODEGARD

GUNTHER

DOWD

IVES

SENATORS CRAFTS

MACAULEY

POWER

Those voting nay were:

SENATORS FAULISO

BURKE

PAC

EDDY

LIEBERMAN

ZAJAC

SULLIVAN

MURPHY

CALDWELL

RIMER, JR.

STRADA

SENATORS SMITH

JACKSON

ALFANO

CIARLONE

HAMMER

CUTILLO

BUCKLEY

CASHMAN

PETRONI

RUDOLF

April 6, 1971

Page 51

SENATORS DUPONT

SENATORS DINIELLI

MONDANI

DENARDIS

HOULEY

FINNEY

THE CHAIR:

The result of the roll call vote:

Whole number voting	34
Necessary for passage	18
Those voting yea	7
Those voting nay	27
Those absent and not voting	2

The amendment is defeated.

The floor is now open for debate and Senators may be recognized for the main matter before us. The bill as amended by various House Amendments, which are printed in File 188 and as amended in the Senate by Senate Amendment Schedule D, extending the time period from 7 to 15 days. Which amendment was adopted.

SENATOR PAC:

Mr. President, being on the prevailing vote. I would move reconsideration of Senate Schedule D.

THE CHAIR:

The motion is on reconsideration of Senate Amendment Schedule D. A motion for reconsideration is not debateable. As I recall the rules. If I'm in error, I'd be glad to be corrected. So that we may do it correctly may I have just a moment. The rule to which the President had reference, is Senate Rule 29, determines the right to have a reconsideration. When a vote has been taken, it shall be in order, for any Senator on the prevail-

April 6, 1971

Page 52

ing side, to move for a reconsideration thereof, on the day of the vote or the next succeeding day, which is not in question. There is no language therein about no debate on a motion for reconsideration. I think it is proper at this time and so rule, to refer to Mason's Rules of Order and on page 86 and 81, Mason's Rules of Order states that a motion to reconsider because it presents a main question for review, is open to debate. Senator Ives, I will rule that you may discuss Senator Pac's motion.

SENATOR PAC:

The matter being debateable, I would like to say a few words as to why I acted.

THE CHAIR:

You may proceed.

SENATOR PAC:

The reason of course, I think should be obvious to most of the people. I feel very strongly about the wiretap bill. I'm not quite happy with the bill that we have before us but, as a matter of practicality and knowing conditions that we're working under, I feel that if, we don't pass the bill today, we won't have any bill. This is the reason for my actions.

SENATOR IVES:

Mr. President, very briefly. I rise to oppose the motion to reconsider. As stated earlier on some of the other amendments, the bill in the file, I think is a weak bill. This is a key amendment to help make the bill work. And I think we should send it back to the House. Let them make the decision whether they accept it or not and then we'll decide where we go from there.

SENATOR JACKSON:

Mr. President, is it proper to comment on the amendment itself, or am I

April 6, 1971

Page 53

limited to.

THE CHAIR:

In the Chair's opinion it is proper to comment on the amendment because the remarks will affect the vote of the members of this circle on whether or not they wish to change their vote.

You understand that there are two motions. First we have to vote to reconsider, by a majority. If it is voted to reconsider, then we vote on the amendment all over again. There's two in one. You may proceed, and discuss the amendment itself, because in the President's opinion that will effect very likely, the vote of the members of this circle.

SENATOR JACKSON:

Thank you, Mr. President. The original wiretap bill which was heard at a public hearing, contained seven day period. At the hearing, the State Police did not raise any objection as to the length of time that was involved in concluding and making all the necessary arrangements.

I would submit, that seven is a practical time and I would urge the members of the circle to vote favorably on the motion for reconsideration. So that the amendment can be voted on again.

SENATOR CALDWELL:

Mr. President, I rise to support the motion by Senator Pac. I think it took a great deal of soul searching on his part, to even make the motion and I would urge all of the members of the circle to support him.

THE CHAIR:

Anyone else wish to be heard, on the motion to reconsider? The chair will get out the file and let you know exactly what Amendment D is, before you vote on whether or not you wish to reconsider.

April 6, 1971

Page 54

The language of the amendment is: In line 131, delete the word, seven and insert in lieu thereof, the word, fifteen.

I will ask for a rising vote due to the close vote on the amendment, as to whether or not, we should reconsider the vote on Amendment Schedule D. All those in favor of reconsidering, please rise. 16. All those opposed to reconsideration, please rise. The motion to reconsider is defeated. 19 to 16.

The question is on the main bill, as amended. Will you remark?

SENATOR JACKSON:

Mr. President, members of the circle, this afternoon all of us have to make a valued judgement, on this bill, which would allow wiretapping in the State of Connecticut. The Judiciary Committee has worked very hard to try to come up with a bill which will allow our State Police to have an adequate tool to fight organized crime, fields of gambling and the selling of narcotics as well as, felonious crimes of violence. The same time as has been very evident this afternoon, we have tried to place within that bill, many safeguards to protect individual liberties.

I think some of the questions that we've got to ask ourselves this afternoon, whether we are concerned about the proliferating drug traffic. I think we have to ask ourselves, whether we are concerned about syndicated crime in the State of Connecticut. Which, in addition to, preying on the unfortunates in our society, both the drug and gambling field as I've validated to, also has been infiltrating legitimate businesses with their illegal games. One of the reasons that the Judiciary Committee took a strong position as it has, on this, was the report from the Interim Committee, several members attended a conference in Washington at the Justice Department

April 6, 1971

Page 55

and I would just like to quote very briefly, some of the findings they reported back. "I quote, "today, organized crime has deeply penetrated various segments of American life. It has prosperous criminal centers and suburban areas throughout the United States. It quietly continues its corrosive effect in some legitimate business and labor unions. Organized crime has corrupted local state, and federal appointed and elected officials. As it grows, it saps our greatest strength, the belief in our people in Government. Mr. Thomas Kinnelly, Deputy Chief of Organized Crime Section of the Attorney General's office, listed the various forms of criminal activities in which organized crime is involved. Listed were: Arson, assault, blackmail, bribery, gambling, loan-sharking, bankruptcy, fraud, high-jacking, smuggling, prostitution and threats. It infiltrates legitimate businesses such as, bars and restaurants, hotels and motels, beer, linen and travel agencies, refuse collections, brokerage houses, insurance, labor unions and banks. It will do anything to gain a monopolistic control often using such techniques as coercion, extortion, violence and unfair labor practices. The effect of organized crime on government is tremendous. We require constant surveillance and apparatus. Citizens and law enforcement agencies.

The bill which we have before us as amended by the Senate Amendment Schedule D, has built into it every possible safeguard to protect individual liberties.

I would remind you that the framers of the Constitution, had no idea that such a thing as, telephones, telegraph and electronic surveillance would ever come into existence. But they were concerned about the fact that every american, had to be protected both in his person, his house, his paper, his personal effects from unreasonable search and seizure. And we have

April 6, 1971

Page 56

built in requirements to protect against unreasonable search and seizure. Warrants are required. What we have done in the bill that is before us, is built in an additional safeguard for obtaining the warrant. In effect, we have a search warrant procedure which will be done by the three judges.

I think that the three Judge panel will give the protection which is needed. You will have reasoning on the part of the three judges and you will not have a precipitous claim made by a law enforcement official to an individual judge who may perhaps, not be able to give adequate consideration to the application.

We also have requirements built into the bill that the State's Attorney must have probable cause to suspect a crime involving, as I told you before, gambling, selling of drugs, or felonious crimes of violence.

I would also point out that the three judge panel, must be unanimous before any wiretap can be instituted. We have a very strict limit of 35 taps for any calendar year which can only be performed by the State Police Department. The reason for the limitation on the number, is to make absolutely sure, that you do not have indiscriminate tapping of telephone lines.

I would also point out another safeguard against intrusion into individual liberties, and that is, this is strictly a wiretap bill. No bugging or electronic surveillance as such, is allowed under the terms of this bill.

The maximum length of any tap is ten days, with a provision for three extensions of 10 days making an absolute maximum of 40.

Also very important is that, within three months after the tap has been completed, anyone whose phone has been tapped, must be given notice of the fact that his phone has been tapped.

April 6, 1971

Page 57

Now, there are many that are here today, that say that this bill is too weak. Others say that perhaps, too strong and on philisofical grounds feel that a wiretap should not be allowed under any circumstances. But, we're going to have to make our valued judgement. And we're going to have to determine whether the safeguards that have built into this bill are adequate to protect our citizens from unreasonable search and seizure. We also have to, I believe we have, given, if we do pass the bill this afternoon, our law enforcement officials, a very important tool. A very vital tool in their fight against organized crime.

I would point out also that, wiretapping, perhaps in the past, may have been abused. But, on your desks this afternoon, you will find copies of Senate Bill 8913, which has been reported out favorably by the Judiciary Committee. 8913 tightens up considerably our present wiretapping laws, which say that, consent of either the sender or the receiver, you can tap any phone. Or you can bug any premises. This bill would state that you would have to have the permission of both the sender and the receipt before any wiretap could be put on. Now, there is one exception, and that is on any crimes involving obscene telephone calls, where you want to have a tap put on your telephone line to try to catch the person making these obscene calls, threatening calls, extortionate calls, or calls demanding ransome.

Also in this bill the penalties have been raised from a Class A mis=demeanor which has a maximum sentence of one year to a Class C felony, which has a maximum penalty of ten years.

I think, 8913 combined with 5080 which is before us this afternoon, strengthens our laws as they presently exist on wiretapping. And it will

April 6, 1971

Page 58

make absolutely certain that any wiretapping that goes on will be done under court supervision, with all the safeguards that are built into this bill.

I would just like to quote, also, very briefly, from an editorial in the Hartford Times, under date of Friday, March 26, of this year.

"Authorization of wiretapping is an acknowledgement of the vast and technical competence of organized crime, which can make evidence extraordinarily difficult to obtain by any other means. The controlled wiretap, is one way to bring law enforcement procedures up to the same twentieth century level as criminal procedures. It is a technique this newspaper has advocated. But electronic surveillance is not the beat all and end all of police technique. Former Attorney General Clark, is profoundly sceptical of the value of eavesdropping. He says, it absorbs an enormous amounts of police time to monitor a tap around the clock and doesn't yield the same results or as good as results, as the same manpower would achieve out on the streets. Also it must be noted wiretapping is of virtually no value in curbing street crime. But for limited purposes and specifically to get at organized crime, most Americans seem ready to sacrifice some privacy. The wiretap bill approved by the House, is a deliberately small step in that direction. Given the momentous implications small steps are in order."

I think that we have to really search ou consciences and the argument may very well be made, as it was two years ago, that our jails are full already and what do we need wiretapping for. But, I would submit that our jails are full of the unfortunates, who are the victims of the avarice and greed of those who sell drugs and make enormous profits out of it. Our jails are not full of the leaches who are preying on society and draining the life blood from so many of our youth.

April 6, 1971

Page 59

I would ask the members of the circle, to make the valued judgement, today, and to vote favorably on this bill.

THE CHAIR:

Question is on passage of the bill, as amended. Will you remark?

SENATOR FAULISO:

Mr. President, I want to refute the claims first that we have organized crime in Connecticut. Second, that it is an essential tool. Third, that it fulfills the Constitutional requirement.

And, Sir, I have in front of me, a headline in the Hartford Courant, which states, "states said untroubled by organized crime and I quote," Connecticut is relatively free of organized crime, State Police Captain Wayne H. Bishop, told the Hartford Rotary Club, on Monday. Although organized gambling does present a problem for Connecticut lawmen, he said, this State does not have a criminal family or a criminal czar." And this was on Tuesday, January 16, 1968. I want to quote this accuretaly. I don't know that there's been any developments since 1968 except that he said in a television show, that he received a call from New York that perhaps, there was more activity that one or two families moved into Connecticut.

Secondly, that we need the tool, I quote from the case of Burger presses New York, which was decided in 1967 and this is in the United States Supreme Court, and I quote," As the Commission reports there can be no question about the seriousness of professional and criminal activity in this country. However, we have found no imperical statistics on the use of electronic devices, in the fight against organized crime. Indeed, there are even figures available in the wiretap category which indicates to the contrary.

April 6, 1971

Page 60

Now, Mr. President, I oppose this bill. Not because I love my country less, but, because I love it more. I value freedom. I value freedom more than silver or gold. I value it more than life itself. This is a subject Mr. President, of which my heart is full. And I cannot surpress the sentiments that are contained in my heart. At a time like this, I wish I could summon from the grave those nuttal folds who could do justice to this cause. I wish I could enlist the assistance of Washington, Adams, Jefferson, Hamilton and others who formed that galaxy of greatness and I am certain they could do justice to this cause for they know of the full value of liberty and freedom. I wish I had the attributes and the gifts of other men who could do justice to this cause. If I had the gifts of and the grace of John F. Kennedy, the rhetoric of Daniel Webster, the power of Patrick Henry, Robert Emmerson, Daniel O'Connell, I perhaps could offer you the predetermination of those who are bent upon a wiretap bill. All that I can give this body, in the circle, is my humility, my sincereity and my convict ions. I oppose this bill because my whole theme rejects it. My intellect opposes it. My heart rejects it. This bill is dispicable, dis-bolical and abolical. It represents the concept that is utterly repungent and foreign to our democracy. The full of democracy is freedom. The Constitution proclaims it. Our institutions enshrine it. OUR way of life was founded in a dreams of men who faith in mankind was unlimited. They envisioned the society in which the individual human beings created in the image of God would be free. The master of his own destiny. History of democracy in America is a triumph of freedom. It began in the hearts of a small group of people, who believed that somewhere in this bashed world of ours, they could find a place where they could worship their God, where they

April 6, 1971

Page 61

could live with dignity. And after they reached these shores, they envisioned the great society, a great nation. A nation they would build. A nation tall and strong. And across the towering mountains and the rolling prairies a new day's sun foretold those prophetic words, we the people. And after that first group came many more and they banded together and they built a great nation. Then came those other words, we hold these truths to be self evident and all men are created equal, they are endowed by their Creator with certain unalienable rights and among these are life, liberty, and the pursuit of happiness. A newly created country took shape and form. A country that needed law. Law which would abolish all of the inequities and the injustices to which mankind had been subjected heretofore. It was a doctrine that was to be an aflamation of justice. That doctrine was to be the culmination of all the hopes and aspirations, dreams of mankind. This document was to be the culmination. It was to be this appalachian of justice. And thus was born the immortal constitution of the United States. And at last, the citizens of a nation were granted freedom of religion. And God was worshiped in the hearts of all. Freedom of speech and voices resounded in that void which was once silent. The right to vote and the ballot became assurance. The right to petition and the people became the power. The right of equality and every man, woman and child stood equal, in the sight of justice. This constitution, these institutions are ours. Ours to preserve. Ours to protect. Ours to defend. And ours to transmit. This solemn document and these institutions, we must protect.

So, I love democracy and all that it represents. We always defend this freedom not destroy it. We always fought tyranny not embraced it. We always scorned defitism not supported it.

April 6, 1971

Page 62

Today, I want to demand the beseiged ramparts of the Constitution. I don't want to see the Constitution weakened or erroded. I don't want to see it torn to shreds and placed on futile tire of a dead civilization.

Sir, wiretap is reminiscent of the inflamaous gestapo. The lessens of history revealed some shameful chapters of mans inhumanity to man. Noone can forget the persecution of the early Christians. The persecution of the Jews, under Hitler. And the continued persecution of people under Communism. Totalitarism has stalked across the world, leaving in its wake many places of broken remnents of the rights of individuals. Unfortunetly, the spectre of the big brother has not left us. The midnight knock at the door still echos down the corridors of our time. And Justice Brandeis characterized the right of privacy as a most comprehensive of rights and the right most valued by civilized man.

Legalized wiretapping, would deal a staggering blow to the right of privacy. Judicial history is replete with numerous cases where innocent people have been victimized. A subsel aquital does not erase the stigma, embarrassment, irrepetible damage to the reputation and indeed, reputation takes a lifetime to build.

The Constitution, Mr. President, indeed guarantees the liberties and freedoms that we have fought for and died for and sacrificed lives on the altar of liberty and freedom. The Constitution also, guarantees us pursuit of happiness and the pursuit of happiness is privacy. Privacy is a corner stone of the Fourth Amendment. And the late Justice Musmano of the Pennsylvania Court, and I quote, said this in the case of Commonwealth versus Murray. " The greatest joy that can be experienced by mortal man, is to feel himself master of his fate. This in small as well as, in big things.

April 6, 1971

Page 63

Of all the precious privileges and perogatives in the crown of happiness which every american citizen has a right to wear, none shines with greater luster and imparts more satisfaction than fullfull contentment to the wearer than of golden studed right to be left alone. The Fourth Amendment to the Constitution of the United States is dedicated to this right to be let alone. If intermeddlers may without legal responsibility eavesdrop at the table, listen over the telephone. Eavesdrop under the bed and all the Constitutional guarantees become meaningless aggragations of words as disconnected as a broken necklace, whose beads have been scattered on the floor.

Legalized wiretapping would open the door to unauthorized infamation for the use of the social scavengers, discredited business shoppers and political buckaneers. It would enable police to pry into the most personal dealings. And the most sacred relationships. They could tear aside the curtain which shields what the lawyer says to his client. The physicianto his penitent. The physician to his patient. rather. Minister to the parishioner. The Priest to the Penitent and the husband to his wife. Without this guardian for the rights of privacy, every telephone user would have to conjure the possiblity that the phantom hands of the electronic eavesdropper could be clutching the very instrument into which he speaks.

Interception does not end with the mere listening operation. After the wire leach has sucked in the blood of guarded secrets, he is then, in a position to blackmail his victim. He is in a position to traffic with corruption, threats and ill-gotten gains. Such a potential infamy could be tolerated in the name of the enforcement of the law would be the most extraordinary paradox in these paradoxical times.

April 6, 1971

Page 64

I submit, today we need police with brain power not wire power. Those who favor the use of wiretapping have the burden of proving their value to law enforcement. And that other means equally effective are not available for sacrificing privacy. The results of wiretapping, where it has been used extensively are not conclusive or even impressive. The evidence is rather clear, that wiretapping is used most extensively in the morals area, vice, gambling. Our convictions in this area, we are giving the police dangerous powers, especially since these are the areas of the greatest abuse. The ascertainment that wiretapping is necessary for effective enforcement of the gambling laws of the more persuasive argument for legalized gambling than for permitting wiretapping.

It is about time we gave serious thought to the repeal of the archaic and effective gambling and ineffective gambling laws. It is about time, we eliminated the double standards and hypocrisy that surrounds this whole area of gambling.

In my judgement, it is enough that the law permits the interception of telephone conversations with the permission of the caller or the receiver. And it is at this point, that we should draw the line.

Justice Frankfurter said, suppose it be true that through dirty business it is easier for promoters and police to bring one occasional criminal to heel. It is most unconventional to assume that unless the government is allowed to practice dirty business, crime would become rampant or would go unpunished. My deepest feeling against giving legal sanction to such dirty business, is that it makes for lazy and not alert law enforcement. It puts a premium on force and fraud, not on imagination and in the pride and professional training. Distorting of tape recording is not difficult and has

April 6, 1971

Page 65

been demonstrated many times. There have been instances of extortion and shakedowns based on information obtained by wiretapping, especially in the gambling area where wiretapping is most used. A grand jury investigation in Kings County, revealed much corruption including false supporting affidavits in support of the application for a court order and vague and conclusory performer applications in other instances.

Now, Mr. President, how many people in this circle, truly know the mechanics involved in this kind of application? How many of you people have taken the time, to consult with somebody who perhaps is knowledgeable on this subject? How many of you come in contact with those who deal with this on a daily basis? What happens here, is that the police, prepare an affidavit and they sign it. Now, these allegations need not be true. All that is necessary is the allegation comply with the two prong test of spinella and the case of acquilla. So that the Judges, do not go beyond the format, the form the allegation. He doesn't question the truth of these allegations. That isn't the prerogative of the Judge. He merely satisfies himself, that there are sufficient allegations.

Now, Mr. President, it is this particular county, Kings County, where corruption was revealed. Where it was shown and demonstrated that many affidavits were false. That the police, in fact, told a different story than existed. In other words, perjury was committed outright perjury. Now the police, they trust us. But, for years, Mr. President, these same people have been conducting illegal wiretap, Why now, should we trust them? We have read time and time again of many governmental agencies, that have been discovered and revelations have been made that they have been engaged in

April 6, 1971

Page 66

illegal wiretapping. Several years ago, the IRS had to drop many cases, because of illegal wiretapping. And just a short time ago, the military department, the Pentagon, conducted wiretapping and surveillance of private citizens even in their conventions and now, there is a raise of cry that even in their deliberations, in Congress, that some of these people are being wiretapped. Now, I don't believe in gossip. I don't know if these claims are true. But, I do know, that illegal wiretapping has been made. And that the Government has conceded this. I am not prepared, Mr. President, to give up this most precious right. I think this is a real jewel of all the rights that man possesses. And to rob him of this jewel, is to rob him of his most precious and most pride possession.

Now, it might be easy for me, to say, I'll go along with this and say I could make myself vote for it. To say that, would be to be unfair to my intellect, to my conscience. I would have to dismiss all the knowledge that I have gained in the schools, in the practice of law, in my daily contact with these affidavits. I know the danger, I know the weaknesses. If our system permitted a perfect system, of honesty, of trustworthiness, free from danger, free from weaknesses, then I would submit.

Mr. President, knowing these weaknesses, I can only say to you, that today we don't need more laws. To paraphrase, President Coolidge, all we need today is more religion. We have many laws on the books. And to give you an example, that, the police can use more brain power. Only recently, in New Haven, to show you the genius of the police when they are really put to the task and the challenge. Certain policemen came from another jurisdiction from another State, and, created a competing racket in policy and other rackets that were rampant in that particular city. I'm not going

April 6, 1971

Page 67

on New Haven, but, just to prove a point. And, it was discovered and they were able to point out the people who were engaged in the rackets. And not only that, but they found out much to their astonishment, that the police were receiving shakedowns and they were part of this particular racket themselves. This is the genius of police. They didn't need wiretapping. All they needed is the little ingenuity. This is the real democracy that I know of. This is the real democracy that men today are fighting in the four corners of the earth. These are the millions of encounters. The millions of battles that people have sacrificed because they wanted to appreciate and to live and to enjoy, freedom. This is the kind of freedom that all of us enjoy. If you're going to operate in your daily business, with a cloud over your head, someone might say, you're not involved, why should you worry? But, the point was well made, recently, in an editorial by Mr. Collins. He said, those who make that point, let me point out the falacy of that. So he told the lady, give me your purse and the lady very graciously gave Mr. Collins, the editorial writer, the purse. And he opened it and he rumaged through and pretty soon the lady's face became red, embarrassed. And she frankly admitted, that she didn't like this. That this was an invasion of privacy. So it isn't a question of whether or not, you have nothing to hide. It's a question of whether you want to give up this particular right of privacy. And if you give this right now, if you give this privilege now, this is the opening wedge. This will be the one thing that will open up the flood gates and then the Constitution really can be ripped to shreds. And it would become meaningless.

I want to protect my country. I want to protect it so that we will not have this creep into totalitarism. I don't want a police thing. I want

April 6, 1971

Page 68

our institutions to flourish, to grow. And I want to be able to transmit it to other generations, so that they can appreciate democracy, in all its splendor. For those reasons, I oppose this bill.

THE CHAIR:

Thank you, Senator. Question is on passage of the bill. Will you remark further?

SENATOR ODEGARD:

Mr. President, I, too, if I may, would like to quote, Captain Wayne Bishop as reported in the Hartford Courant. Captain Bishop the head of the State Police Criminal Intelligence Division. Writing in late March or early April of 1971, Captain Bishop, said after commenting on his belief that the wiretap bill had been exorbitantly watered down, by the House of Representatives and I quote, " although Connecticut has no family" that controls organized crime, the State is under the influence of four families from out of State, that control most of the drug dealings, loan shark operations and gambling, he said".

Mr. President, throughout the article, Captain Bishop recommended for the passage of the wiretap bill with severe reservations concerning the bill passed by our House of Representatives. I personally, hope and urge passage of this bill, somewhat reluctantly because I, too, believe that with our amendments today, the amendments that we defeated today, we have unduly watered down the bill.

But, the bill, Mr. President, is not designed to attack the 10 year old who may or may not be in the process of stealing a pocket-knife or to get a look into a women's purse. The bill will not infringe to my mind, one iota

April 6, 1971

page 69

of the privacy of the law abiding citizens and I suspect a strengthened bill would not have either. It will infringe on the rights of that animal who, is now peddling narcotics to the 10 and 15 and 20 year old girls and boys in the State of Connecticut. Without exaggeration, the people who are shooting heroin into the arms of our children, our friends, the grandchildren and the children of our associates in all of our towns and of course, particularly, our cities. I don't believe that we're infringing on the right to privacy of the people that we are here representing. We're protecting their rights, I believe, of all of them, all of our citizens as parents, and as citizens to be free of this cancerous thing that we've come to bliquely call, organized crime. And I certainly urge its passage.

SENATOR DUPONT:

Mr. President, members of the circle, I think whether anyone is for this particular bill or opposed to it, I think they have to feel or should extend to Senator Jackson and the members of the Judiciary Committee compliment on the excellent job they have done in drafting this bill and in preparing it. And in creating a bill which I think, rebuts many of the arguments that were heard in this circle and in the House of Representatives two years ago.

However, although being very tempted to vote in favor of this bill, I think, basically, I must oppose it because I'm against the very concept of wiretapping. One of the sternous challenges that faces us, as members of any legislative body, is to balance the interests of the individual against the interests of the public. One of the toughest such challenges that has faced this and other legislative bodies, is how to deal with the so-called wiretap legislation. We have been told such legislation, is needed to

April 6, 1971

Page 70

protect the public against organized crime or syndicated crime and against subversives. And perhaps it is. But, we must first consider, the rights of the individual. His right to privacy. His rights under the Fourth Amendment. His right to be free from general exploratory searches. That is that the person or places to be searched and the objects to be seized be identified with particularities in a search warrant.

A wiretap warrant cannot in any practical sense, be limited to a particular conversation. The wiretaper overheard conversation of the most intimate, private and privileged source, such as those between spouse, between attorney and client and possibly between priest and penitent. And I say this being fully aware of Section 8 of this legislation, which I think is an attempt to remedy that problem.

The enactment of this legislation, although very limited in scope as it is, is a step closer to the 1984 predicted by Author George Walwell, some 25 years ago. It will mean a further invasion of privacy, that is, what little of our privacy that still remains.

And briefly, I would like to sum up by calling to the attention of this body, the warning of that great Justice Brandeis. Because, I believe, it is so appropriate to this problem. He said, "experience should teach us to be most on our guards to protect liberty when the governments purposes are beneficial. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal well meaning but without understanding." I urge you to vote against the passage of this bill.

THE CHAIR:

April 6, 1971

Page 71

Question is on passage of the bill, as amended. Will you remark further?

SENATOR PETRONI:

Mr. President, through you, to the gentleman from the 5th, I have a question.

THE CHAIR:

You may proceed.

SENATOR PETRONI:

In Section 3, Senator Jackson, line 152, sub paragraph 10, and I'd like to read it, so that the members of the circle may understand. And that is the entry into a private home. If it is reasonably necessary to make a secret entry upon a private place or premises in order to install an intercepting device to effectuate the interception, a statement to that effect and to the effect that no practical alternative method of executing the order which will preserve the secrecy of its execution exists.

Now, for my benefit and for the benefit of the other members of this circle, could you describe for me, and the rest of us, the procedure, the mechanical procedure, of how a wiretap would be installed and how, they would install it, IN THE home?

SENATOR JACKSON:

Mr. President, in response to the question, in the vast majority of cases, the tap could be installed in the main switchboard of the telephone company. It could be installed outside the home on the telephone pole. In the case that was presented in the arguments on one of the amendments, can be installed on the line from the switchboard inside a building leading to a particular apartment or office. And the actual mechanics of putting the wire on the wire, this would be something that would be in the expertise of

April 6, 1971

Page 72

the telephone company. But, you do have an attachment placed upon the wire itself.

SENATOR PETRONI:

Another question, since I didn't know exactly how this particular mechanical procedure is done. With your replies I wonder then, why the committee, included this Section 10 if it can be put outside the pole and put at the phone company's headquarters and also I wanted to know if the recording where that takes place? Where the recording that's referred to in other parts of this bill, takes place?

SENATOR JACKSON:

Mr. President, I think this point was agreed on one of the amendments. The phone company, we contacted the phone company and they said that they cannot guarantee that in every case, they're going to be able to make the tap in their internal switchboard arrangement in their main office or on the pole outside. The vast majority of cases would appear that this would be the way the tap would take place. Now as far as your other question, it would be a place obviously where, which would be at the place at the convenience of the State Police, who are the only ones authorized to conduct a tap. So that the line would then go into some room or some area of building where the State Police would have privacy and be able to conduct the tap and record in that place.

THE CHAIR:

Question is on passage of the bill, as amended.

SENATOR PAC:

Mr. President, I support this bill. It would be hard to find a single legislator who at one time or another has been asked eloquent about the

April 6, 1971

Page 73

need to control crime. And everyone of them thus has been guilty of mining political gold in this area. Now, we have a chance here, to back our words with some action.

You know, in testimony before Congress, A congressional hearing, this was in 1968, the vast majority of law enforcement officials stated, that without wiretapping convictions would be impossible. They would be impossible to get at the higher ups. The lower escheleon are so insulated from the higher ups they spend their whole lives in crime and never know who the people on top are. And Frank Hogan at that time, mentioned something like 20 or 25 names, familiar names to you, all, who would never have been convicted, had it not been for wiretap.

Recently, our previous Governor, nominated the Melotts Committee to look into it. Their recommendations was for a wiretap. This committee was composed of some of the most distinguished men in the field of law in the State of Connecticut. And they came out strongly for a wiretap. The presidential commission, under Johnson, came out with this same recommendation. And as an outgrowth of their recommendations in 1969, Attorney General Mitchell, undertook 30 wiretaps. And in 1970, he extended it 133 more wiretaps during the first six months. And in one weekend in July, 135 narcotics arrests were made throughout the country. Previously Ramsey Clark had called a moratorium on all wiretaps. So these are the conditions that we're facing and these are the conditions that we could better with this kind of wiretap bill.

Communications by themselves are the very life blood of the crime syndicate. Without these communications we're in trouble. Even if we don't

April 6, 1971

Page 74

manage to get any convictions, the listening of communications by themselves would result in a drastic curtailment of drug activity. What good is all this protection, of the invasion of my privacy, if you can't protect me and my children rather, from the invasion of these drug pushers? It doesn't mean a thing. I think these civil liberties are hung up on ancient history. This whole reference of the Fourth Amendment was enacted at a time when the view was from oppressed government. The fear today is not from an oppressive government. The fear and danger is from crime. The chaos of crime. This is our greatest problem. And this is the one we face currently.

In debating as to how we should vote. There have been many references as to the constitutionality and the legal precedence. We have the background of the Fourth Amendment, of course. We have had the Supreme Court decisions in the Homestead, and the Burger and the Silvermine cases. All of them to one or another degree favor wiretapping. And just this morning's Courant carried an article where the Supreme Court had expanded the area of bugging. Now if we are to go on Constitutionality, we've had eminent men, in the field of law, learned men, who have ruled by a majority that this is constitutional.

And with these thoughts, I'll leave it to your own judgement. I feel very strongly. We need a wiretap bill. Weak as it is, we need something on the books.

THE CHAIR:

Question is on passage of the bill, as amended. Will you remark further?

SENATOR ALFANO:

Mr. President, members of the circle, I stand in support of this bill.

April 6, 1971

Page 75

I have to differ with some of my colleagues by saying that I'm not completely happy with it. I had hoped that we would have a much stronger bill. I had hoped that our bill would have been at least as strong as the Federal Bill, or the New York bill. But the wonderful thing about a democracy is that we all have our own sentiments and our own feeling. And I admire those who have their own position on this particular matter.

However, I feel that this is a very important instrument in order to combat organized crime. I feel it's more important for me and my family to be safe in my home from violence. I think it's more important for my family to be safe in my home and in society from the cancer of drugs and for being safe in my home, in the growth of organized crime due to the wide spread of legal gambling. Some sacrifice of privacy must be made, in order to prevent or protect our society from corruption and destruction.

So, therefore, I feel this bill is very essential, to the people in the State of Connecticut. And I want to support it wholeheartedly.

SENATOR MONDANI:

Mr. President, I rise in opposition to the bill. I've heard talk of safeguards. We have safeguards on the number of taps. We have safeguards through a panel of Judges. The number of days that the tap may be enforced. But, I think the best safeguard if we're really concerned with the basic principles of our government, is outlined by Senator Fouliso, is the defeat of this bill.

Throughout the bill there are words, phrases that are offered as safeguards. One is that the normal investigation procedures have failed. I question, if two years from now this won't be a normal investigation procedure, which has failed and then we'll take the next step, which is bugging.

April 6, 1971

Page 76

and if that fails, and there are no convictions, there'll be more taps. And more devices. And fewer safeguards. And then, the list will grow over the types of crimes and penalties. This is my concern.

Those of us who vote against this bill are not voting for organized crime. I think we're deeply concerned about our own rights and privacy, in the deep belief that unless someone is charged and convicted, he is still not guilty. I don't want these people to exist. I don't think anyone in this circle does. But, when I see such language as, the identity of the person and then says, if known, up above we have to identify and down below we don't have to identify. It states in here that the report or the application, has to have details as to the particular offense that has been or is being committed. If we have that detail, I can't see why we can't apprehend him. It's beyond me, that if we have all of this detail, that we swear to in the affidavit, that we suddenly need to tap the phone. It seems inconsistent.

I would hope, that the police can develop better tools. Tools that Senator Pauliso again alluded to. Rather than invading the privacy of individuals. We only have a few taps now. I assure you that, when this law passes, if it does, it will back for 36 and 37 and item for item, because they won't work. And then we'll find some other electronic devices. And then all of us will have that thin veil threat to block our communication

And one last thing, if organized crime is so sophisticated, I'm sure that they'll find other means to communicate. And I think that we have to go to the root of the crime. Perhaps, maybe we should start some of the discretioning and penalties. Perhaps we should stop weighing them so easily.

April 6, 1971

Page 77

But not turn to this effort, which can put a cloud on all of us and make everyone hesitant. Thank you.

SENATOR DENARDIS:

Mr. President, members of the circle, I think all of us have given a great deal of thought concerning this particular matter. I know I have agonized over it for the last several weeks. There are many ways to deal with the question. There are many lines of argumentation that could be pursued. If one chose to deal with this as a question of legal and constitutional philosophy. I think one would be well to be well advised to heed Felix Frankfurter's admonition, that the history of liberty has largely been the history of the observance of procedural safeguards.

But, I choose not to make that argument, today. If one were to approach this on the question of it being a matter of political philosophy, one would do well to heed the sagacious words of Oliver Wendell Holmes, who said, we have to choose and for my part, I'd make it less evil that some criminals should escape and the government should play an ignoble part. But, I choose not to press that line of argumentation. If one were to approach this as a question of social philosophy. One could say, that the real trouble is that things like a wiretap tool in the law enforcement armament is that it really doesn't fit what society should be trying to do. That narcotics and gambling are primarily social problems for which the law has no real cure. But, I choose not to press that line of argumentation.

I choose rather, to press a line of argumentation which, I don't think was expressed in the House and has not yet been expressed here, in the circle. What seems to me, to be at stake, in the current wiretapping legislation,

April 6, 1971

Page 78

is whether a particular technology will be encouraged or discouraged.

It must surely be true that eavesdropping, the eavesdropping electronics is an industry in an early stage of development. I think that if state and then subsequently local governments, begin to procure such devices in large quantities, I would anticipate a major competitive business effort in this country, employing scientists, engineers for reasearch and developments and large task forces for sales and advertising and the rest. Inevitably, I think this would lead to sales outside the government sector. The prospect of a bugged society to me, is not a happy one.

A friend of mine, visiting Moscow a few years ago, by a series of accidents became very friendly with a group of young people there, young radicals who were disenchanted with the regime. Serious conversations were always held in the park and communications in his hotel room once, was by passing notes back and forth. The paanoia that infected these people was at least as distressing as the reality. I think that government especially below the Federal Government, will have to be more than passive, to prevent a comparable force of events in the United States. Technology begets higher technology. Small business begets large business. Government will have to discourage actively the entire technology. Discouraging its expansion through tight controls over line items for procurement in the budgets of police forces and discouraging use of and familiarity with the present technology.

My essential argumant therefore, is not an argument pressing the line of legal philosophy or political philosophy or even social philosophy all of which have merit. My essential argument is to deplore the prospects of a technological police complex that could grow and could be

April 6, 1971

Page 79

as dangerous to the Republic as some suggest the military industrial complex is becoming.

SENATOR EDDY:

Very briefly, Mr. President, I rise to support this bill. As it so often happens, I merely wish to echo what my good friend Senator Pac has said. He does seem to have a genius for putting his finger on what really this is all about.

Now, very few votes are going to be changed by what we say here. We're really exposing what our own thought prophecies. I just urge those of you who are going to vote against this bill, that you can't have it both ways. And all of us, in the recent campaign, said, that we were going to do what we could to do something about this shocking drug situation. And Senator Jackson and I both, were attended at a meeting of parents whose children had become involved in this and they begged us, they said, for God's sake do something about these syndicates who are getting at our children. And Senator Jackson said, we're going to try. We're going to try to do something. Now, this is what we're trying to do. And I know, that those of you who are going to vote against this bill, are doing so for the best of reasons. But, don't have it both ways. Don't go back and say on the one hand, you protected liberty which in your views you are doing and at the same time, don't say, that you are concerned about these awful problems which are racking the youth of our society. Here is your chance. You're turning it down and let's face the truth about it.

SENATOR RUDOLF:

Mr. President and members of the circle, I rise in support of this important bill. ~~Some ten years ago, as a member of the City Council. I met~~

April 6, 1971

Page 80

with members of various families, in my home. And they said, Mr. Rudolf, there are drugs in the high school being sold. And I took this under advisement. I discussed this matter with members of the City Administration. Many of them felt that we were or I was blowing this out of proportion. I was distorting the facts. That there was no fear. We have means of law enforcement. We will handle the matter in an appropriate way. In a few years later, more parents came to my home and said, Mr. Rudolf, there are drugs in the Junior High School. And I continued to pursue the matter. And I went to some members of the press and they also said, you're blowing it out of proportion. There is no fear. I discussed the matter with our law enforcement agencies and they said, very simply, that our hands are tied. Gentlemen, you've heard the remarks made today. I don't have to repeat it. You heard from your constituents, they have said over and over again, please help. What are we to do? There is no member of this Senate Body that has not heard from your constituents regarding the dread of the drugs. You have talked with parents who have lost children because of this. And if you really want to see it for yourself, take a trip to Fairfield Hills. Take a look at our youngsters. Take a look at this destruction brought by the criminal element. And when are we going to stop it? We have the right today to bring it about. The people are looking to this Senate. To this General Assembly, to take the necessary steps to bring an end to it.

Our young people deserve a chance to live. They can no longer help themselves, my fellow Senators. Once they are under the habit, they've got to feed it. And how about the parent who, complains his child that was sent to prison because he chose not to go to a drug center. And he's tied in with the criminal element. So rather than punish that youngster, why don't

April 6, 1971

Page 81

we try to go after the man at the top, as Senator Macauley said.

Mr. President, I think that this legislature can do wonders for the State of Connecticut by the passage of this bill, today. I plead with you, vote in favor of the bill.

SENATOR CUTILLO:

Mr. President, too merely vote on this bill to me, doesn't seem to be enough. I therefore, would like to associate some remarks with the pass speakers who have talked against the wiretap bill.

You know I campaigned against crime, against drug addiction and for law enforcement agencies. But, I campaigned with the thought and theory that we should be funding these peoples more money to operate with, new equipment and so forth. You're all very aware of the Governor's budget. And what it does for law enforcement agencies. It doesn't do very much for them. And I daresay, that the wiretap bill, is a sick sister to helping these agencies.

You know, I have a fear of what will happen a year, two years from now, when 35 wiretaps aren't enough. One of the reasons given for 35 wiretaps or 32 I'm not quite sure on that, was the fact that the State Police didn't have the people to operate these wiretaps. Well, it would be no surprise to me, in another year or two years from now, that they'll have the people. And they'll be coming here, looking for 40 and 50 wiretaps. I do believe that we have started the first step in legislation that will get out of proportion. It's wrong. I haven't made myself conversant with all the technicalities involved because I was against it two years ago and I wasn't ashamed to mention this, in my campaigning. So I don't mind going back to

April 6, 1971

Page 82

the people and telling them that, I was against wiretapping because of its privacy. Thank you.

SENATOR SMITH:

Mr. President, I rise in opposition to the bill. I've heard, I would believe all of the arguments for it and I think I've heard all of the arguments against it. I'm in favor of all of the arguments against it that I've heard here today. However, I would like to preface my comments by pointing out to my colleagues in this circle, that if we really took a true assessment of ourselves, then we would be misleading the people of this great State, into believing that we're going to make such great in roads into what's been happening to our children under our watchful eyes, all of these years. We pretended it did not exist, out in the suburbs. We pretended we had no narcotics problems. We're talking about doing something about a problem which has long been with us but which, has long also, been ignored. We're also talking about putting into the hands of our law enforcement agencies supposedly a tool, in this is in deference to our State Police and this is in deference to the many fine police officers on our local level.

But, I think that we ought not only to look at the past as what has happened, particularly, what my esteemed colleague from the First has brought to your attention, what happened under Hitler. A lot of us, don't like to think about it, it's never happened here. We don't have to go back to Nazis Germany. We can go now to Washington where some of our United States Senators and our Congressmen and now having second thoughts because they found out that military have been eavesdropping on them. And keeping records on them. So all of a sudden, they're upset, about it. They felt about that

kind of thing. But now, it's happening to our Senators and our Congressmen, and our Representatives in Washington.

Then, I asked too, and I've never received an answer, if the safeguards are so great, then why do we exempt anyone from it. Why are we going to exempt Doctors? Why are we going to exempt Lawyers? Why are we going to exempt Ministers? Are we going to say that, of all the people in our State they're not going to deal in narcotics, they're not going to violate any law? I was told for example, Mr. President and members of the circle, that there's a lawyer client relationship that's supposedly traditionly sacred. And I said to the people I talked with, well, don't we trust that the State Police won't use this information, they're only looking for a certain little bit of information relative to gambling or narcotics. They won't use the other. They'll give it to you after they've finished it. And if they haven't found anything, so why worry about it? No answer came.

At the public hearing, we asked many of the people who came looking for the power, of course, the local police didn't get it, but there was an attitude that came out of it. And this attitude was this, drawing out debate, I said, well, how about elected officials being in on the know? Not the final decision, but being in on the know? He said, no. Then the question came, why? The answer, we don't trust you. And then, one gentleman came up in trying to straighten out the attitudes of the other, he said, to the Judiciary Committee, don't get me wrong, gentlemen, I've been abused for so long in this business, I don't trust anybody. That's just one of the attitudes. And then I asked of Captain Wayne Bishop, about undercover agents. He said, yes, that would do the trick, if we had more of them.

April 6, 1971

Page 84

but, we don't have enough men to do that. And so, we are then supposed to let go some of our rights, some of our rights to privacy, because, on the other hand, they're saying to the legislature, we don't give them enough money and we don't give them enough men to do a better job.

And the, we come right back again to some of the very same people who supported legalized wiretapping, themselves. They say now, that they have no doubts that police are illegally tapping wires. Now, if this is true, and it is, how do we keep them from abusing what is given them under the guides of legality.

I like ~~the~~ Mission Impossible, too,,like millions of other Americans but, on television where it belongs. Now, I don't say I'm more American than anyone here or outside these chambers because I seek to defend what I believe an inherint right. I don't say those that support the wiretap are less american than I. I do suggest that, some of us, have not been exposed enough to the dangers of the police state, living as some of us do in ivory towers. Set off somewhere in an Alice in Wonderland dream that the safeguard offered in our Constitution was attained with the victory over the British in the American Revolution. Most of us live in homes and areas that are of a sincere but ignorant belief that those sworn to protect and enforce the law, have even generally violated the laws themselves with respect to certain seizures. In addition to all that my esteemed collegue from the First, Senator Fauliso has said, we cannot divorce this issue from our discovery of the deplorable extent to which our military has gone.

And further, in defference to my collegue from the Sixth, Americans have just as much or more reason to fear, oppressive government than any other

April 6, 1971

Page 85

people of any other nation. Paradoxically speaking, the great tragedy of our times, is that more, particularly middle and upper class Americans, are not now being subjected to the continuing oppression, presently being felt by this nations poor. It's alright as long as it's on the other foot. As long as we live in a dream world that will never happen to us. And if we release this bogey man, then I think that some of us might wake up one morning to find out that many other people find out the same thing that many other people have found out. And who were led to explain. I never thought it could happen here.

And in conclusion, let us not take lightly the second thoughts of those who again sit in Washington, who are disturbed to find out that there wires are being tapped and I remind you of the disturbance of our own former Governor. Not that we learn that they proved his wires were being tapped. But most certainly, his irish temper flared when he suspected that the Governor's wire was being tapped.

Now, suppose again, and I remind you, that perhaps it's always nicer to believe that it might be happening to someone else and to lead ourselves to be to except an illusion that it could never happen to us.

Again, Mr. President, let us not try to run away from the truth of this entire matter and let us not try to say that there are people who are not just disconcerned are more so, than many others about the dreadful scourge of narcotics addiction. I don't think anyone in this circle, anymo re so than I, see it every day. And cry about what's happening. But, I've also seen too, that the law enforcement has turned their heads to it. So we don't need the wiretap to do it. What we need, are dedicated people who are going to go about and do their job and that includes this Body in many other areas

April 6, 1971

Page 86

in this wiretap.

SENATOR STRADA:

Mr. President, I think Senator Eddy is quite correct when he says that noone's mind will be changed today at almost 6 O'Clock. But I don't think it follows that anyone of us will vote on this bill semarily. I think every Senator in this circle, has wrestled with this problem as I have, because of its far-reaching implications. I think this is obvious on the debate both here and in the House last week.

But, I think the two different points of view have been enunciated very clearly, very eloquently and very sincerely, by both Senator Jackson and Senator Fauliso. I think they have put before the circle the arguments both in favor and against this bill. They have put before this circle, what the problems are, what the reservations are, what the legitimate concerns might be. This conceivably could be the most difficult decision anyone of us has to make on any individual piece of legislation, this session.

But, I think that we must put it in prospective. I think, Mr. President, the only way to resolve this at least in my mind, is to put it on balance. We must balance on the one hand the right of all law abiding citizens, including myself, who are willing indeed ready, to give up a little bit of our privacy to give law enforcement a tool to attempt to combat organized crime. At least in the three areas contained in the bill.

Mr. President, this must be balanced against the right of all law abiding citizens again, including myself, who want to and wish to be secure in our homes and in our persons against unreasonable search and seizure. This is an ivasion of our privacy. Senator Fauliso is quite correct. Much of what

April 6, 1971

Page 07

he says is correct. And I say, Mr. President, if we are to tread in this area, we should walk very lightly. There have been statements made here, today, there were statements made in the press after the House debate, that this is a watered down bill. This isn't a watered down bill. This is a tight bill. It's a controlled bill. It's a limited bill. It's the only bill that I could personally, support.

There are as many safeguards built into this bill, as could possibly be written into a bill and still have it be an effective tool. I believe and I'm convinced that there is a need for the bill. I think the bill is a controlled one. And on balance, I'm ready to vote for it.

SENATOR RIMER:

Mr. President, I rise in support of this proposed wiretap legislation. I've listened very carefully this afternoon, to the debate among the members of this circle. And my judgement, this bill, as amended, represents a reasonable compromise between the rights of the individual, specifically in his right of privacy, and the rights of society to control crime. With the safeguards of the three Judge panel, the limitation of 35 wiretaps a year, the limitation of the wiretap to cases involving gambling, narcotics or crimes of violence and the fact that the police and State's attorney is seeking a wiretap warrant must show that they have exhausted all other ways to obtain their evidence.

I am persuaded that the rights of the individuals are adequately protected. All of these safeguards demonstrate a fair balance between the rights of the individual and the rights of society. And a result in a wiretap bill which I personally, wholeheartedly support.

April 6, 1971

Page 88

SENATOR PETRONI:

Mr. President, members of the circle, this time we probably not changed many votes as someone said. But, as Senator [redacted] said, this is probably the most difficult bill that all of us will concern ourselves with in this session. I find it to be such a bill. It becomes a matter of great constitutionality, a great moral problem.

I would first, like to point out that, it is this bill that we are considering today, not the New York bill or the Federal Act that was passed. But this act with approximately 559 lines, with 19 different sections, with over 5,000 words and the words in this bill must be able to stand the constitutional doctrines that we all, I think, recognize and understand. Since I think all of us are fortunate enough to have been brought in a system that taught us well, there meaning. We're all privileged to have been taught it. And I think that's why so many of us, today, have been agonized with the principles set forth in the Fourth Amendment of our Constitution. And in Article I Section 7 of our Connecticut Constitution.

And I think there are three sections in this bill, that will not even though, we heard so much about safeguards, pass that strict constitutional test. I think it's important that we read first the Connecticut Constitution, Article I; Section 7. It's very short, it's only about 50 words.

The people shall be secure in their persons, houses, papers and possessions from unreasonable searches and seizures and no warrant to search any place and to seize any person or things shall issue without describing them as nearly as may be nor without probable cause supported by oath or affirmation.

April 6, 1971

Page 89

The Federal Constitution sets out very similar language about the same number of words. I think there were 54, Federal Article 4 of the Federal Constitution and I've underlined the part that I think must meet the test of constitutionality. It's the part that says, must be supported by oath or affirmation and particularly describing the place to be searched and the person or things to be seized.

History, I think, has developed that the general warrants for what brought about those two great constitutional principles that I just recited. The very nature of this bill does not permit, in my opinion, the specific test that the courts would require as to the particular place to be searched and the thing to be seized, in this case, the conversations of those who happened to use a particular telephone that was being tapped.

Under line 151, which I referred to when my question to the honorable gentleman from the 5th, which involves the entry into a home, I find that very hard to accept and I believe that the court of this state and that the United States Supreme Court would find that very difficult to accept. As being constitutional.

Line 275, of this bill, presents another basic question on the constitutionality of this bill. And in part, it reads, line 286, any communication, common carrier, landlord, custodian or other persons furnishing such facilities or technical assistance, shall be compensated therefore by the applicant at prevailing rates. I find it very hard to believe that times have changed that much. Can you imagine the people that drafted the fourth Amendment of the United States Constitution, or article 1, section 7, accepting that kind of language, in compensation at a prevailing rate. The great

April 6, 1971

Page 90

principle that's involved hasn't changed at all. And we, are fortunate enough up to this point, to have enjoyed what it protects. And it protects everyone of us, everyone of us in the State of Connecticut. It doesn't say in this bill, that it just pertains to criminals and it's only their privacy that we're going to invade. It doesn't say that at all. It applies to every citizen and every person. The other serious constitutional provisions that I question, or the other serious part of this bill that I question, as far as constitutionality is concerned, is line 218, that deals with public telephones. On page 6, says, if the facilities from which a wire communication is to be intercepted at public, a special need exists to be interpreted to intercept wire communications over such facilities. I think, that you can't by the very nature, as I said before, a wiretap be specific, there could be hundreds and thousands of people using a particular phone who have nothing to do with anyone of the crimes that are listed in section 2. They are just people who are calling from a railroad station. For instance, I can foresee where an application could be made where railroad station phone could be suspected that a person who would be committing these crimes that we list, frequently and an affidavit would be made and an order granted and possibly there would be maybe one maybe none, calls made by that particular person, that is suspected of one of the crimes. But think of the number of people that could be using that phone during the period that the order would be granted for. I find it very hard to believe that the courts will be able to sustain any one of those three sections, which I have referred to.

The second point that I'd like to make is, will it really do what many of you who in good faith are proponents of this bill think it will do?

April 6, 1971

Page 91

I think, Senator Fauliso said, it's incumbent upon the proponents to show and demonstrate clearly by acts, that this particular bill has been effective in combating the three areas that we discussed today. And there's a great deal of authority that says it really isn't. And the ironic thing about this bill today, is that there are many proponents who feel that it lacks the necessary tool. That it doesn't have the value that we thought we needed. And we can go on and on about the ineffectiveness of this bill. And then, the opponents, like myself, are wrestling with the basic question in our conscience, as to where we are and where we are going?

The third point and my last point is that, I believe that all of us here, have expressed some doubts today, about this bill. We talked about it for about three weeks, with many members here and with people who I respect both in law enforcement and lawyers who have a great deal more experience than myself on the constitutional questions that it faces. I would point out that, they all were in doubt. Doubt because they are haunted in a sense, by history. Their haunted by the great principle that's involved in this bill. And if there is a doubt in your mind, and maybe as I said when I started, everyone has made it up, but if there is a doubt, if I had any doubt, I would vote against this bill, today. I wouldn't take the risk of trading what I have for some possible conviction. I wouldn't trade today the liberty that I've enjoyed nor will I be willing to trade for anybody in my District, for some possibility. Maybe some myth or some political issue that somebody is concerned about. I'm not ready for that and if anybody here, is in doubt, please, let your conscience guide you in this particular bill. This is a matter in the end, of whether it's right. It's a matter of liberty. It's a matter of values.

April 6, 1971

Page 92

relationship basically to those in government who have the power over him. And when I think of the struggle in this state, and in this nation, I don't think it's a political struggle, that is, I don't think it's always just the Democrats against the Republican Party. Nor do I think it's the economics struggle where we're talking about the sales tax against an income tax. I don't think it's a social struggle in America, really. But, I think it's a question of whether we can preserve a system that really has survived the test of time. A system that has, in my opinion, set forth in the Fourth Amendment in Article 1 Section 7 of that Constitution, the sacred words that all of us cherish and I, today, as I said, am not willing to trade those words and that protection for anything that somebody may say is a safeguard. And you know, when I listen to the honorable gentleman from the Fifth, and I do respect his talent and his mind, when he gave me all the safeguards, I started to wonder where was the bill. And why is it necessary, to pass such a bill when we really haven't proven how effective it would be. And I would just end up by saying, certainly, all of us are in good faith, in our position but, I certainly hope, that, we can search our conscience a little longer and let this bill die, in this session.

SENATOR FINNEY:

Mr. President, members of the circle, it seems to me that we've heard various doubts and fears expressed here, tonight, about judges, about the future members of the General Assembly that succeeds us, who would be less concerned than we are about freedom and privacy. And that, probably they would not have the ability to withstand those who would change this to a police state.

April 6, 1971

Page 93

I have confidence in those who will follow me as I have had those who preceeded me. Let me add one thing that maybe the rest of you cannot add. I am a member of the Judiciary Committee. I have no legal background. I have learned a great deal however, from the people in that committee. And I want to assure you, each of you, that this bill was given the most serious consideration by men who weighed most carefully, the vital issues involved. Men who are realists, not living in a dream world. Men whose training ordinarily, would have made them shy away from this kind of thing. And yet, the conditions under which we live, the conditions that Senator Pac talked about are with us. They are not something we are just dreaming or imagining. And I think that I want to pay tribute to the Senators who did so much hard work on the Judiciary Committee, in this General Assembly, because, they had in mind, the good of the citizens of this whole state. And I certainly, will vote for this bill and I hope that it passes.

SENATOR HOULEY:

Mr. President, we are engaged to somewhat in a philosophical debate, today. The question of technical constitutional arguments about any particular piece of proposed legislation are not generally worthwhile, since the courts decide what is constitutional. And, since the Constitution is of course, no more than what the courts say it is. And while I feel that wire-tapping legislation before us now, is an unconstitutional violation of the individuals rights to privacy and against unreasonable search and seizures as guaranteed by the Fourth Amendment of the Constitution and by Section 1 of the State of Connecticut Constitution. There are other members of this Senate, who plainly disagree. And if this bill is passed, the courts of course, will decide. ~~But there are other dangers in this bill and other~~

April 6, 1971

Page 94

questions that we must ask ourselves. Perhaps, questions more important than any particular quarrels we may have over the constitutionality. Who, we have to ask ourselves, who, will police the police, as they engage in this wiretapping activity? Certainly, no Judicial panel can possibly oversee the day to day operations of police personnel involved in wiretapping. And in this bill, there are no penalties for police violation of the limits of wiretap powers granted by this legislation.

Now, police, Mr. President, like all of us, are nothing more and nothing less than people. They're human beings susceptible to the same errors of judgements, same errors of commissions, same errors of omission. There is nothing in this proposed legislation to keep from wiretapping on hunches, until some sort of evidence is found and then, a decision after the evidence has been found, will be made to obtain a warrant and at that point, legitimize what has already been taking place. There is presently, nothing in Connecticut's legal system to prevent police authorities from tapping any telephone line, anyway, without a warrant so long as that tap is not introduced as evidence in a court of law.

Many persons are convinced and this was alluded to earlier in the debate, that such operations and surveillance is already taking place.

So, let me ask, who will protect the innocent? Those persons that only by coincidence in a wiretap situation, are involved. I believe the proposed legislation is basically unfair. And some would say unconstitutional as a violation of equal protection under the laws. Guaranteed incidently, by the Fourteenth Amendment of the Constitution in Section 20, Article 1, of the State of Connecticut Constitution, since it exempts Mr. President, from any wiretap, attorneys, physicians, and clergymen. And let me state, here,

April 6, 1971

Page 95

again, Attorneys, Physicians, and Clergymen and I do not question their morals or their integrity or their honesty are no more and no less human than each of us. Susceptible again to the same errors of judgement, the same prejudices, the same error of omissions and on occasions the same errors of commission.

What appears most disappointing to me, Mr. President, as I consider the debate that we have had, is that those who would support legalized wiretapping are characterized and in some cases, not unwillingly, as to servitives. While those who do not support and will not support this measure, might be regarded as liberals. It seems to me that the supporters of legalized wiretapping are not so much conservative as perhaps they are authoritarians. Would not conservatives be much more concerned with the big brother? The big government aspects of wiretap legislation that are the proponents that we might have heard? Would not true conservatives at least give greater consideration to the Constitutional questions involved? Would not, Mr. President, a true conservative place at least equal emphasis on attacking the sources of crime rather than merely its symptoms. If nothing else, in this unfortunate period of official repression and that repression is coordinated, Mr. President, by our own government in Washington, at a time when the United States Army, the Federal Bureau of Investigation, The CIA and many more spy, spy and tap the telephone even of our Federal Elected Officials. Our United States Senators, the United States Congressmen, who might disagree with the established government policy. At such a moment as this, Mr. President, ought we not to steer away from any anti-libertarian measures, such as legalized wiretapping? And perhaps, at least put these aside for reconsideration at a more moderate time? Legalized wire-

April 6, 1971

Page 96

tapping by itself, and in itself is not, I think, such a terrible evil. I think I could vote for a fairer wiretapping bill under different circumstances. And if the need for such legislation on the State level, becomes more obvious, it is more proven then, perhaps, that would be my position. But, today, I believe that perhaps we ought to stand firm and reasonable in our moderations and in our support for what basically, I think, is the inherit right of all of us and that is, the liberty of our individuality.

And in concluding, the former chief of criminal intelligence Captain Wayne Bishop, of the State Police, on or about March 25 of this year, Mr. President, reportedly said, "the bill passed, referring to the bill passed by the House on the 24th, said, and I quote, "the bill passed will have little effect on big time operators". Captain Bishop in referring to this watered down version, further stated, "if the wiretap bill goes through, the bosses will use the phone less and will talk in code when it's necessary to use the phone." Captain Bishop further reportedly stated, " the effect is that Connecticut could become a sanctuary for families of organized crime."

Concluding, Mr. President, again on or about the 25th of March, Governor Meskill reportedly said in reacting to the House passed measure, " the House has acted in a most irresponsible manner and as far as I am concerned, Tuesday, referring to 3/24, Mr. President, was a dead letter day, a banner day, a day of celebration for organized crime. Mr. President, last reported quote was, that Governor Meskill's allegedly stated that, this legislation is practically valueless. Let me conclude, that if, in fact, there is any merit to those quotations from the Governor and Captain Bishop's and from

some of the remarks that might have been made on the floor of this Senate, this afternoon, this evening, into tonight possibly, then maybe we ought not to pass this bill. Maybe we ought not really, to sit tight, get more evidence till such a time as we can do one of two things. Either come in with a wiretap bill that will be beneficial or not come in with one at all. And in the form that it's in, Mr. President, I intend to vote against it.

SENATOR ROME:

Mr. President, I rise not to convince but to inform. I think the problem that is apparent from anyone who has listened to the debates here and to many who oppose this kind of legislation, is a confusion between legal and illegal wiretapping. Obviously, Senator Houley is fallen into the same trap.

We do have illegal wiretapping in the United States and although I support the particular legislation we are discussing today, I'm violently opposed to that kind of wiretapping situation. At my request, the Judiciary Committee thoughtfully carrying out as Florence Finney has suggested, the concept of concern for individual rights has raised a bill which you'll have before you shortly, Bill No. 8913, which provides a penalty in the area of Class B felony for those who would illegally bug or wiretap.

There's another area of confusion and that's the confusion as to whether or not we are "invading the rights of privacy without justification." I too, have a concern for every single individual in this circle and in the State of Connecticut. I am convinced there has been illegal wiretapping in the State of Connecticut, both on the State and local levels. And it troubles me. I am concerned about individuals rights of privacy. I'm concerned how about another right. ~~The right of the potenti of crime.~~

April 6, 1971

Page 98

To survive and to be sacred in his trust in our systems. In the rights of this survival or the feeling of the need for the survival of our system.

Senator Eddy, I think, earlier, remarked that this is a weighing and balancing situation that we are in. We don't have an unlimited right to freedom. 200 million Americans cannot go in their separate and individual ways without regards to the impact of their movements on the rest of us in society.

This, kind of a bill, recognizes that need for weighing operations. This kind of a bill, recognizes the illegal wiretap situation that should be a concern to you, Senator Houley and to all of us. And the determination of the Judiciary to report out in the unanimous decision, the committee bill 8913, shows that that concern which is evidenced in this very carefully drawn bill, not watered down but carefully drawn bill that came from the Judiciary in 8913, shows an overriding concern for all the people of the State of Connecticut. I too, have faith in those that will follow us. I too, understand that this is an experimentation. This is not the only tool we give our police to fight organized crime. It's merely an additional tool. If it is utilized properly, we can with other tools, provide for an adequate fight to protect all of us, in all of the needs that we have including, to protect us from being tomorrows victim. I urge the passage of this bill.

SENATOR CIARLONE:

Mr. President, I rise to oppose the bill on wiretapping that we have before us today. Further, I oppose the principle of any bill that provides ones privacy to be scrutinized and invaded. We have heard here, today,

April 6, 1971

Page 99

that wiretapping would be a great factor in controlling and eliminating organized crime. The many forms it takes. However, I submit to all of you in the circle, that though organized crime is a problem and must be dealt with, the main issue before us here, today, is our invasion of privacy, in the form of wiretapping.

It is my position that our law enforcement agencies, over the years, have done a splendid job in controlling and eliminating organized crime. Granted, there is much more to do. It seems to me, in having a wiretap we do not apply the same criterion. That one is innocent until proven guilty as we do in a court of law. If we are to maintain our fundamental freedoms, I believe it is incumbent upon each and everyone of us in our circle, to reject the bill we have today.

SENATOR FAULISO:

Mr. President, I listened attentively to the arguments of Senator Rome, Senator Jackson when they made reference to the bill that is coming out of Judiciary where the present law, the punitive part of it is being increased. We do have a law pertaining to illegal wiretapping. I have the feeling that that bill is to assuage the conscience of those who are for this particular bill that is, legal wiretapping by leave of the court.

Now, it seems to me, that, we're divided here in two camps. At least by implication. I don't want anyone to impune my motives. God knows my motives and God can read my heart. I'm devoted to my country under the law of justice as anyone else. In 1967, I sponsored at the request of the State Police, many many bills that were enacted into law. Likewise in '69. But, they knew my feelings on this bill and I drew the line as far as wiretapping is concerned.

April 6, 1971

Page 100

In essence, Mr. President, it truly can be said that, although this wire-tapping bill as outlined in alleged restrictions and safeguards. In essence we must submit, that the bill creates a license to commit informational rape under the guide of law and justice.

Now, I have listened also to some people who have created what I consider a doubt. Bearing in mind that under our law there is always this presumption of innocence and those who propose a bill or are the advocates of a bill, as the burden of proof. The very fact that they have manifested throughout these debates. This doubt, and they've been walking in this line, this straight line and they've been teetering. It seems to me that, they haven't proven it in their own minds and their own consciences. That, first that we need the bill. That there is organized crime. That it is an effective tool. They want to ignore the United States Supreme Court in the Burger Case that I read initially, that doubts statistics. Now, many such references have been made to the drug problem. I worked with the sub-committee in the Judiciary on the drug act. I'm concerned as anyone else as to the traffic of drugs. But, let's call a spade a spade. If this bill was truly designed for drugs. If it was truly designed for murder. For all the capital crimes that I can conceive in my mind. I would be the first one to sacrifice my liberties and my freedom in the name of these capital cases. But, I know, from my experience in all the states thus far, that this has been used in the category and in the area of vice, gambling and prostitution as I've outlined. This is truly a guise, under this label of law and justice. Have you ever heard in any of the states, and in governmental circles, in spite of all the legal wiretapping, any prosecutor, any policeman, any FBI agent, any governmental agent, prosecuted for illegal wiretapping? The

April 6, 1971

Page 101

makes me laugh that we refer now to this bill and the law that is now on the books. Have you heard of an official, in our state, ever arrested and prosecuted for illegal wiretapping? I suppose, we must be naive to assume that our state is so sacrosanct that we have never been imposed upon. That this monster has never been visited upon us. But, let me say this, Mr. President, I have yet to read a case either under the existing law or under the Federal law, that any governmental agent has ever been prosecuted for illegal wiretapping.

Today, we are creating a monster. And we're trying to give it the decoration and the splendor of something good. You cannot make something good out of something that is evil. And unless we can draw the line here, we are coming into an area that truly we're going to regret.

Yes, I have philosophical differences. I am sincere. I cannot submit to the exploitation of fear, peddled by many years by the police and police departments throughout the country.

In all honesty, I subscribe to the arguments that have been made here today, that we need more brain power in the police department. If we are prepared to make a massive assault on crime, we are prepared to conquer crime. If we are prepared to conquer drugs, there is a way and a means to do so. We have the forces. We have the money. We know where drugs come from. We know that we cannot counteract drugs on a local basis. And that's why we have a capitol crime committee, capitol drug committee that has been doing such a magnificent job. But, unless we are prepared to lift this at the shores where they come from. Unless we are prepared to do battle in those areas where this comes from. Unless we're prepared to beat the cause. ~~To root out the cause, the effects never can be conquered. We are dealing~~

April 6, 1971

Page 102

here with causes. We can conquer crime if we could only conquer the cause and this is only appliative. This is only a pan of fear. And I am not prepared, today, this is the most important issue. That perhaps we will ever be facing in our time. It embows liberty and freedom. Fake. And I ask you to arrise and defend the protection and don't surrender this liberty because all the laws and all battles and the millions it encounters all over the world, since the beginning of time. All of this is meaningless and futile. Because liberty to me, is precious. Too precious to sacrifice in this kind of a bill.

SENATOR SULLIVAN:

Mr. President, I rise in opposition to this legislation. And I'm speaking for the people in my District who elected me as their voice in this Assembly. And I hope, also for the other people in the State of Connecticut.

All of the publicity received because of this bill, has been on one basic issue. This is an ivasion of privacy. I don't believe that my constituents elected me, or the people of the State of Connecticut have elected me, to give away one centila of their rights to privacy. Therefore, I stand in opposition to this bill and briefly so.

THE CHAIR:

Thank you, for the brevity of your remarks. Not that the Chairman is more than happy to hear all out.

SENATOR CASHMAN:

I will be brief, Mr. President. I rise in support of the bill. I see it and House Bill 2013 as an attempt to gain control over a fact of life. We are given to understand, here on the floor, that wiretap takes place

April 6, 1971

Page 103

right now, illegally. I think that this bill and 8913 will give the State of Connecticut some control over wiretapping. Wiretap in itself, is not good or bad. It's how it's used. That concerns all of us here. And it is my judgement, that this bill and 8913 will give this state control over wiretap and allow us to use it and not misuse it.

SENATOR POWER:

Mr. President, I believe that I am about the only one in the circle, that hasn't spoken so far. I would like to I felt that I should rise and speak in favor of this bill. I would like to point out that, not too many years ago, I probably would have voted against such a bill. But, I feel the time has come for this type of legislation.

The last couple of years things have been happening that I think require this type of legislation. One of the previous speakers pointed out that, in 1968, one of the policeman said that we were relatively free of organized crime. That there were no families in Connecticut. Another speaker said, that two years later, that there were families in Connecticut. I would suspect that some of the relatives from across the border because things are happening now that nver happened some years back.

So, I would like to urge everyone who can see his way clear, to vote in favor of this bill. I think it is badly needed at the present time.

SENATOR GUNTHER:

Mr. President, I'd like to make a real record speech here this evening. I support this bill because I believe the people in my District want it, need it and have wanted it for a long time. Thank you and I urge the whole circle to do the same.

April 6, 1971

Page 104

SENATOR DINIELLI:

Mr. President, I rise to oppose this bill encouraged by my Senator on my left from the 30th District. I was quite pleased to be the single vote that decided the issue last time. I have to consider my vote as important as any others. I at times like this, wish I had the power of a Cicero to persuade. I wish I had the background and the training with the words to convince the people that of this Assembly, that, this is really an infringement on our privacy. I just feel that, we should all shed a tear after this vote, if this bill is passed for the Constitution State. You know, the State that is entitled so that's supposed to uphold the principles this country was founded on. I just feel that we are just doing every citizen in the state a disservice. Thank you.

SENATOR LIEBERMAN:

Mr. President, I rise to oppose the bill. I want to make two brief remarks before summarily stating my position. First is that I've really been thrilled to hear repeated references to Captain Bishop in this debate this afternoon. If, I had known that he would be mentioned so often and so respectfully, I might well have added another amendment to those I submitted which would have called for his re-institution as an officer of our state police force.

Secondly, I want to say to Senator Fauliso, in reference to being mindful of the brilliance with which he has spoken, this afternoon, referring back to his earlier vision that he wished that he could have some of our forefathers at his side. I want to say for my part, this afternoon, I would much rather have he speaking on behalf of this bill than George Washington.

April 6, 1971

Page 105

Thank you for your wonderful statement.

Mr. President, I oppose the bill quite simply because I think it is in violation of the Fourth Amendment of the Constitution. That argument has been stated quite clearly, this afternoon, this evening. I oppose it also, because, it leads this country down a road toward toward an America that is really very different from the one that I believe in and love. Very different from the vision of this country that I know moved my grandparents to come here.

I oppose this bill also, because, as has been said, I think that wire-tapping is really not going to make a difference on the problems of crime, that we are all so concerned about. I was very troubled after the vote in the House of Representatives when the Governor referred to that day as a red letter day for organized crime. And I thought that was an insult not only to the members of the House but, really a misunderstanding of the problems of crime, at least as I had perceived them. I think a more troubling day, in this year in many ways, was the day on which the budget was submitted by the Governor and I hope that we will be able to change that situation. I have particular reference to the cuts in the funds for the Human Resource and Development programs of the Department of Community Affairs. I have particular reference to what I think was inadequate funding of drug treatment programs. Inadequate funding of law enforcement programs and in fact, inadequate funding of the corrections department.

Senator Eddy has told us and I heard him personally that we can't have it both ways. I agree we can't have it both ways. I think what we disagree on is perhaps what is the proper response to the problems of crime. I don't

April 6, 1971

Page 106

think that the wiretap bill will affect crime that affects or bothers our constituents. It bothers us. And I reserve the right to stand on the day when the budget is being considered, hope I won't have to, but if I do, I reserve the right to stand and say again then, that we can't have it both ways, if we really want to stop crime. If we really want to get at the awful menace of drug abuse, it will cost us some money and not simply the easy gesture of passing a wiretap bill.

SENATOR RUDOLF:

Mr. President, to those who have spoken about the invasion of privacy, I would like to say, that two years ago, I was one of those members who voted against the wiretap bill. Because of the circumstances that we are faced with today. I find it important that I change my vote and support the measure.

SENATOR EDDY:

Just a point of information. Senator Fauliso mentioned that he would like to summon Washington, Jefferson, Lincoln, Webster and Franklin on this matter and in the interim Senator, I have called these gentlemen and they are for this bill.

CHAIR:

Senator, I hope you didn't do it on a state telephone because we have astringency program in effect.

SENATOR BURKE:

Mr. President, in the last session, I opposed this bill. And I'm getting kind of weary, the hour is getting late and I just got a telephone call from my dog, and he's very hungry. So may we proceed with the vote, Sir?

April 6, 1971

Page 107

SENATOR ZAJAC:

Mr. President, I rise to favor the bill. I didn't realize we were going to take turns and go all around the room or I would have spoken earlier. I don't buy the opposition's point of view to the bill of invasion of privacy. I've had occasion here, in the last election, as a matter of fact, to have the telephone company install a trap box on my phone as I was and my wife were receiving promiscuous and vulgar phone calls. So that I do know the merits of wiretap or trap box and what service this can be, in the small way like this.

This bill, I'm told has come up in other sessions and has been defeated. And yet, the drug problem goes on and on. I have also had the misfortune of being touched with this. Not my immediate family but down the line.

Those of you who possibly might vote against this bill, this session, would probably find yourselves in one or two more years, voting for this. It is just a matter of time that perhaps someone in your family may be touched by this drug problem. I am firmly convinced that this is one solution to the drug traffic problem and therefore, I declare myself in favor of the bill.

THE CHAIR:

Will you remark further?

SENATOR CALDWELL:

Mr. President, I'll heed Senator Burke's admonition but I did feel that I wanted to get myself on the record. I think I, perhaps, introduced the granddaddy of all the wiretap bills back in 1959. I might compliment the Judiciary Committee because I don't think they even read my bill, at that time. We've come a long way in the last twelve years.

April 6, 1971

Page 106

I'm convinced there are adequate safeguards in this bill. I've listened to the debate both sides and I haven't changed my mind since 1959. I thought we needed it then and I think that things have happened so rapidly in the last ten years, that we need legislation of this type, more than ever right now. So, I intend to vote for the bill and I hope that the majority of the people here, in the circle, will do so also.

THE CHAIR:

Will you remark further? If not, there is a motion for a roll call vote. All those in favor of a roll call vote signify by saying, "aye". Oppose, "nay". More than 20 % have voted for a roll call vote. An immediate roll call is ordered in the Senate. Mr. Clerk, will you announce it?

THE CLERK:

The following is the roll call vote:

Those voting Yea were:

SENATORS BURKE

JACKSON

ALFANO

EDDY

ZAJAC

CASHMAN

MACAULEY

DOWD

STRADA

POWER

FINNEY

SENATORS ODEGARD

PAC

ROME

HAMMER

CRAFTS

GUNTHER

CALDWELL

RIMER, JR.

RUDOLF

IVES

April 6, 1971

Page 109

Those voting Nay were:

SENATORS FAULISO

SENATORS SMITH

CIARLONE

LIEBERMAN

CUTILLO

SULLIVAN

BUCKLEY

MURPHY

PETRONI

DUPONT

DINIELLI

MONDANI

DENARDIS

HOULEY

Senator Blake was absent.

THE CHAIR:

The result of the roll call vote on House Bill No. 5080 as amended.

Whole number voting	35
---------------------	----

Necessary for passage	18
-----------------------	----

Those voting yea	21
------------------	----

Those voting nay	14
------------------	----

Those absent and not voting	1
-----------------------------	---

The bill is passed.

SENATOR ALFANO IN THE CHAIR:

SENATOR JACKSON:

I move for suspension of the rules for immediate consideration of transmittal to the House since we now have a disagreeing action.

THE CHAIR:

Question is on suspension of the rules for immediate transmittal to the House, as amended. Any objection?

SENATOR BUCKLEY:

Yes.

**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**JUDICIARY**

**PART 1  
1-392**

**1971  
INDEX**

JUDICIARY COMMITTEE

TUESDAY

JANUARY 26, 1971

PRESIDING

Jay W. Jackson - Senate Chairman  
John A. Carrozzella - House Chairman

Members present: Senators: Fauliso, Dupont, Murphy, Smith,  
Strada, Sullivan, Rome, Finley, Rimer,  
and MacCauley

Representatives: Leary, Ritter, Votto,  
Cassidento, Liskov, Simons, Dooley,  
Oliver, Bingham, Nevas, Newman, Smyth,  
Argazzi, Guidera, Sullivan, D., Sullivan,  
W., Paoletta, Neiditz and Willard

Sen. Jackson: My name is Senator Jay Jackson, Senate Chairman of the Judiciary Committee. I would like to welcome all of you here today. I am sure all of you know Representative John Carrozzella, the House Chairman.

The rules we will follow will be that Legislators will have an opportunity to speak for two minutes and/or leave prepared statements if they wish. In the future we will have Legislators scheduled for one half hour before the beginning of the normally scheduled public hearing. However today, we will ask the two Legislators who have signed to give us the benefits of their comments. Immediately following that we will work off of the signed list in the back for members of the public. So, if you have not yet signed, I would urge you to do so if you would like to speak.

Rep. Astrid T. Hanzalek: Gentlemen, I would like to speak for the principle of permitting wiretapping.

S.B.# 291 - AN ACT CONCERNING AUTHORIZED LIMITED WIRETAPPING AND ELECTRONIC SURVEILLANCE

H.B.# 5080 - AN ACT CONCERNING WIRETAPPING AND ELECTRONIC SURVEILLANCE

I believe this is an important tool for Connecticut's Law Enforcement peoples' capabilities. In early December while reading bills that already had been submitted to the Clerk's Office, I saw one that was particularly impressive, it was one on this subject of wiretapping. Though I agreed in principle, I was appalled at the length and complexity and innocently wondered whether the problem couldn't be handled in a different way. A way that might be a little simpler. Needless to say, I was unaware that the author of this tone was our Chairman of the Committee, Representative Carrozzella.

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Rep. Hanzalek: (con't) I apologize. But, the Bill #5317, which you probably have a copy of before you is a result of that.

H.B.#5317 - AN ACT PERMITTING WIRETAPPING IN CERTAIN CRIMINAL INVESTIGATIONS

And employs an existing federal statute namely, Section 2518 of Title 18 to achieve the purpose. And I would think that this particular form might be more convenient. However, in my opinion the form is hardly as important as the substance and I would urge the committee to come up with some effective wiretapping legislation. I'm sure you will. Thank you.

Sen. Jackson: Thank you. Sen. Odegard.

Sen. Odegard: Thank you. Mr. Chairman, members of the committee: I am going to speak in reference to communication I have from Mr. Tom Connors, of the town of Manchester. Mr. Connors is the assistant director of the Career Programs, Division of Social Science and Public Service, Manchester Community College, Manchester, Connecticut. He's writing in his capacity as chairman of TAPE, a volunteer organization of police educators in the four year college level and community college level and post graduate level. TAPE stands for the Connecticut Association of Police Educators. Mr. Tom Connors, as its chairman, has an extensive and impressive background in investigatory work as have many of the members of this committee who are now in fields of education. Very briefly because the letter is concise and self explanatory it calls for an addition to Bill#5362 which would essentially provide for a research and development unit for the coordination of the long term needs of effective law enforcement research.

H.B. #5362 - AN ACT CREATING A STATE COMMISSION OF INVESTIGATION

Such research would tend to be funded by the federal legislation, particularly the State's -- and the -- --.

Sen. Jackson: Could you give that to the secretary please. Representative Collins, did you wish to speak?

Rep. Collins: Thank you, Mr. Chairman. My name is Francis J. Collins. I'm a State Representative from the town of Brookfield, the House minority leader and I'm generally speaking in favor of the bill which would provide a broad attack on organized crime. And I'd like, Mr. Chairman, if I may to submit a paper, prepared by Governor Meskill's staff, which is several months old at this point. But which most of these bills incorporate their suggestions which he made during the course of the last campaign. This paper does cover a few other subjects in addition to the ones under consideration today. But I do think that many of the facts that are necessary and much of the explanation is contained in this paper and I will leave this for the committee. In relation to the bills of which I am a co-sponsor and some of the other ones that are up today and particularly the wiretapping bill, I think that the proposed bills that you have before you certainly provide adequate constitutional safeguards. Special effort

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Rep. Collins: (con't) was made in preparing these bills to tailor them to comply with the principles of the Burger and Katz Supreme Court decisions and the file of the federal statutes regarding wiretapping. The bill in question goes to protect individual rights and the rights of privacy. I indicated to you before most of the bills that are up for consideration today are part of Governor Meskill's crime package. We hope that these bills will provide the tools for the fight against organized crime in this state. And I would emphasize the fact that these bills are not to be looked on as end results. They are merely tools. But they should provide law enforcement agencies in the state with again carefully limited tools in the continuing fight against organized crime. I would hope that these bills would receive bipartisan support. I know that many of them are similar in their end result and even similar in some of the wording. I would only ask the committee give thorough review and fast consideration to bringing these bills out so they can be debated on the floor of the House and voted on by the General Assembly.

Rep. Carrozzella: I assume you're speaking in your capacity as minority leader and for the administration.

Rep. Collins: Yes, sir.

Sen. Jackson: Frank, would you give that to the secretary please? Representative Stevens did you want to speak? Are there any other members of the legislature who have not signed the sign-in list who would like to speak at this time? Representative Dice?

Rep. Dice: Do I sign or may I speak?

Sen. Jackson: Yes, go right ahead and speak.

Rep. Dice: You'll note that I have one bill in the

Rep. Carrozzella: Would you identify yourself for the

Rep. Dice: I'm sorry. Representative Dice, from the 83rd district in Cheshire. You'll notice that in these wiretapping bills, I have one bill co-sponsored by Rep. Hanzalek. And the reason the bill was submitted is because the federal bill as passed is interpreted to "fill the field in the area of wiretapping" and the states are authorized to wiretap only if their authorities or they take the authority that was granted to them by the federal statutes. It is my feeling that any of these bills that are now submitted obviously fall within that prescription that has been authorized by the federal statute. However, if the federal statute is amended that means that we of Connecticut will have to come back and reamend our statute if the federal statute were more restrictive than they are presently. The bill that I've submitted is in effect a duplicate of the federal statute which in turn does not require amending if the federal statute is amended. And that's the only matter I want to put before the committee in that respect -- bill as a whole. Thank you.

Sen. Jackson: Thank you very much. If there are no other legislators the first one on our list is Captain Wayne Bishop, of the State Police

4.  
CVS

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Sen. Jackson: (con't) Department. Captain Bishop.

Rep. Carrozzella: Excuse me, Len, would you give a chair to the Captain?  
You know, I think it'll be easier for the people to testify.

Captain Bishop: Thank you, Mr. Chairman. Mr. Chairman, members of the committee, ladies and gentlemen: I'm here for the fourth time since 1965 to talk to you about wiretapping and the need for court controlled wiretap law. Since 1965 the need has not lessened, in fact, it has increased. We must have this tool if we are going to make any significant impact on organized crime in the state of Connecticut. Reading the two bills that you have before you and the one that I concerned myself with #5373 and #5080.

H.B. #5373 -AN ACT CONCERNING WIRETAPPING AND ELECTRONIC SURVEILLANCE

H.B. #5080 - AN ACT CONCERNING WIRETAPPING AND ELECTRONIC SURVEILLANCE

I find there are more than adequate safeguards. I find that the police the law enforcement can live with the safeguards built into those bills. And we're concerned and apprehensive that another session go by without giving us this most valuable tool. There is however, in connection with these two bills a couple of items I would respectfully suggest to you for your consideration. There is a new change in the federal law Title 3, having to do with electronic surveillance which comes into effect in February 1. In this new law provides for the common carrier, in this case the Telephone Company, it spells out when if in the application to provide certain facilities or technical assistance. And I've been talking to the telephone people in Connecticut anticipating that we may have a bill. Asking what their legal department are saying about it and in effect that this would provide not instillations or not set-ups by the Telephone Company but things to facilitate a court controlled wiretap of electronic surveillance operation. And I would respectfully refer you to a copy of that law and if you don't have it I'll give it to you for your consideration in executive session. And one other, two other points in that bill, there is a question which says a seven day limitation on the information. And I would ask you to sort of consider that and expand on that. Sometimes it's not practicle and possible to get the information we may be very desirous of getting within a seven day restrictive period. And also I would ask you to consider something in there in terms of making sure that these bills or these applicaitons are processed rather by those who have the authority to make appli-cations so that they may not die on the desk or they give cause to further court action at some later date and the delay of getting these bills out or these orders implemented. I want to address myself to the bill, or bills having to do with the establishment of a state investi-gating committee.

H.B.#5232 - AN ACT CREATING A STATE COMMISSION OF SURVEILLANCE

H.B.#5362 - AN ACT CREATING A STATE COMMISSION OF INVESTIGATION

5.  
CVS

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Captain Bishop: (con't) I think this would be very useful. If in the State of Connecticut were to be established in that it would compliment law enforcement and prosecution in their efforts to get at organized crime. I can cite a number of examples for you if you wish where I think it would be useful. I've checked with New York and New Jersey and I can tell you honestly that they have a significant impact on organized, major organized crime figures in New Jersey. They got four or five of them locked up now. In New York, many have been locked up. I can show you -- --- illustrate to you where they have been very helpup with legislative bodies in enacting new law or strengthening weak laws. They have been very informative from the public viewpoint on what really is loan sharking, what really is labor consultants, what really is all these names we find organized crime figures to be involved in. But if there -- a very healthy situation. I think a very practicle one here. Many times we of law enforcement can proceed to a point in our investigation and take it up with the prosecutor or states attorney only to find that in his view there is not sufficient probable cause, not sufficient evidence to proceed. And yet it may involve public officials, it may involve public funds, it may involve any number of things which should be of interest to the public. I would simply endorse on behalf of the State Police Department the bill that's before you and has concerned itself with extortionate credit transactions.

H.B. #5365 - AN ACT CONCERNING EXTORTIONATE CREDIT TRANSACTIONS

Where we may be able to get at loan sharks. Or at people who borrow money with the intent to ultimately take over someone's business simply because they cannot pay on the terms of the person who loans the money. I do think in this case however, there ought to be some provision made in the language of the bill to define loan sharking records or extortionate credit transaction records so that we can proceed. We do find that in a number of cases records of what we report to be loan shark records and we have a great deal of difficulty getting those introduced. Finally, an act concerning witness immunity, I would urge you to broaden this to include all crime. And a very necessary and a very desirable bill if you really want to get to establish guilt or innocence of an individual or individuals.

H.B. #5368 - AN ACT CONCERNING IMMUNITY OF WITNESSES FROM CRIMINAL PROSECUTION

And last but not least we endorse, we in the State Police Department endorse the Model Anti-Gambling Act.

H.B. #5366- AN ACT CONCERNING MODEL ANTI-GAMBLING ACT

We think it's a step in the right direction to get at this situation as it exists in Connecticut.

Rep. Carrozzella: Captain, there's been a recent public statement made about

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Rep. Carrozzella: (con't) a week or so ago to the effect that a commission was not needed because there is really no organized crime in the state. Would you comment on that?

Captain Bishop: Well, there very definitely is organized crime in the state of Connecticut, very well established. Whomever might be saying that or making that kind of remark is not well informed. It is here and we do need all these tools.

Mem. of Com.: Captain, and you feel that these bills will help you in your fight against organized crime, is that correct?

Capt. Bishop: Positively.

Rep. Argazzi : What form does organized crime take -- -- --?

Capt. Bishop: Primarily, where it's most easily identifiable is in the area illegal gambling, loan sharking and we know that it's in labor somewhat and we know that they are in illegitimate business to a degree. That concerns us where they may be getting into anti-trust or intimidating others in the same line of business, etc. In fact, it's almost safe to say that we have organized crime as it's known in greater New York, for instance, in Connecticut but it's a matter of degree.

Sen. Jackson: For the purposes of making a recording I would ask the members of the committee to speak into the microphone and identify themselves in asking a question in the future please.

Rep. Nevas, 144 District: You mentioned an amendment to the federal statute which would permit cooperation with the phone company and you're apparently urging that that amendment be considered in the bill that's before the committee. Is that correct?

Capt. Bishop: Yes, I am. Because it does make it possible. Well, let me explain what the cooperation is today.

Rep. Nevas: Let me just tell you what my question is and then perhaps in your explanation maybe you can just cover it. My question is: What safeguards would there be in such a bill that would prevent telephone company employees from having access or being privy to information that was illicitly during the wiretap which would normally be the exclusive property of the law enforcement agency?

Capt. Bishop: They would have no role in monitoring or in any other way having access to the information. All this provides that they would cooperate greater than they are now. Right now the degree of cooperation is that they will tell you where on a court order, where a telephone -- appears. Under the new law they will-- if that's not a location which is suitable to set up under court order and monitor someone's line they will facilitate the situation by running a line for you to another location. Or if the court so directs, they will accommodate you by bringing in a leased line and that means only bringing service to a given point.

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Capt. Bishop: (con't) Everything else is done by whoever is authorized to do it. The telephone boys would have no access to the information.

Sen. Fauliso: Why do you think we need an act creating a state commission of investigation when we have a -- -- already on the books that says that upon application from Superior Court when in the administration of criminal justice -- -- to believe that a crime or crimes has been committed that the said court can appoint a judge and contact a grand jury investigation?

Capt. Bishop: My experience with that is that that's a very slow process and I'm not complaining about that as a process. I'm thinking that that's mostly done in secret. Some of the things I'm concerned about could be well aired in a public hearing by a crime commission.

Sen. Fauliso: Now let me pursue that further. -- -- -- the procedures from the other thing that one is conducted in secret and this bill would be aired publicly. How do you protect individuals in this bill that are the victim of mishap? Or is victimized -- -- -- commission is conducting an investigation -- -- -- ?

Capt. Bishop: Absolutely, I'm for all the protections that the person or persons are entitled to. Certainly being observed. However, I do feel that a commission can ferret out, get together much quicker, ferret it out either in private or public. A situation that neither law enforcement nor prosecution can get at.

Sen. Fauliso: Why do you say this is false? Even a private citizen can go to the court.

Capt. Bishop: Well, my own experience is that before we have we have a grand jury going now, a one man grand jury going now, investigative grand jury going now, prior to the judge sitting down to hear evidence we were one year compiling. Now I think in one year's time so much can happen, so much can be done to get at the problem that we shouldn't have to wait one year. We're still going down.

Sen. Fauliso: (Question)

Capt. Bishop: Well, I can only go by the experience outside the state which I've checked with New Jersey and New York. There hasn't been any witch hunt, per say, there hasn't been any head hunting politically per say, there hasn't been anything that would indicate that they were trying to encroach on any investigative or hospitorial effort. They've been very careful. It's a nonpartisan situation. It has been extremely useful in those states.

Rep. Cassidanto:-- that the federal government makes available to the local police, to the government there -- wiretapping?

Capt. Bishop: The federal government? To my knowledge there has only been one incident. I think that occurred in New Haven where they turned over certain transcripts for the issuance of state warrants. I have never

8.  
CVS

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Capt. Bishop: (con't) received any information from a federal agency as a result of a wiretapping.

Rep. Cassidento: The fact of the matter is the federal agencies -- wiretapping under the federal act can and do make available to state agencies the results of their wiretapping.

Capt. Bishop: They have never made the results of their wiretapping available to me or the State Police Department.

Rep. Cassidento: Well, -- that was made -- as a result of wiretapping unless they have given various information to state agencies, have they not?

Capt. Bishop: Not, not as relates to the State Police . I have never received one piece of information from the federal agency that either was told or implied as a result of a wiretapping. Never.

Rep. Cassidento: But you've indicated that you know of particular instances.

Capt. Bishop: Well, I read it in the paper where a federal government gave some information to the states attorney, New Haven county from which he issued warrants. I don't know the details of it with respect to how that came about but only speaking for the state police we have never received- I have never received nor do I know of anyone in the state police has ever received information that came to the attention of the federal authorities as a result of electronic surveillance. Never, not once.

Rep. Cassidento: Just one further question. You've been a member of the State Police?

Capt. Bishop: Twenty-four years.

Rep. Cassidento: Twenty-four years. Do you know of any instance where state police or any state agency used wiretaps without court order?

Capt. Bishop: Do I know of any? No, I don't.

Rep. Cassidento: Have you heard any scuttle butt

Sen. Jackson: I think we're getting a little out of line here on this , Representative.

Rep. Newman, 146th District: Captain, have you ever requested the federal government for the results of wiretap?

Capt. Bishop: No.

Rep. Newman: You've never been refused because you haven't made any?

9.  
CVS

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Capt. Bishop: That's right. They're prohibited as far as I know from giving it, no. 1, no. 2. I think if they intended to give it they'd contact me and they've never done that.

Rep. George Ritter, of the 6th Assembly District, in Hartford: You may remember when our Judiciary Committee had an interim hearing . There was some testimony fromer U.S. Attorney, John Newman, recommending that there be a limit of taps that would be authorized in any given year. He felt as you may recall that might enable the citizens of the state to feel more secure that the extraordinary power would not be abused and over used. I understand, for example, that the state of New York has not had the need to request up to a hundred taps during the course of the year. Well, could you tell us your thinking on that?

Capt. Bishop: I don't know what kind of a quota you could set if that's a good word to use. What would you do if you had to go one beyond that quota? I'm not sure that it's not a good idea. I'm not sure that we could live with that if it was an unreasonable quota. Now, I don't even know how to go about establishing a quota. I don't know frankly, how many departments could conduct this kind of a thing. I don't know how many possible applications there may be in the future. I have no way of evaluating that, except to say that quotas unless the reasonable quota, by that I don't know what I mean by that either, unless you talk about fifty or a hundred or something like that. I don't know why you would want to put a quota.

Rep. Ritter: Well, I think, suppose there were to be a hundred a year. Do you think that we have the facilities, do we have the manpower to use a hundred a year?

Capt. Bishop: Well, I don't know how I can answer that I haven't had any experience with it. I realize that it's going to be a great drain of manpower. And it's not an easy thing to do. Manpower wise and skill and training wise. Conceivably, a hundred would be a realistic figure, maybe fifty is, too. I don't know.

Rep. Ritter: The only reason I raise it is there are many people who think we're talking in terms of thousands of wiretaps.

Capt. Bishop: No, I would see that's entirely impracticle.

Rep. Ritter: And you're thinking in terms of probably how many in the course of a year?

Capt. Bishop: I'd say somewhere half of that. Now, again I have no way of knowing what any other law enforcement agency has in the way of information to make application. From the state's viewpoint, probably and I'm guessing, somewhere between thirty-five and fifty.

Rep. Ritter: So you think if we put a ceiling of one hundred that we would not be doing violence to your probable need of the state police.

10.  
CVS

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Capt. Bishop: Not my own. But I don't know the picture of the other --.

Rep. Ritter: Right. Thank you very much.

Sen. Jackson: I think Senator Smith.

Sen. Smith: Captain Bishop, you're supporting #5080 and #5373. Those bills are exactly alike.

Capt. Bishop: Just about, yes, sir.

Sen. Smith: You say just about. Is there a difference in them? I have not had an opportunity to read both of them.

Capt. Bishop: No, there's no significant difference in them.

Sen. Smith: There's no significant difference in them. Do you feel, Captain, that law enforcement officials have done all within their power to do some of the things that this bill would give them that power to do?

Capt. Bishop: I think they've exhausted all possible ways in a normal investigative area to get at individuals who are insulated and who are the operators and conductors of organized crime. We simply cannot get them.

Sen. Smith: It's been our understanding that it's very difficult to prove it except unless you have a personal experience. Many people believe that wiretapping already goes on. Is this to legalize a present practice so that it can be used in court? Legally, in court?

Capt. Bishop: I don't believe, Senator, that there is any wiretapping going on. I have no knowledge of it. Certainly not in the State Police Department.

Sen. Smith: We have some bills relating to court reform coming up. There's been some criticisms about the method by which judges were chosen. Prosecutors. In the wake of recent attempts to court reform and the basis upon which a court reform is being attempted, do you feel there's need for some court reform before entrusting in the hands of the present systems something which in the opinion of many people borders on violations of federal constitutional rights?

Capt. Bishop: I think there may be an area of discussion and/or some court reform.

Sen. Smith: Before adopting

Capt. Bishop: No, I don't think so. I have every confidence that a superior court judge in our state is going to very carefully, judicially examine any application for electronic surveillance to the point where he is satisfied that this is a bonified application and there is a need.

Sen. Smith: I have one further question. Would you have any objection to elected officials from the district wherein the surveillance might be going on, an elected official from the General Assembly being one of the

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Capt. Bishop: (cont'd) or commission of a crime or planning of a crime. You have to have additional men to do that and surveillance itself is a very skillful operation which requires a lot of training.

Sen. Jackson: Are there any further questions by any other members of the Committee? Representative Bard?

Rep. Bard: I'm representative Ron Bard from Norwalk, 145th District. I'd like to speak in favor of the wiretapping bills and comment or add my name to those people who feel that a limit would be a good thing.

S.B.#291 - AN ACT CONCERNING AUTHORIZED LIMITED WIRETAPPING AND ELECTRONIC SURVEILLANCE

H.B.#5373 - AN ACT CONCERNING WIRETAPPING AND ELECTRONIC SURVEILLANCE

H.B.#5080 - AN ACT CONCERNING WIRETAPPING AND ELECTRONIC SURVEILLANCE

H.B.#5317 - AN ACT PERMITTING WIRETAPPING IN CERTAIN CRIMINAL INVESTIGATIONS

I subscribe to that and think an adequate limit would be fifty. One hundred was mentioned in the various discussions that this Committee has had with various agencies that are acting under wiretapping laws. I think the information indicated at fifty for the size of this state would be adequate. The information that I received on a trip sometime ago with this Committee indicated to me that the area of narcotics is one area, particularly in the District of Columbia, where much was added to the enforcement of those -- in discovery and evidence brought against those people who deal in narcotics. If it did nothing else other than bring to the fore those people who are pushing narcotics. I think would be a good thing. I think the emphasis seems to be, in these discussions, on gambling. I think narcotics are sometimes forgotten. In conclusion, I would just like to say that as one state representative I don't think I would want to be a party in the way that Senator Smith indicated. I don't think that's our job. I think that the police and law enforcement agencies have their job. I think that legislators have their job and I don't think the two should meet. Thank you.

Sen. Jackson: Thank you, very much. Senator Lincoln.

Chief Lincoln: My name is Philip R. Lincoln. I'm Chief of Police in Newington. As you can see we're having a hundredth anniversary out there this year. And also the legislative chairman of the Connecticut Association of Chiefs of Police want to bring the thinking of the Connecticut Association and myself in connection with the bills on wiretapping.

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Chief Lincoln: (cont'd)

S.B.#291 - AN ACT CONCERNING AUTHORIZED LIMITED WIRETAPPING AND ELECTRONIC SURVEILLANCE

H.B.#5080 - AN ACT CONCERNING WIRETAPPING AND ELECTRONIC SURVEILLANCE

H.B.#5317 -- AN ACT PERMITTING WIRETAPPING IN CERTAIN CRIMINAL INVESTIGATIONS

H.B.#5373 - AN ACT CONCERNING WIRETAPPING AND ELECTRONIC SURVEILLANCE

We support wholeheartedly a well-controlled wiretap law. We do ask, I think, that consideration be given to the change of the definition of police officer or official as contained on the second page of most of these, in order, that we include other police officials besides the state police officers. We feel that cities such as, New Haven and Hartford, well-organized, well-staffed, well-trained, certainly, should have the same privileges of investigating this particular type of crime as state police officers alone. I think, perhaps a lot of the confusion on the wiretapping comes that we tend to make it somewhat more complicated than it is. When that we speak of wiretapping, we're actually talking of another search warrant, another search. And that basically, is all that we're talking about, the search for evidence. And I think, if this Committee bears that in mind they will report out favorably on a good wiretap bill. Any question?

Rep. Nevas: Representative Nevas, 144th District. Chief, the speaker that immediately preceding you, Mr. Bard, spoke about a limitation. There have been other mention of limitations. If such a limitation were imposed, or putting it another way, how would such a limitation be imposed, in terms of the various police agencies in the state? For example, the Captain talked about the State Police needing some thirty-five to fifty. And in some of the larger cities like; Hartford, Bridgeport, New Haven, they would need taps. How would this be done?

Chief Lincoln: Actually, I question the proposal that there be a limitation as such. Bear in mind that this is an expensive sort of a proposition, a wiretap. A town my size is not going to embark upon a wiretap just for example. It would tie up five men for each man that you assign to the task per week. So we'd have nine or ten men a week tied up out of a force of thirty-five. We have some obvious limitations that are placed by just budget. Secondly, if we look at this as what it is, as I say again, as simply a search warrant. We don't limit the number of search warrants that are issued in the state of Connecticut. We limit the circumstances under which search warrants that issued. And I think this bill does just that. It provides the safeguards that will limit the number of wiretaps. As you probably know, during the first year that the federal government used legal wiretapping and I speak of that because

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Chief Lincoln: (cont'd) for a good many years there was no requirement or law that said you couldn't wiretap. And it was in the '60's that somebody said you don't have any right to wiretap. Prior to that there had been wiretapping. But in the fiscal year, I think, it was 1969, 1970 fiscal year, the federal government made 135 wiretaps. That's in a year and that's the federal government. There were 300 and some wiretaps that were made according to the attorney general by states who were authorized to do so. You see we're talking a small number and the number is kept small, 1., by the protections in the bill and, secondly, by the safeguards included in it. And the Connecticut Chiefs would be the last ones who want to see those safeguards go.

Sen. Smith: Chief, I think you heard the testimony and the discussion between myself and Captain Wayne Bishop. I'm Senator Smith of the 2nd district. I'm interested not only your support for the wiretapping bill but to include local police departments in this. I think, you heard Captain Bishop say that it's a skill. It takes well-trained men to carry it out. And it would necessitate some additional men. Are you in a sense advocating some separate wiretapping going on without the knowledge of the state police? Or without the cooperation of state police where local police departments on their own may wiretap?

Chief Lincoln: If I understand your question correctly, you are asking me if that we advocate that a local police department could wiretap alone? And I would say, yes. That's exactly what we mean.

Sen. Smith: State police, of course, have more requirements, training and education, etc., and more hours. Would you believe that local police under the present circumstances have enough training, have enough background, etc., to warrant their equal standing, say with the state police to so, to carry out, not only the ability to carry out but with that responsibility, with the equal responsibility of state police and the present circumstances of their level of training and education?

Chief Lincoln: Yes, I do, I think that. Now, I'm speaking as a former Maine State Police Officer, and

Sen. Smith: Former what, sir?

Chief Lincoln: Former Maine State Police Officer. I have been on both sides of the fence. We both put our pants on one leg to a time.

Sen. Smith: But we're talking about Connecticut State Police.

Chief Lincoln: Right, we and, they're similar, and you see. If I have a good man, they attempt to get him away from me. I don't blame them for that. Many of our local departments are achieving the same level of training and the same level of education. I have ten men going to college; going to Manchester Community and the CCSC. Local departments no longer are in the uneducated status. I have some good men. I have, and I'm sure any other department has,

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Chief Lincoln: (cont'd) some men that you wouldn't assign to wiretap; but, we also have some very capable men. New Haven has some very capable men.

Sen. Smith: Equal to the Connecticut State Police?

Chief Lincoln: Correct.

Sen. Smith: Thank you.

Sen. Jackson: Any other questions?

Rep. Newman: Representative Newman, 146th District: Chief, a search warrant is more or less of a one shot affair. Under this electronic surveillance, when you apply for your order, you've got to state the length of time that you want to tap, put a tap on the suspect's telephone. What would you say would be the average length of time that you would want to have this tap in effect?

Chief Lincoln: I think, that's going to vary with the case, but I believe that there should be a provision that within seven days or that within ten after the issuance of this order that you report back to the judge or panel of judges who issued it. Report your findings and if there is any good reason for its continuance beyond this point make a reapplication at this time. But I don't think it should go indefinitely. I think you should come back and be responsible to the people who are safeguarding all concerned society, as well as the individual.

Rep. Newman: What would be the average length of time, ideally, in the average case with this surveillance, if we get going?

Chief Lincoln: Well, here again, I think, we're talking different things. If you've got a, if you've got a narcotics problem, for example, and you're attempting to trace and find out who's buying narcotics or who's selling, this you probably will clean up right quickly. If you were investigating a, something on the nature of organized crime, like the Godfather, for example, course this generally would be done on a federal level, but if you're investigating something like that it might go on for a long while. I think there are differences.

Sen. Dupont: Mr. Chairman?

Sen. Jackson: Yes, Senator Dupont?

Sen. Dupont: Chief, I understand you to testify that this wiretap bill or warrant would be similar to a search warrant, and I think, this is probably part of the heart of the problem, of why a lot of legislators have trouble with this wiretap type legislation. And, isn't it true that there is a considerable difference in the fact that when you apply for a search warrant or when you execute a search warrant it's limited to one specific item that you go and look for and you either find it or you don't find it. Where as if you get permission from a court to tap some ones telephone, this goes on for a period of time, and your intercepting all types of communications.

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Sen. Dupont: (cont'd) And I think this is why some people grope with this problem, particularly the legislators during the last session.

Chief Lincoln: I think that I can explain this, at least in my own thinking. First of all, we are searching on a wiretap, for a specified thing, as your bill says you have to tell this judge of this panel of judges what you are looking for. Now, when you go into a house with a search warrant and you're looking for fruits of a crime or the weapon with which the crime was committed, you look at a lot of things that are personal, which are not the specified in the search warrant. You go through the underwear in the drawers while you're looking for this thing. You go through a lot of things that have nothing to do with it. And, yet those things are automatically ruled out as evidence and they are actually ruled out of your mind, because this is a part of the job. You're going after one thing. The same thing is true on wiretap. You could care less whether the guy's making a date for tonight but if he's taking a bet for today you've got something else.

Sen. Fauliso: How about the possibility of blackmail? -- -- -- wife? You going to blackmail for -- -- ?

Chief Lincoln: You've got that same possibility, Senator, with every police officer that's on the street now. If he's been a year on the force, he has enough to blackmail people, but, he isn't going to do it.

Sen. Fauliso: Well, that's the idea.

Chief Lincoln: Well, actually, when was the last time you had a police officer, X, for instance, in your own city of Hartford, that was blackmailing somebody? But, you haven't got a police officer that's been there any length of time doesn't know enough about his citizenry but what he could be blackmailing. This is a part of it.

Rep. Bingham: Chief, Representative Bingham, here: On an execution of a search warrant, I think there may be some misapprehension. When you execute a search warrant, say you list the items that you're looking for and you come across contraband, that's also seizable. Police officer is not required to close his eyes, isn't that correct?

Chief Lincoln: That's correct.

Rep. Bingham: And he may be prosecuted on contraband that he may have although those items are not listed in the search warrant.

Chief Lincoln: That is correct. This would also be true with a wiretap. If you found the man was making plans to rob the bank, there'd be nothing to keep you from being at the bank when he got there.

Rep. Bingham: Correct.

Sen. Smith: Chief, your last answer asking Senator Fauliso, did he know of a record or did he know of any police officer that had committed

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Sen. Smith: (cont'd) blackmail. I don't know of any either, but when we're talking about giving that much power, we do have records of police officers who have abused their authority, some police officers who violated law. Now, if we use the same analogy, on the one hand, and you raised these questions, you know, what prevents a police officer who would violate a law, or who would abuse his authority, from blackmailing someone if he found out something like that?

Chief Lincoln: Well, actually,

Sen. Smith: How do we prevent blackmail.

Chief Lincoln: Actually, I don't know of, well, basically you select the right man. You train him well. And you imbue in him a spirit of service. This is the only way we prevent blackmail, now.

Sen. Smith: That's what we do with all our police officers, don't we? When we first get them on the force, we train them?

Chief Lincoln: We certainly try. And now, I'm not telling you that all police officers are honest upright citizens. We find that they are the exceptions.

Sen. Smith: And is it impossible that

Chief Lincoln: We find that there're ministers who take off with somebody else's wife. We find that there are lawyers who end up disbarred because they take off with their clients dough. There's no perfect profession, and the police profession is not going to be a perfect one either.

Sen. Smith: So it's possible.

Chief Lincoln: Wish it were.

Sen. Smith: So it's possible.

Chief Lincoln: It is possible.

Sen. Smith: That some of these men might turn out to be like some of the ministers?

Chief Lincoln: It is possible. And take off with somebody else's wife, that happens sometimes.

Sen. Smith: All right. Thank you.

Rep. Votto: Representative Votto, 116th: Chief, I was interested in that comment you made concerning the expanding, expansion within the two proposed bills. To provide local law enforcement officers to apply for an order for the wiretap. I'm interested in this because my chief has also talked to me about this. Do you feel that the present bills limit the local agencies to a great degree in working with, say the State's Attorneys office of any county?

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Chief Lincoln: Well, actually, it brings out the, by definition, here on the second page, that any officer of the Connecticut State Police who is empowered by law to conduct investigations or make arrests, and then, it also includes any attorney authorized by law to prosecute or participate. In actual, and I may have misinterpreted this, but I believe that the State's Attorney and his staff were intended to be included, and that it wasn't intended to include local officers. Unless they were assigned.

Rep. Votto: Then there may be some misunderstanding about this, because as I said Chief Harvey of West Haven, has also discussed this with me, and he may speak. I see him here. But do you think there's a need for local agencies or could it be handled on a county basis?

Chief Lincoln: I feel there are local, regional and state needs in this field. Local, because you have some crimes that are committed solely within big cities. Regional because when you've got 13-14 towns engaged upon narcotics and burglarly investigations and so forth, that this might prove to be a good tool. We've got no guarantee that it will, but have none that it won't.

Sen. Jackson: Thank you, Mr. Lincoln. Mitchell Morris?

Mitchell Morris: Mr. Chairman, Senators, Representatives, Ladies and Gentlemen: I'm Mitchell Morris from Jacks, Jacobs, Grepter and Clipper in New Haven. I'm here today to speak to you briefly on behalf of the Connecticut Civil Liberties Union. The Connecticut Civil Liberties Union is opposed to any and all forms of wiretapping electronic surveillance or other intrusions into the rights of privacy of an individual. The real question in some sense, here today, as it was in the Legislature, is whether this representative body will want to take away from certain members of our public, certain citizens, certain rights that they now have. And will want to take away from those same people, certain expectations of privacy, certain reasonable expectations of privacy. The electronic surveillance and wiretap bills, in large measure, very much unlike search warrants, can be a very severe and harmful intrusion into personal rights of privacy that individuals may have.

S.B.#291 - AN ACT CONCERNING AUTHORIZED LIMITED WIRETAPPING AND ELECTRONIC SURVEILLANCE

H.B.#5080 - AN ACT CONCERNING WIRETAPPING AND ELECTRONIC SURVEILLANCE

H.B.#5317 - AN ACT PERMITTING WIRETAPPING IN CERTAIN CRIMINAL INVESTIGATIONS

H.B.#5373 - AN ACT CONCERNING WIRETAPPING AND ELECTRONIC SURVEILLANCE

By it's very nature, conversations when picked up are not a single unitary thing. A person who is speaking at one end of the telephone, for example, does not know that the other person's telephone is tapped. Telephones are an intimate part of our society.

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Mitchell Morris: (cont'd) Intimate conversations occur thereon. Likewise, as I read the proposed bills before this Legislature, in this session, there'd be nothing to prevent, if the provisions of the bill were followed, from there being, for example, a spike mike underneath a couple's double bed in their bedroom. If the procedures were followed. There'd be nothing to prevent a bug from being placed in a person's library, where perhaps he might think out loud. There'd be nothing to prevent a bug from being placed in a child's room. There'd be nothing to prevent a bug from being, intruding, into the most intimate portions of the family household, in addition to plain telephone tapping. For these reasons, the conversations are inherently different, inevitably different, reasonable expectations of privacy are different. People's expectations about their homes, people's expectations about who it is that's going to hear them, is different when we are talking about conversations, that the wiretap and the electronic surveillance bills in the Civil Liberties Union opinion would be a very unsound and unwise measure. Aside from the constitutional questions that this bill, and the technical questions that this particular bill would propose. The Connecticut Civil Liberties Union has a statement which I will leave with the clerk concerning this matter which indicates its policy positions. And what I would rather do now than, attain questions from you, either concerning technical aspect, constitutional questions about this bill or about the Civil Liberties Union's position on matters of electronic surveillance and wiretapping.

Rep. Carrozzella: You refer to the bill by saying there is nothing to prevent the placing of a bug in the bedroom, etc. Would you point out the bills before us where this is authorized?

Mr. Morris: Well, all communication on the definition means speech.

Rep. Carrozzella: Would you tell us what bill you're referring to?

Mr. Morris: I'm looking at bill #5080 now.

H.B.#5080 - AN ACT CONCERNING WIRETAPPING AND ELECTRONIC SURVEILLANCE

And in section 1., number 2., oral communication means speech. Then, if we turn over to the section 2., where the state's attorney has the power to act, it says, on page 2, may make application for the interception of any wire or oral communication, that again is speech. Then, we move on to section 3., where he applies for the order authorizing interception of wire or oral communication, again that means speech. Speech can occur in a double bed in a bedroom. And then, we go on to section 4. where the judge has to set forth reason etc. and again we talk about oral communication which means speech. And speech can occur anywhere in the home and presumably if the statute is followed, and if the judge writes the appropriate order. And furthermore, notice carefully that this bill provides for technical legal trespasses if they're authorized by the judge for the person to go upon the facility to make the appropriate incertion, and that is in section, let's see I think that would be

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Mr. Morris: (cont'd) in section 4, permits the court to authorize an intrusion into the household to make, you know, to attach this device. I think that that interpretation would be, in fact, used at certain times, at certain places and because of that reason would be subject to tremendous abuse. And, it is our position that today, in society where technical devices for overhearing, with technical devices for listening, with technical devices for listening into the insides of people are expanding and noticeably expanding we should not in the state of Connecticut authorize that kind of expansion into the private lives of our people here in Connecticut.

Sen. Fauliso: Do you recognize that decision of Burger -- -- some kind of wiretapping-- --

Mr. Mitchell: It is not clear precisely what Burger means. To be frank the decision in either 1966 or '67, I believe, the Burger Decision by the Supreme Court which held unconstitutional the New York wiretap provision. That decision held unconstitutional the New York wiretap provision because it did not "particularly describe the place to be searched and the person or things to be seized". That's 4th amendment language and the Supreme Court in that case held unconstitutional the New York statute which did not provide that particularization. They did not expressly hold in that case that a properly constructed wiretap bill would be constitutional. Law professors who write articles, practicing lawyers and so forth who read that case infer implications from it. Implications can be inferred both ways. To be honest, I think, that there is an implication there and a very sound argument that a properly drafted statute perhaps may be constitutional. It would seriously come under constitutional attack though. I do not want to misrepresent what the Supreme Court said in Burger. There is an implication that in fact, that it may be constitutional. However, we have not yet seen such a bill and I'm not sure even though this as effort bill #5080

H.B.#5080 - AN ACT CONCERNING WIRETAPPING AND ELECTRONIC SURVEILLANCE

and the bill which is similar to it

H.B.#5373 - AN ACT CONCERNING WIRETAPPING AND ELECTRONIC SURVEILLANCE

I'm not sure that those bills would begin, just by giving the very nature of conversations and bedroom conversations, library conversations, phone conversations, could have the sufficient particularity to identify the person and the specific conversation that were to be seized.

Sen. Fauliso: What do you see as the constitutional impediments to this bill?

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Mr. Morris: That would be the main constitutional argument concerning the particularity issue. The Burger Decision, let's say there is an implication that a sufficient but they did not say how particular is particular. We only have here in this bill language that says: "that must particularly describe". There's no way further that expands upon that phrase, "particularly describe". If that is interpreted to mean constitutional language, then, will contain its own self-containing definition. Because what is constitutional under the 4th amendment "particular", "sufficiently particular", would then be incorporated into this bill. I'm not sure that the judges would read that language "particular" as being the 4th amendment "particular". They may but there is no necessary reason that that should be so. And, if in fact, you as legislators want that particular language to be the 4th amendment language, I think, the bill should so state. And it does not.

Rep. Bingham: Representative Bingham, here: Are you familiar with the standards set forth by the American Bar Association's monograph on criminal justice?

Mr. Morris: Yes.

Rep. Bingham: And do you feel that the standards set forth by the American Bar Association are constitutional or unconstitutional?

Mr. Morris: Again, there has been debate in the professional, legal literature as to their constitutionality. If one were going to guess what the Supreme Court will do, I would just as soon not guess. I do not know. I've had problems before when a judge has said to me; "are you guessing what the Supreme Court will do?" "I've said, "no, I'm citing constitutional law, your Honor." We have problems in that regard. There is a clear body of opinion that thinks the provisions of the American Bar Association would be constitutional.

Sen. Jackson: Further questions, if not, thank you, very much. John LaBelle.

Mr. LaBelle: Mr. Chairman, Members of the Committee: I'm John LaBelle, State's Attorney for Hartford County and chairman of the Council of State's Attorneys. I'm here representing the Council of State's Attorneys with respect to these bills that are the subject of this hearing.

ALL BILLS RELATED TO ORGANIZED CRIME, WIRETAPPING, AND COMMISSION ON CRIMINAL INVESTIGATIONS.

I suppose, I come in the order of witnesses here directly after the last speaker that our position might be somewhat different. With respect to electronic surveillance and wiretapping I'm aware and the state's attorneys are aware that this has been described as a dirty business. The state's attorneys are, want it clear that

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Mr. LaBelle: (cont'd) any authorization or application for a permission to wiretap ought to be made only by the state's attorneys. Both of these bills that you have indicate that and the state's attorneys are in favor of that. Probable cause is required in order to make the application for such a tap or for such a permit. That means probable cause to satisfy the Court that some particular crime has been or is about to be committed. Now, that requires some investigation and knowledge prior to any application being made. With respect to the bill itself, one of them limits the application to gambling, narcotics, felonious assaults and conspiracies in connection with those offenses.

S.B.#291 - AN ACT CONCERNING AUTHORIZED LIMITED WIRETAPPING AND ELECTRONIC SURVEILLANCE

H.B.#5080 - AN ACT CONCERNING WIRETAPPING AND ELECTRONIC SURVEILLANCE

H.B.#5317 - AN ACT PERMITTING WIRETAPPING IN CERTAIN CRIMINAL INVESTIGATIONS

H.B.#5373 - AN ACT CONCERNING WIRETAPPING AND ELECTRONIC SURVEILLANCE

The other bill seems to apply to any crime or any criminal. It seems to me that if you're going to adopt a wiretap bill that it ought to apply to any crime and it ought not to be limited to gambling and narcotics and felonious assaults or conspiracies in connection therewith. One of the areas of criminal occupation and criminal activity that is serious, so far as this type of investigation is concerned, are extortions and bribery and conspiracies to commit embezzlements and the like, so called white collar crimes. These bills ought not to limit the type of applications for the particular crimes when these are the areas that wiretap are likely to be important. I would caution the Committee that you should, of course, read the and your research people should check carefully the Burger Case. The federal wiretap bill which is in the Crime Control Act of 1968 was adopted and prepared after the Burger Decision. I think your research people have to examine the federal wiretap bill carefully because that was drafted after Burger's had been announced. The New York wiretap bill was reenacted after Burger. Because the Burger Case is a New York case that prior statute. So that, it is obvious that this legislation has got to be carefully prepared and carefully researched. It ought to be in accordance with what Burger seems to say and I concede that that has not been finally determined what the extent of that case is. But, at least, there are some statutes and federal statutes that have been enacted that have taken into consideration the meaning of Burger. And the state's attorneys are certainly aware that every safeguard with respect to this legislation has to be incorporated. And we so expect that that will be done. I would like to talk. Can I talk on the other bills also? The immunity bill which has been proposed which is a general immunity statute we would hope would be adopted. The Council of State's Attorneys are preparing some information with respect to that. Particularly with respect to the contempt provisions after a particular witness might

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Mr. LaBelle: (cnot'd) refuse to talk.

H.B.#5368 - AN ACT CONCERNING IMMUNITY OF WITNESSES FROM CRIMINAL PROSECUTION

Perhaps I might say to you a little bit about the immunity statutes. The immunity statute is not an answer to all criminal investigations. Nor is it an answer to getting reluctant witnesses to talk. We've had some experience with the immunity statute that we presently have which is a limited statute. But let men tell you that any immunity statute has to be carefully used. For example, unless we are sure of the person we're granting immunity to we sometimes end up granting immunity to the very person that we want to get. So that one of the first things we have to be careful of is that we're not granting immunity to the wrong person. Sometimes you grant immunity and the person will testify and the evidence or testimony you illicite from him is absolutely worthless. Unless you are pretty sure of what the person knows and have ways of having that information by prior investigation. Sometimes, granting immunity to a witness simply gets you an answer which does not help you. And at the same time you've given that person the immunity. They've had difficulty with the statute in the sense that we've used it in court cases. When we grant immunity we often times get very little result. Now, the reaseon is that in many instances the witness still will take the contempt citation. He's been granted immunity and he'll take his contempt punishment without testifying. The reason he doesn't testify is probably in these cases fear. Fear of retribution. Fear of some physical attack on himself or his family. So that the immunity statute is not an answer to criminal investigation. It is a help. We would like to have the broad immunity statute and we would use it in the appropriate circumstances. And if we have it I can assure you that it is not abused. And, so far as our use of it and the one we have on the books now it has not been used as often as you might think. But the reason is that there are very serious questions that you have to consider before immunity is granted. With respect to the investigation commission suggested that be adopted. The Council of State's Attorneys simply want to say that we have a criminal intelligence division in the state police department. We can establish inour own offices divisions with respect to organized crime ourselves if we need to. We are prepared to do that if we have the funds. We think that a separate investigative body is another arm that is not necessary and would be expensive and would be duplication with respect to the facilities that are already available or could be made to suppliment what is available by added funds. That's our position with respect to that. I'd be happy to answer questions of the Committee.

Rep. Carrozzella: You said that we shouldn't limit the wiretap bill as it is limited in the bill and you say it should apply to any crime. Do you mean any crime or do you mean any felony?

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Mr. LaBelle: Well, I considered that in thinking about it last night whether or not I ought to say only any felony. I think you must recall or realize that sometimes we're not sure the extent of the information we're after. It very well may be that something may start out in our investigation as a particular thing and we have probable cause that that particular offense is being planned. Sometimes, it may lead to something different or a different offense than we anticipated. Now, I recognize that if we get probable cause to make a tap for a particular offense and we develop something else that our tap is probably no good, so far as evidence is concerned. That I think is one of the problems. However, I agree that I do not think we ought to be going around tapping telephones for misdemeanors but when you're talking about gambling, gambling happens to be a misdemeanor. So that you end up if you want to work in that area of gambling, you may be talking only about a misdemeanor if it's, for instance, pool selling, it's a misdemeanor. Now, I don't think that the bill ought to say only felonies for that reason and that we may start off looking for information with respect to a gambling syndicate and that information may very well lead to some other areas. Or it may lead to areas that may be a felony we may have to go back and get a different permit.

Rep. Carrozzella: But the bill does refer to offenses involving gambling which would take into account the misdemeanor. And then, if you go on involving drugs which would take again into account again misdemeanors involving drugs and then, you added or any felony. Do you really want to wiretap for breach of peace?

Mr. LaBelle: No, no, I don't think there's any state's attorney who would ask for one.

Rep. Bingham: How about sex crimes? You want a wiretap for that?

Mr. LaBelle: I don't think so unless, this is an interstate prostitution ring.

Rep. Bingham: Well, you know one that immediately springs to mind as a felony. Right, would be adultery.

Mr. LaBelle: Under the present, under the criminal code the revision of it, it seems to me that in the sex area there would be slight chance of having to ask for a wiretap. Particularly, since any offense under that statute that is committed between consenting adults or in the privacy of their own home is not made a crime. Though I'm inclined to think and I do not think of any sex offense at the moment that would require an application for a tap. Now, I'm not saying that it should be eliminated as an area. I'm only saying that when you apply for such a tap and you come to the state's attorney we're certainly not going to sign any application for a tap for an offense that is not one that would, for instance, lead to be part of an investigation of a crime other than the sex crimes.

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Sen. Jackson: Any other questions? If not, thank you, very much, Gentlemen. Louis Roseman.

Capt. Roseman: My name is Captain Roseman. I'm connected with the Westport Police Department. And I have been for over 30 years. I have two thoughts on this bill, 1. I agree wholeheartedly with what Capt. Bishop said. I also agree with Chief Lincoln and the state's attorney. One thing, Gentlemen, you must bear in mind, that when wiretap is used in other states that the people are going to move their operation from that state into the state of Connecticut. I'm from lower Fairfield County and I'm worried that this is what will happen. Because if there's pressure put on one place and police work they move some place else. And this is what you're going to have in the state of Connecticut. You have the right to give us the tools to work with and I suggest and honorably say this to you, that I hope you consider this bill and give us the tools to work with, because we can not work without the tools. One part of this bill I don't agree with is and that is only having the state police tap wires. Every police department should have the right. And do it in the same manner as the state police. We are no different than the state police in the state of Connecticut. Someone mentioned training here. You'll find that most all local police officers that have gone by any length of time, have spent considerable years in training, either the FBI Academy and universities. So don't downgrade your local police departments because there are more local police officers in the state of Connecticut than in all the state police. So you need them. And the state police does not have the man power. I know from experience. When we want an undercover man from the state police, they tried to give them to us. They could not. As a result, you'll find that squads have been developed in the state of Connecticut which started again down in lower Fairfield County. Your undercover squads were started by local police. So, therefore, we need the wiretap and it should extend to your local departments.

Sen. Jackson: Any questions?

Rep. Liskov: Representative Liskov of Bridgeport: Chief Roseman, in your experience within your profession you've had occasion to know that there are times when there are investigations and action taken by the state police without the knowledge of local police departments, isn't that so?

Chief Roseman: Fortunately, in our town we did not experience that, rather...

Rep. Liskov: You know that has been done?

Chief Roseman: I've heard rumors of it but we were fortunate in our town that we have a very close working ship with the commander of the Westport barracks and we've been always very fortunate.

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Rep. Liskov: Well, if you know that that condition has and that fact has been demonstrated over a period of time. Wouldn't this perhaps lead to some competition between the local police departments and the state police department if the local departments were given this opportunity to have its own right to initiate wiretapping on both local and state police levels?

Chief Roseman: I think you have a mixed question there. But I'll try to answer it. 1. as far as I'm concerned and most all law enforcement officers, dedicated law enforcement officers, know there's more than enough criminals to go around for every police officer in the United States. And that includes local, federal and state. We're fighting criminals. We're not fighting other police departments. We have a monthly meeting at the Westport barracks. Last night there was a conference held of all the counties including the detective conference. There were federal officers there. There were state police officers there. There were New York police officers there. So we're not fighting police officers. We're fighting criminals. And if I didn't like something that was going on in my town I'd get on the phone and I'd call the commissioner up and tell him that I didn't like it. And I would do that on a federal level if I didn't like it. Because I'm not obligated to any one. I have a street to walk down as a police officer. I'm going to do what is right. And no one's going to hinder me in my line of duty. And this is the way I feel. And you'll find that most of your police officers today some of these things that were said here today- your looking at a police officer 35 years ago.. Let's look at the young man, the college man, the man with the master's degree and the man with the doctor's degree in your police department.

Rep. Liskov: Is that what you have in Westport?

Chief Roseman: We have full degree men in our department. Not everyone but many of them have degrees. And others are working in it, this is what we're running into today. We pay \$500 or more for a degree to a man and we're getting them. This is what we have and this is what you'll find in the new police officer. And I think that these men walk tall and I think the legislature and our citizens should back them. This is what we haven't had. And I think that you people are the people who should do it. You have the tools and I think the obligation is yours to help us. And this is what we are looking to you people and we expect it.

Sen. Jackson: Any other questions? If not, yes?

Rep. Votto: Representative Votto, 116th in West Haven: Chief, do you think a -- your office could give a favorable reaction if the authority to apply for the wiretapping was extended to the local level but say, in the form of the Chief of Police, say of that particular town or city department? My thinking being that in the long span of things the tenure usually the men that are chiefs are either coming in new as specialists or have been in the field of law enforcement for a number of years. I think that probably one of

31.  
CVS

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Rep. Votto: (cont'd) problems that trouble people is the abuse factor.' Now, if it was limited to say the chief of police of a local department what would be your reaction to that?

Chief Roseman: I'd have absolutely no objection if they named the rank in any department. So long as they had the right to do it in every department. But I think when you signal out a state police officer and in my opinion you're downgrading your local departments by doing this and I think if anybody -- you talk today of complexes-- this is certainly giving the local police officer a complex. And also in the eyes of the citizen. And you don't have enough state police officers to go around, let's face it. And they can't be in every place at once. When you need that help you need it, you need it sooner than you get it. This is the answer. By the time you apply for this you should have had it even before you even had a chance to apply. Many times this is what you need in many situations. So I have no objections so long as they name someone in each department to do it. I have absolutely no objections at all so long as its handled on a local level. And, I'll -- you'll find that this is the voice of almost every local department in the state of Connecticut.

Sen. Jackson: Thank you very much, Captain. I don't think there are any other questions. William Olds.

Mr. Olds: Members of the Judiciary Committee: I'm William Olds of the Connecticut Civil Liberties Union. I'm not here to reaffirm the position which has already been presented by Attorney Morris of New Haven. I'm here at the request of a well-known author, Vance Packard, who lives in New Canaan, who had intended to be present this morning but due to a heart attack and due to doctor's orders. He asked if I would read a letter from him into the record.

VANCE PACKARD  
MILL ROAD  
NEW CANAAN, CONN.

January 21, 1971

Mr. William Olds  
Executive Director  
The Connecticut Civil Liberties Union  
721 Main Street, Hartford, Connecticut

Dear Mr. Olds:

I write you with a deep sense of apprehension regarding the three bills now before the Connecticut General Assembly, (5317, 5080, and 5373). The first would authorize wire tapping by the state of citizens of this state; and the other two would authorize both a wiretapping and the even more repugnant "electronic surveillance."

Would you please convey my apprehensions to the appropriate legislators at the hearing next Tuesday. I would ask to appear in person if I were not recovering from a serious illness.

As a citizen of Connecticut for the past 25 years I have always felt proud of our state for its enlightened concern for the the state's citizens. In times of national confusion it is understandable that legislators in some parts of the country would embrace new electronic techniques to maintain so-called law and order, without wondering what they are doing to our society in the process. I had assumed it would never occur in Connecticut.

For three years in the course of research for my book The Naked Society I pondered the implications of the use of electronic eavesdropping for our society. First of all it clearly is unconstitutional, and trust it will soon be proven so in test cases. Wiretapping for example is clearly and inevitably unconstitutional when used by police even with a court order since it inevitably by its nature has to be a general search. It was the issue of general searches and general warrants to conduct them by the King's agents that was a major cause of the Revolutionary War. Further, electronic eavesdropping violates our constitutionally protected right to privacy.

Furthermore electronic eavesdropping is of highly dubious effectiveness in combatting serious crimes. Ramsey Clark, the former U.S. Attorney General put it well when he said: "The case for wiretapping has not been proved after 40 years, and further it is inconsistent with our high hopes for America."

Sincerely

Vance Packard

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Sen. Jackson: Do you want to leave that with the secretary? Are there any questions of Mr. Olds? If not, thank you very much. Francis Virgulak.

Chief Virgulak: Members of the Committee: I'm speaking for the Fairfield County Chiefs of Police Association. And I just would like to go along with the people who have spoken before me in favor of the bills.

S.B.#291 - AN ACT CONCERNING AUTHORIZED LIMITED WIRETAPPING AND ELECTRONIC SURVEILLANCE

H.B.#5080 - AN ACT CONCERNING WIRETAPPING AND ELECTRONIC SURVEILLANCE

H.B.#5317 - AN ACT PERMITTING WIRETAPPING IN CERTAIN CRIMINAL INVESTIGATIONS

H.B.#5373 - AN ACT CONCERNING WIRETAPPING AND ELECTRONIC SURVEILLANCE

I think that two of the four bills that are before this Committee are excellent bills. And I too, would urge that as is spelled out for the state police organization. After all, the primary statutory responsibility for law enforcement and for combating organized crime in a community with an organized police department rests with that local enforcement agency. Local police officers are eminently well-qualified, are the first people to have become many years ago involved in the fight against organized crime. There are over 4,000 law enforcement people on the local level in the state of Connecticut. And I'm sure that by this time it is well recognized that they are well-trained in many areas. My department also, is proud to have people with bachelors degrees, associate degrees and a couple of masters degrees. So the police officer of today is not the "cop" of 35 years ago. The training should not be a question. And I've listened with great interest about the charges of invasion of privacy and the dishonesty, the possible dishonesty, of law enforcement officers. Gentlemen, we have the greatest checks and balances systems in the country. I challenge any other professional organization to have a similar system of checks and balances. You have the local law enforcement agency with its various divisions: your patrol division, your detective division, your vice squads. Each one with his ears tuned to particular areas. If something goes wrong, I'm sure somebody's going to report to the chief of police that there's a little bit of hanky-panky going on. There's the check, the countercheck of the state agencies. The state police certainly have the right and the privilege to come in and I'm sure that chiefs of police like myself have at times asked state enforcement agencies to just run a cursory check. Let's see how our boys are operating on the street. And then we can resort to the federal agencies to check us also which we have done. And, thank God, we can say that 99% of the law enforcement people in the state of Connecticut can as Captain Roseman said walk tall and stand straight. I do believe that any aspersions cast on local law enforcement people as far as their honesty, their trustworthiness is completely out of order and

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Chief Virgulak: (cont'd) and disrespectful to the profession itself. We keep our skirts clean. You'll find that we're checking ourselves. We're watching and we don't want dishonest officers, incompetent officers, incapable officers in local law enforcement. I've also wondered if anybody ever thought that taps--wire communication--interception can be used the other way around? If you do suspect some member of local law enforcement to be on the take or be cooperating with organized crime it would be very nice to find out and maybe put a tap in his bedroom, or his baby's room, or on his wire. It works both ways, Gentlemen. We're not worried about that. We're not a darn bit worried about that. Is there organized crime in the state of Connecticut? That's a safe bet you can make, Gentlemen. There certainly is. And it doesn't only go to gambling and narcotics. Because we have indications now, recently, coming in. And I don't know why. We've had people come to us. It's starting to get into the private garbage collection business, some in the cases of laundry and cleaning and drying businesses because monies illicitly obtained are being invested in legitimate business as fronts. The variety stores, smoke shops, the front selling milk very cheap just to get the action on gambling. There's plenty of it. And we have a lot to do. And we've been active. And if your researchers will check, you'll find that there've been many many arrests made in connection with the organized crime operations in the state of Connecticut by both your state and local law enforcement agencies. So I really do urge you to give us this extra tool we've been talking a lot about protection of rights. I think that the trend has been to protecting more of the rights and building a fortress around the actions of criminals but we have to prove beyond the reasonable doubt the guilt of the accused. You know that's quite a mouthful. I don't want to sound ridiculous but no accused has ever had to prove that he was innocent beyond a reasonable doubt. You know, this is backwards. The same way, the police officer constantly has to prove that he's clean beyond a reasonable doubt. This is an unfair premise. We must be able under the safeguards. And there are plenty of safeguards written into both of these excellent bills. I'm talking about #5080, #5373.

H.B.#5080 - AN ACT CONCERNING WIRETAPPING AND ELECTRONIC SURVEILLANCE

H.B.#5373 - AN ACT CONCERNING WIRETAPPING AND ELECTRONIC SURVEILLANCE

There are excellent safeguards written in that bill. And if the local law enforcement people do have this right under legislation, then, they would have to go to their respective county state's attorney for the application for the listening devices. The same as the state police. So there is your common. Your state's attorney in Fairfield County will know how many are being applied for, who's applying, and for what premises or against whom. And, it would be a proper channeling of the applications for the listening devices. I once again just urge you to give us more tools to fight a real octopus that starting to stretch its tentacles into the state of Connecticut and especially in our area that we're so familiar with Fairfield

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Chief Virgulak: (cont'd) County that adjoins Westchester County and New York. And, we're very close to the city of New York, less than an hour away on the turnpike.

Sen. Jackson: Thank you, Chief.

Rep. Guidera: Chief Virgulak: I'm Representative Guidera, from 162nd Weston and Wilton. My town is Weston and we're presently serviced by seven or eight constables. The first selectman is the chief of police. We have two resident state troopers. If this statute applied to local police chiefs, our first selectman in this case, who would actually carry out the wiretapping? Would it be the state police or because of the fact that our constables are only part time would we have to look to the state police instead of the local people? I mean, it doesn't seem to me if you take a city police force you have people who are trained day and night in this area but with constables they're people who have jobs 8 hours a day and then, come home and become police officers.

Chief Virgulak: Yes, I think it would be out of order to extend this right to part-time officers. No, I believe in the case where there is not a full time fully organized, properly constituted law enforcement agency then, of course, it would revert to the resident troopers who are full time professional law enforcement people.

Rep. Guidera: If you were talking about local police though wouldn't it be a good idea that those who carry out the wiretapping would have to -- would be required to take some training in this area? I mean, it would seem --

Rep. Virgulak: Yes, by all means, because we certainly have not had this type of specific training, however, from my understanding and reading and talking with states which do have the bill, there's not much more required than the telephone company or people installing the tap and a monitoring device with the ability to operate a tape recorder or wire recorder. Is about, really all the training amounts to. Most modern day police officers are quite familiar with recording devices. Tape recorders are used for confession statements, recording evidence, etc.

Rep. Sullivan: -- -- statement in regard to the wiretapping bill that --

Chief Virgulak: Yes, in fact, we have made cases which have originated, the organization, the parent organization is in either Westchester or the city of New York.

Rep. Sullivan: -- -- --

Chief Virgulak: The interstate aspect would, yes. But once they move into an area like the state of Connecticut, they will set up there and eliminate the need for being interstate. They will organize a

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Chief Virgulak: (cont'd) complete operation as a separate subsidiary with banking facilities right within the state. Remember organized crime is far better organized than any big business in the United States of America.

Rep. Sullivan: -- with insurance companies under no fault -- --?

Chief Virgulak: I've been a police officer since the 14th of April 1938. Chief of the vice squad for many years in Norwalk. My police station has the distinction of being the police station bombed as a result of a crackdown on gambling. I've had to evacuate my home 5 times for threats of bombing unless I quit crackingdown on organized crime. They've threatened to kidnap my 8 year old son, at the time. They threatened to get angry at my wife. And they threatened to bomb my automobile so my wife could collect double indemnity. I am vaguely familiar with organized crime.

Sen. Rome: Mr. Chairman: Not with regard to this speaker or any questions but could I suggest that there are an awful lot of proplt in the audience that there may be some repetition that we could avoid by merely signing some papers indicating on which side they stand. And perhaps, they would bear with us and we could dispense with the need for their testimony. I think, some of the main issues have been hit again and again.

Sen. Jackson: I'm sure that subsequent speakers will take this into consideration. We have only 5 more speakers who have signed on the speakers list.

Chief Virgulak: I would like to add one more comment and that's pertaining to the immunity bill.

H.B.#5368 - AN ACT CONCERNING IMMUNITY OF WITNESSES FROM CRIMINAL PROSECUTION

This is okay, Gentlemen, but knowing how organized crime works no amount of immunity is going to erase the factor of fear. That's the reason why they don't come forward now and tell us things, give us information, confidential or off the record.

Sen. Smith: Mr. Chairman: one question of the speaker. Could you give me your views on having elected representatives a part of that body that would decide whether or not the wiretapping could be implemented?

Chief Virgulak: Senator Smith: You're asking a very prejudiced individual. Having been involved in investigation of orgaized crime for 20 some odd years I don't trust anybody.

Sen. Smith: Well, then should we trust the judges then?

Chief Virgulak: Yes, sir. I think that the suggestion that there were

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Chief Virgulak: (cont'd) three judges on the Superior Court. These I have the greatest confidence in our judiciary. I think, many of their acts are mininterpreted, blown out of proportion, but I do think with the guidance of the state's attorney of the county and as the chairman suggested, perhaps, three judges to evaluate this application. I think, there are safeguards there. And if they don't prove effective, then, I think your body has the authority to change it.

Sen. Smith: Well, isn't it true, sir, that this is the body that recommends those judges that you have the utmost confidence in?

Chief Virgulak: I'm sure you do, sir.

Sen. Smith: And aren't we as elected officials, the proof of our election, proof enough that the citizens have confidence in us?

Chief Virgulak: I'm sure they do. But in two years you may not be with us. But I'm a career cop. I've been at it for 30 years.

Sen. Smith: Well, isn't it also true that some of these judges that are prominent today may not be with us in 20 years?

Chief Virgulak: Very possible. But I think that precedent indicates that the judges are reappointed as long as they're doing their job and are physically able to carry on. I think quite a bit of seniority on the judiciary.

Sen. Smith: Well, an I to understand that and I'd like to, you know, for us to clarify this. Am I to understand that you're supporting wiretapping as proposed and for judges and law enforcement officials to do this, carry this out, and to get the judges, okay, the three judges...

Chief Virgulak: One judge, three judges or five, I don't care.

Sen. Smith: But that you would not trust our elected officials to also be on that?

Chief Virgulak: I don't think it would be prudent, Mr. Smith, to do that. Because, the more people you add the more vulnerable a very, very confidential sort of investigation becomes. And, the same trust that you indicate for the information that a policeman picks up on a wiretap now more people are getting to information that might be used for blackmail or personal reasons.

Sen. Smith: Now, I don't mean to have the elected official or the judge in on the wiretapping. I'm talking about making that final decision as to whether it can be done. It can be carried out.

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Chief Virgulak: No, I would rather not have confidential information that's placed in an application by read by anybody but members of the court.

Sen. Smith: And the police.

Chief Virgulak: Well, the police are presenting it. They're not deciding on it.

Sen. Smith: But, they have access to the confidential information.

Chief Virgulak: Well, if we got it. We certainly would have, yes, sir.

Sen. Smith: Right. But, still, you don't trust elected officials to protect confidentiality?

Chief Virgulak: You can ask that question one thousand times. But I'm not going to answer it the way you want me to answer it. I trust elected officials until I find them to be otherwise.

Sen. Smith: I'm trying to narrow this down. In wiretapping. I don't mean in anything else, but in wiretapping, sir. You made the statement if I can be correct that you didn't trust anyone.

Chief Virgulak: I'm very apprehensive in investigating organized crime as to whom to trust. I try to keep it limited. And you have to keep your confidential information very restricted and very confidential.

Sen. Smith: I think you've answered my question.

Sen. Fauliso: Sir: who plays the role of the devil's advocate in this system which would lack probable cause -- affidavits which are prepared by policemen and still more policemen -- who plays the role of the devil's advocate to protect the individual who -- -- police -- The thing that bothers me is we don't have anyone to play the adversary system.

Chief Virgulak: I am not an attorney. And I don't ever pretend to be. I'm a policeman. I live with the job for many, many years as you know, day and night. But I don't think the application for a search warrant is as simple as you make it. In fact, the recent court decisions have indicated that we even have to produce confidential informants to testify before the court if it is their testimony that's going to effectuate the issuance of that search warrant. And in this, absolutely, I've had to do it myself. Yes, you'll find that if you check you're Supreme Court decisions. And you may be surprised at what you'll find. There are certain applications for search warrants in which the judge may ask you to produce your confidential informant, absolutely.

Sen. Fauliso: There's only one thing and that's a -- -- informed.

39.  
CVS

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Chief Virgulak: I'm saying in case there, in some cases, it has been requested. There's been a test case that went up and that's the case that you talk about. And I can not argue on the level of an attorney. I don't pretend to. I don't intend to. But there are safeguards built right into this bill that says what you have to produce. And there are the two words, "probable cause" to believe. And I imagine the reasonableness of the case as presented with supported evidence as is detailed in the bill should be the devil's advocate. And you'd have to go by an awful lot of dedicated sworn people such as your state's attorneys, your judges to get something that is very improper across.

Sen. Jackson: Thank you very much, Chief. George Bassett, I would request all additional testimony to be limited to new material and just not rehash what has already been said. If you can precis your comments to that extent, please.

Capt. Bassett: I'm Captain George Bassett, Police Department, Greenwich, Connecticut. I've been a policeman 25 years, half of it connested with cimnal investigation. Much that I did have to say would now be repetitious. I only would like to support the other law enforcement officers here this morning. And urge you all to include local law enforcement in this bill. That's pending. We are just as sophisticated, just as knowledgeable, just as well-educated as the state police. And, Gentlemen, I assure you the state police is a wonderful organization. I am not downgrading them, but they do not have the man power to accommodate us which has been proven in the past when we have dealt with narcotics investigations, as well as, gambling investigations. Thank you.

Sen. Jackson: Are there any questions? If not, thank you very much.

Sen. Smith: Senator Smith, 2nd District: I'll have to try to get your view too, on how you feel about elected officials who are also sworn and dedicated on a record, being in on deciding on the so called confidentiality of whose phones are going to be wiretapped?

Chief Bassett: Would you give me the definition of an elected official?

Sen. Smith: An elected official. We are eleceted officials. Elected I would say Representatives of the General Assembly, who have been elected from the district, wherein, the wiretapping is going to be impemented.

Chief Bassett: And your question once more please?

Sen. Smith: As to whether or not you would object to that elected Representative from the district, wherein the wiretapping was going to be implemented, if allowed of knowing, of being in on the know, as to whose wire was going to be tapped?

Chief Bassett: Unless, I personally knew the legislator or knew of people who did know him I would object.

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Sen. Smith: What I am saying is if the wiretapping is going on in X district then, the elected representative from the General Assembly of that district would be that person.

Chief Bassett: I would object.

Sen. Smith: Now, could I ask why, sir?

Chief Bassett: As Chief Virgulak has already brought out I've been in the business so long and have been hurt so many times and disappointed so many times, that even I, sir, can't always trust people as I should. I know, I'm being unfair in what I say, but I have been hurt.

Sen. Smith: Aren't we being asked, sir, to trust you?

Chief Bassett: I you want to rid this country and this state of crime as we know it is today, you will have to trust us.

Sen. Smith: Isn't it also true, sir, that if the citizens are to receive trust in all or our law enforcement as far as sometimes abuses of authority and power, doesn't that hold in the same light? That you have to trust us, too? Particularly, when we have to consider that under our form of government that we are the final civilian authority. This government of the people?

Chief Bassett: I agree.

Sen. Jackson: Captain, do I detect in your reluctance to allow this a fear that it would be a breakdown in the traditional set up as far as the Executive, Legislative and Judicial departments of our state government? So you feel that that would be an intrusion if the legislature became involved in the actual?

Chief Bassett: No, not the intrusion, sir. No, I am not against the intrusion of the legislator. I only teoo you that in my business I have been hurt not necessarily from the legislature but I have been hurt by even fellow police officers.

Sen. Jackson: No, you misunderstand the question. We do have constitutional guidelines as far as the three branches of government. Would those constitutional guidelines be violated if members of the legislature started delving into the actual mechanics of the judiciary system?

Chief Bassett: No, I don't think so.

Sen. Jackson: Any other questions? Thank you very much. James Carey.

Mr. Carey: Mr. Chairman: I'm the executive director of the State of Connecticut Real Estate Commission. And I would like to echo in concert with Captain Bishop the need for the creating of a State Commission for the Investigation of Crime. Partic ularly, organized crime. I think that one of the charges that this

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Mr. Carey: (cont'd) commission should probably consider or that it should be considered to be charged with is to determine this question that we keep asking ourselves. Somebody always pops up and says, is there organized crime? Somebody says, yes. Somebody says, no. I think that there should be some type of a body that should be able to serve as a clearing house for various information. And I would not like to see it run out to be a body which would go on witch hunts, as Senator Fauliso had stated. But I would like to see a body that would consist of probably the best enterprise the state of Connecticut has represented by: the attorney general's office, the state's attorneys' office, the commissioner of the state police, maybe a supreme court justice and also representation by the state legislature. Now, I am one that believes that there is organized crime in the state of Connecticut. I am one that believes that organized crime has infiltrated legitimate business in Connecticut. And I am very pleased to see this bill H.B.#5389 which would be able to revoke the right of a corporation to do business in the state of Connecticut.

H.B.#5389 - AN ACT CONCERNING THE SUPPRESSION OF CRIMINALLY OPERATED BUSINESS

I have various information and facts which I would like to bring to the attention of the Committee. But because of its nature and the character of that information I would prefer to do it in executive session.

Sen. Jackson: Any questions? If not thank you. Joseph

Sen. Smith: I have a question, Mr. Chairman. Mr. Carey, I've been getting from some of the other speakers that apparently elected officials aren't very well trusted for some reason. And, while at the same time we're being trusted to entrust within the police departments either state or local or both and to judges whom are also, in effect, chosen by the same legislators. This if you don't think this would prejudice you, and if you want to you can answer that in executive session, too. Would you object to elected representatives who have been chosen by the people to represent them, being in on the know of whose wire's going to be tapped?

Mr. Carey: I'm not that familiar with the wiretap legislation and I don't think that I'm actually qualified to answer that question. Because, the duties and responsibilities that I am charged with and handed down by this legislature do not extend into activities of that type. So I wouldn't be able to intelligently answer that question.

Sen. Smith: Are you representing the Commission?

Mr. Carey: The Real Estate Commission, yes.

Sen. Smith: All right, and they have grounds for supporting the wiretap beyond the need of the agents to gain information.

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Mr. Carey: I don't think that the Real Estate Commission should conduct any wiretapping or to be involved in wiretapping.

Sen. Smith: No, I don't mean being involved in it. I mean, of needing it. Not itself, but of needing the kind of legislation to assist it in carrying out its performance. I think I understand that. What I'd like to know is since the agency is advocating the use of wiretapping, the legalization of wiretap. Is the agency cognizant of the overwhelming questions of the need for judicial reform, the need of additional training for and additional education for local police departments and the like? Do you know whether or not your commission has a position on whether in its opinion, all of our local police departments or our state police departments or our judges of that caliber and of that training and background to entrust them with such a great and in my opinion a grave responsibility?

Mr. Carey: Well, I think that we have to have trust in the state police department. And if I'm correct in assuming that this commission on investigation would have the right to determine whether a wiretapping should be conducted. Is this correct, Gentlemen? I have no comment on the wiretap bill at all. I spile on the need for a commission of investigation and the support of bill H.B.#5389.

H.B.#5389 - AN ACT CONCERNING THE SUPPRESSION OF CRIMINALLY OPERATED BUSINESS

Which would give the right to revoke the corporations right to do business if it was determined that is was criminally operated.

Sen. Smith: Then, it was my mistake, then, it was a mix-up in the hearing.

Sen. Jackson: Thank you very much. Joseph Harvey.

Chief Harvey: Thank you, Mr. Chairman. My name is Joseph W. Harvey. I'm the Chief of Police in West Haven, Connecticut. And I'm going to be repetitious and recommending that the wiretapping bill be heartily endorsed by the Judiciary and the Legislature this year. I have one comment to make on H.B.#5080.

H.B.#5080 - AN ACT CONCERNING WIRETAPPING AND ELECTRONIC SURVEILLANCE

I'm heartily in favor of it, outside of Section 1. part 6. And that has to do with investigative or law enforcement officer, means any officer of the Connecticut State Police. I also think that local police departments should be involved. We in West Haven have a very active organization. We have an intelligence division. We have a GN Squad. We have, at the present time, 18 men attending New Haven College. And I think we are just as learned and as well-educated as the state police. We have arrangements made that if this law goes through that we will have our GN Squad educated for wiretapping. I'd also would like to make one more observation

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Chief Harvey: (cont'd) on that bill a Section 2. I believe, probably 19-480 might cover it. But it doesn't, it says gambling but it does not mention narcotics. And I think that probably it would be a good idea to add it in. Because today, probably 70% of our investigation in organized crime has to do with narcotics. Gentlemen, whether you know it or not they're coming from other states. Where the wiretapping is invoked. And they're coming into Connecticut. And I think that we have to have the tools to stop them. And you people are the ones who can give us the tools. And I'm sure that this year we will get it. The immunity statute is very good and I'm heartily in favor of it. Also, an act concerning extortionate credit transactions.

H.B.#5365 - AN ACT CONCERNING EXTORTIONATE CREDIT TRANSACTIONS

I would like to see loan sharking, an amendment made to bear upon loan sharking very forceably. Loan sharking is also coming in from other states now where they have wiretapping. That is one of our biggest problems today. Ex-racketers coming into the state and really acting under the loan sharking. And also, getting into businesses. In our area there's supposedly been an influx in refuse carting and I think that probably other areas also. We in West Haven work very closely with the state's attorneys office. And also, we have a very active Regional Squad. And I would like to correct Senator Smith, when he said New Haven has a lot of undercover agents. It's the Regional Squad, 14 area cities and towns. And undercover today is probably your best deterrent to crime. And with wiretapping and the other laws that you people are working on now, I think, that the state of Connecticut can be one of the cleanest in the country. Thank you. Yes, sir?

Rep. Bingham: I think you'll find that bill #5373 -- -- --

Chief Harvey: I didn't read that. Including narcotics?

Rep. Bingham: -- it says -- -- --

Chief Harvey: That would. Yes, thank you.

Rep. Sullivan: Chief, would you -- -- to undercover -- --

Chief Harvey: No, I don't believe use of marijuana should be wiretapped. I believe that the pusher is the one. The only problem today is that the user is becoming a pusher in order to satisfy their own needs. And that's growing by leaps and bounds.

Sen. Smith: Chief, what police department did you say you represent?

Chief Harvey: West Haven, Connecticut.

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Sen. Smith: West Haven. I think you heard some of my other questions to some of the other speakers. I'm interested in your view on the qualifications or the equal qualifications since most of the speakers have wanted this extended to local police departments. One speaker earlier said that he believed his force was equally trained with the state police. What are the requirements to become a police officer, the educational requirements, to become a police in West Haven.

Chief Harvey: In West Haven, you must have a high school education.

Sen. Smith: And is this equal, is the state police also?

Chief Harvey: Yes, sir.

Sen. Smith: Is that the limitation?

Chief Harvey: And, then, you must attend the Municipal Training Academy before you can become a regular policeman.

Sen. Smith: For how long?

Chief Harvey: Right at the present time it's for 5 weeks. They hope to extend it on the opening of the new academy.

Sen. Smith: But you haven't extended it yet?

Chief Harvey: Not as yet, no. They also attend, 18 of my men attend New Haven College under the LEAA.

Sen. Smith: How many men do you have?

Chief Harvey: Oh, we got altogether our personnel's 104.

Sen. Smith: Now, 18 of those men are going to college now. How many of the remaining men have had college? Do you know?

Chief Harvey: I would say, I think, there's about 12 that have degrees at the present time.

Sen. Smith: So we have over 85 of those men who are not college trained.

Chief Harvey: That's true.

Sen. Smith: And you have no idea when and if these men also will have the opportunity to further education?

Chief Harvey: Well, let me put it this way. The older fellows, of

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Chief Harvey: (cont'd)course, are waiting retirement. And the new fellows coming in will be educated.

Sen. Smith: Do you believe that educational background goes well in hand with the overwhelming responsibility of wiretapping? Of seeing to it that it's not going to be abused? Do you feel that educational background or requirements has any play in this?

Chief Harvey: Let me say this. I don't believe you have to have a college education.

Sen. Smith: I don't mean that. I mean educational background and training not necessarily college but additional training above and beyond this the mere requirements of becoming a police officer.

Chief Harvey: I believe that anybody that has to do with wiretapping should be educated in wiretapping. That is the reason we intend to educate our squad.

Sen. Smith: Are you familiar with search and seizure laws? And, of the many opinions of the U.S. Supreme Court, the supreme law of the land?

Chief Harvey: Yes, they change every day.

Sen. Smith: Well, it may change every day, except, it is the law of our land.

Chief Harvey: That's right.

Sen. Smith: And, its decisions are until they're changed, is law to be respected by everyone, including police officers and police departments. Now, the Court has rendered and we don't have to cite any of them. I'll leave that to Senator Fauliso but he's not here. That there've been many abuses of the rights of citizens in search and seizure by local police departments, particularly, local police departments. And we're having the research commission do some research to compare the violations of search and seizure by federal bureau of investigators, state police and local police. And it's been mentioned that there have been more abuses according to decisions of higher courts by local police departments, than state police.

Chief Harvey: You'll have to prove that to me. I don't believe it.

Sen. Smith: Do you know whether or not it's true or false?

Chief Harvey: I believe it's false.

Sen. Jackson: I believe the witness has already answered. We're not going through a cross-examination, Senator Smith. So if you have something specifically on those bills, I think, we should limit it, the questioning to these specific bills.

Sen. Smith: Mr. Chairman: I think it relevant that any representative

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Sen. Smith: (cont'd) of a police department who wants to be entrusted with that authority to wiretap that it is a prerogative of any of the members of this Committee to ascertain his attitudes about law. Because if these are the people who are going to be deciding what wires should be tapped and, of course, going to judges whom we've also passed on their nominations, then, I want to know, not only what these law enforcement officers attitudes are about law and the courts and constitutional rights. But I'm also going to be interested in some of the judges, too. And that has a heck of a lot to do with entrusting those kinds of responsibilities. We're not just talking about a casual, two way conversation. We're talking about entrusting within persons who are chosen, who are appointed, who are hired and passed by appointees.

Sen. Jackson: Tomorrow afternoon, Senator Smith, five judges will be here. I suggest that you be in attendance. And you'll have the opportunity to talk to all the judges who are coming up for reappointment. I said on the specific question. I think, the Chief has answered a specific question. I think that we should limit ourselves to the bills under discussion if you feel that you would like to go into an in depth discussion of their views on criminal procedure, I think, you can take this up with the Committee in executive session and we perhaps can schedule a public hearing on this specific point.

Sen. Smith: I still submit, Mr. Chairman, that the questioning of the gentleman who wants the authority to do that is still relevant to this hearing. Thank you very much, Chief.

Sen. Jackson: Any further questions?

Rep. Nevas: Chief: Representative Nevas of Westport: Isn't it true that if the state police were the only agency who were invested with this authority certain standards would be -- to maintain with respect to the those who were charged with the responsibility of conducting this surveillance? A uniform standard would be maintained throughout the state. Whereas, if the authority were invested into local departments there would be no way to maintain a uniform standard. And, in some areas the surveillance might be conducted improperly, or in sloppy fashion, or in a manner in which we would not countenance. In another area, it would be conducted properly. I think that's really one of the purposes, at least, as I see it. I'm not privy to this bill as it was drafted. But reading it, it seems to me that in investing the state police with this authority the intent was to maintain a uniform standard.

Chief Harvey: I think a uniform standard can be together with the, all the law enforcement divisions, the state police, the local police etc. I think that the day of an illiterate policeman is gone. I believe that all policemen, especially, the one that are invested in powers of this kind will be educated. And should be. And I don't believe that that is so.

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Sen. Jackson: Thank you very much. Joseph Boby.

Mr. Boby: My name is Joseph Boby. I am Secretary-treasurer of the Connecticut State Labor Council. Connecticut State Labor Council opposed the principle of law enforcement officers invading the privacy of our citizens. In fact, we've introduced legislation to prohibit the use of electronic surveillance against workers in industrial establishment. I would suggest to the Committee the support of the principle of legalized gambling in this state would alleviate many of the problems that we're presently faced with. The greatest source of income for the underworld today is the legalized gambling. I'll point out an example of what illegal. I'll point out what happened in the liquor industry. And, you all know that, who have lived through prohibition that the big source of money for the underworld at that time was liquor and beer and, of course, gambling and prostitution. With the advent of legal liquor sales, they went out of that business completely. There isn't any more source of revenue for the unorganized, for the underworld in the liquor business. I would say the same thing of organized gambling that would leave them only one other source, one or two sources, which are not too great: drug abuse and prostitution. I think the policemen in the city of Bridgeport, at least, are doing an excellent job in picking up the drug addicts and pushers. And in fact, the number of arrests have increased dramatically. I'm not too impressed about the statement that some police officers attend college. Because in reading the morning paper, I read where the Penn Central officers have put a ten million slush fund aside to protect themselves against any charge that might arise out of the operation of the Penn Central. And I'm sure most of them were college graduates. So the education doesn't impress me. We also support the police officer in his duties, in doing his duty, because we represent most of the organized police forces in the state of Connecticut. And I wouldn't want to put anything in their way to hamper them in doing their job. But if I have to chose between the big brother system and having them do the job under the present set up, I would rather the police officers use the present system. I just have one brief note on bill#5362 which is a State Commission of Investigation.

H.B.#5362 - AN ACT CREATING A STATE COMMISSION OF INVESTIGATION

My attorney indicated on page 5, line 141, dealing with no witness shall be excused from testifying, he feels the 5th amendment rights would be weakened by this section. This is the only comment I have on that particular bill that concludes my testimony, Mr. Chairman.

Sen. Jackson: Thank you. Any questions? Mr. Flynn.

Mr. Flynn: Mr. Chairman, Senator Jackson, Representative Carrozzella, Mrs. Finney and Mrs. Simons: My name is Paul Flynn. I'm a practicing lawyer here in the state of Connecticut. And I would

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Mr. Flynn: (cont'd) like to make some comments if I may about the procedural aspects of the wiretap bill.

S.B.#291 - AN ACT CONCERNING AUTHORIZED LIMITED WIRETAPPING AND ELECTRONIC SURVEILLANCE

H.B.#5080 - AN ACT CONCERNING WIRETAPPING AND ELECTRONIC SURVEILLANCE

H.B.#5317 - AN ACT PERMITTING WIRETAPPING IN CERTAIN CRIMINAL INVESTIGATIONS

H.B.#5373 - AN ACT CONCERNING WIRETAPPING AND ELECTRONIC SURVEILLANCE

It seems to me that the fundamental decision as to whether or not it will be the policy of this state to enact a wiretap bill is the responsibility that is vested in you people as a Committee and the General Assembly, acting in concert. And I believe that the very nature of the drafts that have been submitted for comment this morning indicate that a considerable amount of research has already been done. And quite candidly it is to my opinion that they probably meet the Burger test at least, #5080 does. But I want to discuss with you if I may briefly, some procedural deficits that I think exist in this type of legislation as it is proposed. There has been considerable comment this morning that this authority should be vested in all law enforcement of the state. I don't want to suggest for a moment that any member of law enforcement is dishonest or incompetent because I think that's an unfair attack. However, you are entering on into an arena that has been unknown in this state. And in fact, has been outlawed in this nation until very recently. And, therefore, it would seem to me procedurally that you would impose substantial limits on those groups of law enforcement officers who may have authority to institute this type of investigation. And even limiting within those groups, specific areas, who may make application. Your proposed legislation would authorize, I believe, the appointment of a judge in every county of this state to act as the person to whom applications might be made. And they may be made under this proposed statute, amongst other people by the state's attorneys of any county of this state. And since, there are some judicial districts, I would assume that you would want to include the judicial districts as well. I believe that that is a diffusion of collective responsibility. And you have no assurance that all of the information will be instantly disseminated to the other state's attorneys or will be available to them in the course of criminal prosecutions. For that reason, I believe, that ultimately on member of the executive branch of the state, if such as act is passed, will have to bear the responsibility of authorizing any wiretaps that may be made by virtue of any statute. And who will bear the responsibility for any abuse. There has been comment as to whether or not the legislature itself should participate, I think, for the purposes of policy since they enact the statute that it would be appropriate to them to participate in the establishment of the policies that will be used to

49.  
CVS

TUESDAY

JUDICIARY COMMITTEE

JANUARY 26, 1971

Mr. Flynn: (cont'd) implement these statutes. But I believe that it is again a diffusion of responsibility to call him up every time you're going to make an application. With respect to the laws, which this statute will permit wiretapping to be used against, one of them is the crime of conspiracy. And the crime of conspiracy is described by students as nud against the wall. Throw as much against the wall as you can perhaps some of it will stick. And you establish the crime of conspiracy without the necessity as a matter of law of establishing the specific knowledge of each of the conspirators. So that it is really an open door to the investigation of every sort of crime. And it is not specifically limited. It says conspiracy to commit any of the foregoing. And I can conceive of a circumstance where there is a felonious crime of violence 38 steps removed in the chain of the conspiracy that would authorize wiretaps into an enormous area, that apparently, draftsmen of this legislation is not willing to permit at this stage. Afterall, we have no history in this area in this state. In the form of the application, in Section 3, and I'm referring to H.B.#5080, Gentlemen, so that you'll understand. I believe the others make some technical changes. There are some variances with them but the one that I've directed my attention to is #5080.

H.B.#5080 - AN ACT CONCERNING WIRETAPPING AND ELECTRONIC SURVEILLANCE

The state's attorney in submitting his application must justify his reasonable belief. And I would assume that reasonable belief is something less, procedurally, than probable cause. And, therefore, you have a reasonable belief to make the first tap. You can only extend it under this statute, procedurally, when you establish probable cause. I think that that is procedural deficit. And that if you're going to insist on probable cause at any time it should be in the beginning. With respect to paragraph C, you respect or you're suggesting here that the communication sought should be particularly described. And the identity of the person if known should also be spelled out. General searches have been outlawed by the Supreme Court of this state, as recent as June or July of 1970. And it would seem to me that that language, if known, is somewhat indicative of that we don't know. And that you're asking by this legislation for statutory authority for that which is constitutionally prohibited. And I suggest that procedurally, that is a substantial deficit. And that it should be corrected. I believe if I can refer to that portion of the statute on page 6, which has to do with, I guess you'd call it an exemption or a privilege you use the terms, commonly used by such individuals, and you use that same term when you're referring later to exemptions or privileges. I don't know what phone is commonly used by a physician or a psychiatrist or a clergyman, I don't know that in my own personal experience that I commonly use a lot of telephones. And one of the things that the law enforcement officer is asked to do is to make a discussion or disclosure as to whether or not the information that he is

Wire Tapping 56  
Against Crime  
2/1/71

KOPKIND & FLYNN

ATTORNEYS AT LAW  
P. O. BOX 100  
132 TEMPLE PLACE

NEW HAVEN, CONN. 06510

(203) 772-1470

HARRY R. SUGARMAN  
COUNSEL

BERNARD P. KOPKIND  
CHARLES L. FLYNN  
W. PAUL FLYNN  
FRANK J. RACCIO

February 8, 1971

Honorable John Carrozzella  
Eighty First District  
House of Representatives  
Hartford, Connecticut

Re: Bill No. 5080

Dear Representative Carrozzella:

At the hearing that was conducted by the Committee on the Judiciary on Tuesday, January 26th, you asked me if I would put forth some of my comments with respect to the pending legislation in written form so that they might be studied by members of the Committee and the Staff.

I observed, during my comments on the pending bills, that I was directing my attention to areas that I considered procedural but which might have certain substantive overtones. For example:

Section 2 of the Act authorizes the State's Attorney for the County in which the interception is to be conducted (I assume also the Judicial District of Waterbury is construed as a separate entity for this purpose) may make an application to proper authority to tap a wire or to intercept an oral communication. There is nothing in the statute to require a complete disclosure of correlative, cooperative, concurrent wire-taps being disclosed to any of these individuals. Each of these individuals and each Judge so appointed may be faced with a different policy, theory, approach or attitude. It would follow that the program would not be uniformly applied procedurally throughout the State; and, in the event of an abuse of the power vested in the prosecutorial department, there would be no ultimate responsibility for this resting on any individual.

February 8, 1971

Honorable John Carrozzella

Re: House Bill No. 5030

I believe this is a substantial procedural fault that can only be corrected by having a central repository in the executive branch for all wire-tap applications. That office would make available all information to the State's Attorney of any County or Judicial District. Administratively, it would be the responsibility of that executive officer to cause such notice to the party whose communications have been intercepted or wires have been tapped to afford compliance with the statutory requirements for notice.

In addition, it would appear to me to be appropriate for a policy commission or committee composed of representatives of the executive, the legislative and the judicial branch of government to approve the use of this extraordinary investigatory weapon. I don't mean to suggest that they will either participate in, or have notice of specific circumstances when all the communications are intercepted or wires are tapped; but, since they are each in their own way responsible for the granting of this authority, the implementation of this authority, or the authorization of the power, it would seem to me that each should participate in the policy-setting procedure by which this practice will be used, expanded, or contracted.

Procedurally, this statute uses two separate and distinct standards for achieving the same result. It permits either an application to be made consecutively in separate counties in this State for a period of 90 consecutive days without an extension order in any of them, or in the alternative, asking for forty days - one for ten and three ten-day extensions in 9 separate judicial areas of the State for a total of 360 consecutive days - thereby eliminating the wire tap or oral intercept on Christmas, New Year's Day, Good Friday, Thanksgiving Day and Ash Wednesday. If either of these was the design of the drafter - to procedurally commit the State of Connecticut to a lengthy wire tap via this practice - then I suggest that the procedure is unreasonable on its face and that there should be some corrective draftsmanship. I again refer you

February 8, 1971

Honorable John Carrozzella

Re: House Bill No. 5080

to the suggestion of a requirement for central responsibility for the authorization of every wire tap in the State in accordance with and subject to a policy that has been set by the Executive, Judicial and Legislative Departments of the Government acting in concert. Referring to lines 157 through 159, I note further that a wire tap may be requested not for an individual phone, but a series of phones which may be "commonly used by such individual." Since it does not procedurally delimit whether or not it is commonly used by a group of individuals, it would appear to me that this is another device which would permit a wire tap based upon common use of a facility by an individual who may, from time to time and with some regularity, use a telephone service at four, five or six locations. The procedural step which would permit a Judge in addition to authorize an intercept of a person who is unknown (cf. line 170) is a direct affront to the standards established by the Connecticut Supreme Court in STATE V. JOHNSON in that it amounts to a general search - commonly referred to as a fishing expedition.

The draft legislation refers to both wire communication (cf. line 20, page 1) and oral communications (cf. line 25, page 1) and the interception of both. Thus, one application covers oral interceptions and another covers wire interceptions. The "commonly used place" can grant unlimited bugging via this procedural device.

Procedurally, it would appear that the applicant - the State's Attorney - must have a mere reasonable belief in order to justify the issuance of an intercept or wire tap order in the first instance. However, the act, on pages 5 and 6, seems to indicate that the extension of the order must be based upon probable cause and not just general probable cause but a particularized probable cause.

- (A) The Chief Justice of the Supreme Court, the Chief Court Administrator or any Judge of the Superior Court designated by the Chief Court Administrator may receive applications for an interception. (cf. lines 45-49, page ). As a matter of convenience, if for no other reason, a Superior Court Judge for Litchfield, Hartford, Tolland, Windham, Fairfield, New Haven, Middlesex and New London Counties, and for the Judicial district at Waterbury.

February 8, 1971

Honorable John Carrozzella

Re: House Bill No. 5030

Referring to page 3, line 72 etc. the statute requires the disclosure of the identity and qualification of investigative law enforcement officers to whom the contents of any wire tap or interception may be made; and, I suggest that you compare this information with Section 13, lines 263 etc. which seems to indicate that this information can be disclosed to any Tom, Dick and Harry who might ask for it. Procedurally, you have placed limitations in the statute as to the places where, and the times when, any of this information may be used - cf. lines 342-347 which appear procedurally to be in direct conflict with 263-267 which again appear to be in conflict with the provisions of lines 72-74.

Referring to page 10, Section 13, I know of no procedure, for example: before a coroner, for the filing of a Motion to Suppress. If there is an administrative procedure for such activity before the Public Utilities Commission, the Liquor Control Commission, the Insurance Commissioner, the Banking Commissioner or such other regulatory agencies of the State of Connecticut, I am unaware of it. At the same time, it would appear that we are imposing upon these regulatory agencies a requirement that they conduct a judicial inquiry into the propriety of the action when, in the usual course of practice in a regulatory agency, the result of the perhaps prohibited practice have already been disclosed to the Commissioner's of that regulatory agency. I believe this is a procedural deficit in the Statute that can only be corrected by denying its use under any circumstances except in a criminal court proceeding.

Procedurally, this statute also imposes a fine or penal sum payable by a person who has abused this statute. That same provision also says that a good faith reliance on a court order is a complete defense. There is no provision that the State of Connecticut would be responsible for the acts of an individual police officer, and as soon as one has an order of the Court, one "ipso facto" will be relying upon it; and, therefore, Section 19 is window dressing and a procedural nullity.

The inclusion of the term conspiracy is to me an ingenious device for a rather broad scale use of a statute which is an intentional step to obviate the limitations otherwise contained between lines 61 and 64.

February 8, 1971

Honorable John Carrozzella

Re: House Bill No. 5080

I note, parenthetically, that while the purpose of this Statute is to authorize wire tapping interceptions - it also authorizes a trespass upon the premises or property of the individual against whom the interception or wire tap is authorized. (cf. lines 184 through 187).

Reference is made in the statute to certain privileged areas that are prohibited from interception/tapping.

It would appear that it was the intent of the draftsman to deny the right to intercept or to tap the wires of the premises of the physician, the attorney and the clergyman. However, the statute would permit an obviation of this "privilege" (cf. lines 219 through 228) in that the wire or premises must be used, about to be used, leased, listed in the name of, commonly used by that class, including both facilities and place. I wonder at the elimination of the husband and wife privilege and the protection of the privacy of the boudoir. If some crime is being committed between a husband and wife in the privacy of that arena, I believe it is none of law enforcement's business. I cannot conceive of law enforcement having probable cause to justify interception.

The statute provides in Section 9, lines 226 etc. that the intercept or wire tap shall be recorded on tape or wire or comparable device. This is an additional procedural deficit which may intrude into a substantive arena. I have given the example of a ten day tap or intercept extended for two additional periods of ten days or for a total of forty days. Assuming, for purposes of the example, that the place where conversations may be intercepted or the facility where the wire may be tapped is used for an optimum of ten hours per day by the individual suspected of criminal conduct, that would give - on a voice activated device - four hundred hours of intercepted or tapped information. Assuming further that they are only fragments of information which may be construed to have criminal implications in this forty-day period to a total of one to two minutes the extent of the intercept versus the totality of the evidence would seem to me to procedurally be a device for such a wanton invasion of privacy as to be defective.

February 8, 1971

Honorable John Carrozzella

House Bill No. 5080

This statute contains no affirmative declaration that other investigative techniques have been diligently tried and failed. I note that such a precedent condition is stated in the federal statute. Cf. 18 U.S.C. 25.

I oppose wire tapping as smacking of "1984 ism". Should any such extra-ordinary authorization for its use exist - I believe that the extent of its use, the reasons why it may be used, and the times it may be used should, in the beginning, be severely limited.

Thank you for the courtesy you and your Committee extended to me.

Very truly yours,

W. PAUL FLYNN

WPF/ea

cc. Hon. Senator Jay Jackson  
Fifth District  
State Senate  
State Capitol Building  
Hartford, Connecticut