Submissions to: Standing Committee on Justice and Legal Affairs, Parliament of Canada

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Re: Wiretapping and Electronic Eavesdropping

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From: Canadian Civil Liberties Association,

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Ottawa

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Part I - The Evil Concerned

In proposing a liberalization of the criminal law relating to certain kinds of sexual activity, Prime Minister Trudeau, when he was Minister of Justice, declared his intention to remove the law from the bedrooms of the nation. It is the purpose of this submission to remove the eavesdropper as well.

Indeed, the eavesdropper has developed sufficient sophistication that he is now able to invade our most intimate activities. The telephone, the parlour, the lavatory, the bedroom are no longer immune from these electronic "peeping toms."

An unacceptable anomaly infects the present law in Canada. Private property and the enjoyment thereof are treated in a most sacred manner. A host of legal concepts and statutory enactments ranging from solemn prohibitions against "breaking and entering" to the more minor encroachments of "nuisance" and "watching and besetting" have been developed in order to protect the sanctity of private property. But there is nothing in the law to protect the sanctity of private conversation.

In a recent Ontario Commission of Inquiry into the alleged behaviour or misbehaviour of certain Ontario Magistrates, Mr. Justice Campbell Grant buried the hopes of those who believed that our current law prohibited wiretapping. In admitting a mountain of evidence which had been accumulated through the use of wiretapping, his Lordship declared that there was nothing in the law which prohibited either the accumulation or the use of wiretap evidence. Of course, the other forms of electronic eavesdropping without physical trespass to property have never fallen under legal prohibition.

The absurdity is clear. A physical penetration of private property constitutes a legal offence, but an electronic penetration of personal privacy affronts no law. We protect the physical edifice but not the personal intimacy.

The Canadian Civil Liberties Association believes that this loophole must be plugged.

The law must protect privacy as well as property.

From time to time, we hear amazing statements about this subject. Commentators have rebuked civil libertarians for their reluctance to grant wiretapping powers to law enforcement authorities. They tell us that if we have nothing to hide, we need not fear eavesdropping from certain quarters.

In order to test the consistency of this observation, we should ask the distinguished commentators if they would have any objection, apart from considerations of space, if a police constable were to move into their homes for various periods of time. If they have nothing to hide, then, by their own reasoning, they can have no objection to accommodating the extra tenant. In some ways, an electronic presence is even more objectionable than a physical presence. At least, we know of the physical

interloper and can elect not to share our intimacies with him. On the other hand, we rarely know of the electronic interloper and cannot elect to withhold our intimacies. Moreover, in a society where electronic invasion is permissible, some of us would live in the continuing apprehension that our intimacies were being invaded.

Clearly, privacy is an indispensable component of both liberty and dignity. It is in the nature of the human being in our social order that he wishes to conceal large parts of himself even when "objectively" he has nothing to hide. In the words of United States Supreme Court Justice Field,

> "...of all the rights of the citizen, few are of greater importance or more essential to his peace and happiness than the right of personal security and that involves, not merely protection of his person from assault but exemption of his private affairs...from the inspection and scrutiny of others. Without the enjoyment of this right, all others would lose half their value."[1]

Part 2 - The Scope of This Submission

Essentially our aim is to protect privacy in those situations where there is a normal expectation of privacy. The most obvious example concerns the legal occupant of property. This would include owners who have not rented, lessees, roomers, occupants of hotel rooms etc. Clearly, the legal occupant exerts a legitimate claim to the privacy of his premises.

There are also a number of situations where people normally expect privacy on public property, even as against the legal authorities who manage such property. For example, the right of privacy should be enjoyed by persons who are on public property:

a. through a general right of access - sidewalk pedestrians, subway passengers.

b. through a legal compulsion to perform certain duties - jurors, witnesses in special quarters.

c. for privileged communications - prisoners and barristers in prison counsel rooms.

d. through arrangements analogous to tenancies - student council offices in universities, meeting rooms for citizen groups.

The foregoing situations, of course, are illustrative rather than exhaustive of the circumstances to which the protection of privacy should extend.

There are other cases, however, where the normal expectation is not so clear. For example, the desire of a proprietor to bug his own property against criminal acts clashes often with the desire of his customers and employees to be free from snooping.

It is not the intent of this submission to evaluate all of the possible situations where the claim to privacy is asserted. For the present, our objective is to introduce legal protection at least into those areas where the normal expectation of privacy is virtually incontestable.

This brief deals with situations of electronic eavesdropping where no party to an

activity is aware of the surveillance. We are not addressing ourselves to those situations where one party consents to the surveillance. For these purposes, there is little distinction between a situation where X allows his conversation or transaction with Y to be bugged and a situation where X subsequently discloses the contents of the conversation or transaction with Y. Betrayal of our confidences is an unavoidable risk of human relationships. If we choose to confide in someone, we choose to run the risk that such a person will not betray us. The significance of eavesdropping occurs when we are seen or heard by someone whom we have not chosen to trust.

Moreover, we do not purport to deal with those who unintentionally overhear parts of conversations, within the course of their normal duties, for example, telephone operators checking lines.

This submission is concerned with intentional electronic eavesdropping in situations involving a normal expectation of privacy where no party to the activity concerned is aware of the surveillance.

Part 3 - The Problem With Making Exceptions

Where most people probably agree that most electronic eavesdropping, as we have defined it, should be criminally prohibited, there is a great susceptibility to the arguments of law enforcement authorities. Many people have been persuaded that wiretapping and electronic eavesdropping are vital instruments in the war against crime. They argue that personal privacy must periodically give way to public order.

Indeed, a police officer in "hot pursuit" of a criminal is entitled under our present law to invade private property for the purpose of apprehension. Moreover, by disclosing reasonable and probable grounds for the belief that the fruits or instruments of specific crimes are located on certain premises, police officers may secure judicial warrants to invade private property. If the right of private property can give way to the interests of public order, why not the right of personal privacy?

However, there are important distinctions between physical invasions of property and electronic invasions of privacy.

Very rarely would there be conditions of "hot pursuit" which would obtain in

connection with electronic eavesdropping. A decision to eavesdrop is generally made on cool reflection, not in hot pursuit.

A warrant to search must specify the things to be seized. The very nature of wiretapping and electronic eavesdropping involves general surveillance rather than specific investigation. Unavoidably, the eavesdropper will overhear all kinds of conversations including those not remotely related to the investigation. The "one shot" visit usually contemplated by a search warrant is not as likely to invade so many intimacies irrelevant to the investigation. Eavesdropping by its very nature is a continuing affair; the search is a more limited encroachment.

The victim of a search will usually know what has happened, and is, therefore, in a position to retaliate against the police officers in the event of improprieties in the warrant and the search. The victim of an eavesdrop, on the other hand, cannot know when it is happening and indeed may never find out. Therefore, he will be in no position to redress any wrong which is done to him. By and large, the unpleasant consequences of a search warrant are limited to those about whom there is reasonable suspicion. A suspect's premises are invaded for a limited period and his privacy, personal belongings, and those of his co-residents are violated for a limited period. In the case of eavesdropping, however, the invasion can affect many more people, often those with only the remotest relationship to the suspect. Not only the suspect's telephone calls and conversations would be overheard, but those of others using his telephone and his home and those calling his telephone and visiting his home. Unlike the situation with search warrants even consultations with solicitors could be invaded. This would constitute a violation of one of the most basic privileged communications known to the law and one upon which our entire legal system is based.

For all of these reasons, we must be very wary of the attempt to draw analogies between eavesdropping and search warrants. Eavesdropping constitutes a much more pervasive invasion of personal privacy. The safeguards which are often available in the case of search warrants are simply not applicable to the case of eavesdropping.

Our misgivings are compounded by the actual experience in those jurisdictions which have permitted a certain amount of law enforcement eavesdropping. An in-depth study of eavesdropping supervised by Samuel Dash made the following observations about the New York experience:

> "Even in cases where the purpose of the wiretapping is to obtain evidence to use in a prosecution in court - which, of course, requires a court order - police investigators first wiretap a telephone without an order to sample a conversation and learn what kind of evidence an order would produce. This protects them from going to the trouble of getting an order and then failing to collect any incriminating evidence against the suspect. Sampling the conversations first also permits the police to build an excellent conviction rate record on wiretap orders." 2

Thus, the provision for the legal right to eavesdrop has resulted in considerably more eavesdropping than the law permits. Moreover, Dash reports that, " In Manhattan two or three judges of the courts of General Sessions receive most of the District Attorney's business. It is practically unheard of for a judge to fail to grant a wiretap order for a District Attorney[3]. Thus, in actual practice, the provision for judicial protection has proved more academic than real.

There is no reason to suppose that attorneys-general or other political officials would be any more resistant to police pressures if they were granted the power to authorize eavesdropping.

Thus it is clear from the very nature ofelectronic eavesdropping and some of the practical experience with it, that, to permit exceptions on a general prohibition constitutes a serious risk to a value much cherished by a democratic society- the right of privacy.

Part 4 - How Necessary is Electronic Eavesdropping?

Accordingly, it is the position of the Canadian Civil Liberties Association that the right of privacy is so basic, and possible exceptions so dangerous, that it must not be compromised unless the need for it is clearly and convincingly demonstrated.

The onus is on those who wish the power to invade our privacy. In order to secure this power, they must demonstrate the magnitude of the evil to be purged and the indispensability of the evil to be used. In our view it is not enough that electronic eavesdropping be useful in overcoming certain social evils. It must be proved indispensable.A less demanding onus is not compatible with the central position which privacy must enjoy in our complex of social values.

It is inconceivable that such a case could be made by the great many private electronic eavesdropper in our society. The widespread resort to industrial expionage, for exammple, can have no justification. One man's personal profit does not warrant violating another man's personal privacy.

The only serious claims are made by law enforcement authorities. At least their snooping has some basis in the public interest.

Let us, therefore, examine, to the extent that we can, the case for law enforcement electronic surveillance.

In support of their claims for this extraordinary power , police officials have often told alarming stories of the sophisticated eavesdropping techniques which are available to professional criminals and their organizations. From this, they have argued that they need similar weapons to fight professional criminals and their organizations. However, it does not follow that if a criminal eavesdrops, the police

must eavesdrop in order to apprehend him. According to such a proposition, criminals who engaged in torture could only be apprehended if police were to engage in torture.

Greater detail has been almost impossible to secure. This has prompted our Association to conduct its own survey of major police departments in this country. We sent questionnaires to the police departments of Ottawa, Regina, Edmonton, Saint John New Brunswick, Charlottetown, Halifax, Montreal, Toronto, Winnipeg, St. John's Newfoundland, and Vancouver. Here is the questionnaire:

1. Within the last five years, have police officials under your jurisdiction resorted to wiretapping and electronic eavesdropping?

2. By whose authority were wiretapping and electronic eavesdropping undertaken?

3. Approximately how often have they used such methods and how long has the surveillance lasted in each case?

4. For what offences were these techniques employed?

5. What was the essential purpose of the eavesdropping a) to use the tape in the courts or in some other hearing, b) to obtain leads?

6. How often did the surveillance lead to a) prosecution b) conviction?

Here are the replies:

From Ottawa, "In acknowledgement of your letter of April 29th please be advised since the issue of wiretapping is now before the House of Commons and has had its second reading, I believe, I hesitate to answer the questions contained therein. As soon as the bill has had its final reading and has become law, I shall feel more at liberty to discuss these matters with you."

From Toronto, "I am in receipt of your letter asking for information relating to the use of wiretapping and electronic eavesdropping by members of this department. I think the information you ask for is confidential, and therefore cannot be released."

From Vancouver, "I have your letter of April 29th 1969 and wish to advise that the methods and procedures adopted by this department in combatting any form of crime in this city are confidential and would not be disclosed to anyone but other police departments or governmental agencies."

From Winnipeg, "This will acknowledge receipt of your letter of April 29th 1969 in regards to wiretapping and electronic eavesdropping. Please be advised that this department has never, to my knowledge, been involved with wiretapping and electronic eavesdropping."

From St. John's Newfoundland, "I have your letter of April 29th. 1969 concerning your research relating to the use of wiretapping and electronic eavesdropping by law enforcement authorities and I wish to advise that thus far this department has not made use of such equipment."

From Halifax. "This will acknowledge receipt of your letter of the 29th April, 1969 in which you have listed six questions related to wiretapping and electronic eavesdropping. The answer to question No. 1 is 'no', therefore since the remaining five questions are related to No. 1, this in effect answers them all."

From Charlottetown. "no."

Of those who answered, most have told us that they have not engaged in these practices. In view of the virtual absence of legal prohibition, the experience, at least in these municipalities, hardly conveys an overwhelming need for electronic eavesdropping.

From the other police departments which replied, we are told that the information we seek is none of our business.

Why is this information considered confidential? We did not request names or places. We asked only for statistical information. Please note that similar surveys undertaken by voluntary organizations in the United States have produced substantial cooperation from a number of law enforcement agencies.

Police failure to provide this information constitutes a failure to discharge the onus upon them. We respectfully submit that before Parliament even considers granting the kind of legislative authority to wiretap or eavesdrop which many of our police officials are requesting, it should insist on the kind of information which we requested of Canada's police departments.

What the Canadian police have failed to provide, some American studies have provided, at least for American jurisdictions. They reveal an interesting pattern regarding the use of wiretapping and electronic eavesdropping. Note the findings of Samuel Dash:

> "According to the District Attorney's Reports (New York) 1681 of the 2392 wiretap orders in the five year period were obtained in vice investigations, that is, investigations of bookmaking, lottery, prostitution and similar crimes. This is an interesting admission in the face of persistent claims by prosecutors that wiretapping is reserved for felony investigations and only infrequently used in vice cases."[4]

> "There is a constant effort on the part of law enforcement officers to play down gambling wiretapping and to emphasize that wiretapping is principally used in investigations of major crimes. ...As a matter of fact, more wiretapping by police is done in gambling cases than in any other kind of case."[5]

> "Police departments throughout the country employing wiretapping use it most often in racket investigations relating to organized gambling and prostitution, although they dislike to admit this and often deny it."[6]

Professor Alan F. Westin reached a similar conclusion in his notable book, Privacy and Freedom. "In New York City, as elsewhere, most of the wiretapping is done by police departments and the bulk of this police surveillance is on bookmakers, gamblers and prostitutes."[7]

These findings are supported in an article by Brown and Peer:

> "Wiretapping is of very little use in connection with ordinary felonies and crimes of violence. There is lacking in this sporadic sort of crime the pattern of continuity necessary for effective wiretap operation by police officers"[8]

It is our view that, by themselves, gambling, bookmaking and prostitution do not justify electronic surveillance. Unlike the gambler, the eavesdropper imposes upon an unwilling victim.

The problem arises when these less serious offences are connected with organized criminal syndicates. At some stage of development a criminal syndicate which specialized in less serious offences might resort to more serious offences (murder, extortion, bribery of public officials etc.) in order to protect its interests. The problem is when, if ever, the state of organized crime justifies electronic surveillance.

In this connection, we need, at the very least, to have Canadian facts. As we have argued above, Canadians should not even consider a surrender of their precious right of privacy unless they face a clear and present danger. What is the danger we face in this country? What are the facts with respect to organized crime in this country?

Apart from periodic unsupported declarations on the part of politicians and police officers, there has been very little systematic research into this problem in Canada. Probably the most extensive investigation was conducted by a 1961 Royal Commission in Ontario. Significantly, it reached the conclusion that "...there has never been...any syndicated crime in this province..."[9]

A rather extensive British Columbia Inquiry into the invasion of privacy supported its recommendations for wider police eavesdropping powers with this statement: "One would be living in a fool's paradise if he did not consider that organized crime will move or attempt to move into Canada."[10] Even though the Commissioner was a strong advocate of conferring these powers on the police, he was unable to point to any existing danger. The best he could do was dangle before us the spectre of a potential danger.

The information which is available on crime rates in Canada seems to point in another direction. According to the statistical analysis of law professor Stanley Beck:

> "It should be noted that the crimes that are increasing are against property, that is, theft, robbery, breaking and entering. ... What do the statistics tell us about the increase in crime and the police demand for electronic surveillance to cope with it? They tell us, I suggest, that electronic surveillance will have no effect on the increasing propensity of an increasing number of young people to commit crimes, particularly against property. Car theft, theft, robbery, breaking and entering will hardly be amenable to prevention or solution by electronic listening. ...To sum up, whether one is concerned with organized crime or increasing crime rates, the case for electronic surveillance in Canada has not been made out."[11]

Despite all of the pressure for the right to wiretap, even in the tense climate of the United States, only 13 out of 45 states Attorneys-General called for wiretapping authority in response to a 1961 Senate Inquiry. 26 said nothing and 6 declared their opposition to wiretapping. The same Senate study disclosed that in 33 states wiretapping was completely forbidden.[12]

It took the terrifying tensions of the last few years to produce a U. S. federal law authorizing wiretapping and electronic eavesdropping under certain circumstances and subject to certain safeguards. At that, there will be a conflict with many State laws which prohibit wiretapping. But even the 1961 period in the United States was considerably more volatile and crime-infested than the present period in Canada. If at that time no wider authority to eavesdrop was granted, or even sought, there is considerable doubt whether the milder climate of Canada should evoke such a need.

The observations of Professor Westin with respect to the United States problems apply with even greater validity to Canada.

> "...the need to resort to wiretapping or bugging during the course of criminal investigation in modern American society...is stated as a conclusion by the majority of law enforcement witnesses before legislative committees. Cases are usually cited in which this was said to have been the fact. But there has never been a detailed presentation by any law enforcement agency, in terms that the educated public could judge, to prove this view on a crime-by-crime analysis. ...Until it is, with the opportunity for opponents of electronic eavesdropping to challenge the prosecution in the public forum, law enforcement spokesmen have not proved the public need for the use of surreptitious listening and watching devices.[13]
>
> The best procedure would be to hold Congressional hearings on this topic and require both federal and state law enforcement agencies to present their case for allowing surveillance for a particular crime or area of investigation. After such a fresh look at this issue - and it would have to be a close examination that took no claims at face value - Congress could then write the authorization section of the bill."[14]

On the basis of all the evidence of which we are aware, it is our respectful opinion that the law enforcement authorities in Canada have not made the case for the kind of eavesdropping powers they wish. They have not demonstrated the existence of a clear and present danger from organized crime. They have not demonstrated the indispensability of electronic surveillance to cope with such danger.

Part 5 - Permissible Exceptions

As matters stand, the only occasions where electronic eavesdropping might be permitted, are emergencies involving danger to life, and espionage on behalf of a foreign government. Unlike a single act of bookmaking, a single act of espionage could produce a national disaster. Moreover, the claim to life clearly outweighs the claim to privacy.

In this connection, we point out that a distinction must be drawn between prevention and apprehension. In our view, eavesdropping is not justified simply to apprehend a wrongdoer, even a serious wrongdoer. The only justification for invading so cherished a value as privacy is to protect certain other cherished values, i.e. to prevent wrongdoing to life and national security. For eavesdropping purposes we must distinguish, for example, between the one shot murderer and the murderer who is likely to repeat the offence. The evil of eavesdropping might be justified in order to save life. But once a murder is committed and the life can no longer be saved, eavesdropping has no further justification, unless other lives are in danger.

Part 6 - Procedural Safeguards

Clearly, it is not enough simply to spell out the possible exceptions to a ban on eavesdropping. The revulsion occasioned by invasions of privacy necessitates a system of safeguards in order to minimize abuse.

Many jurisdictions have treated eavesdropping in much the same manner as they treat search warrants. For the reasons already advanced, the analogy to search warrants is not very helpful.

In the case of eavesdropping, there must be additional safeguards. What we propose in the first instance is the requirement of written permission from a Provincial Attorney General or the Federal Minister of Justice, as the case may be. Then there should be a provision that the warrant to snoop must not be obtainable ex parte. The objection has often been made that judges are highly susceptible to police requests for warrants. A judge must be bold indeed to refuse a warrant when the enforcers of the law tell him that they need his consent to stamp out some great social evil. Moreover, the police will often seek out those judges who are more sympathetic with their point of view.

Obviously, the Attorney General or Minister of Justice cannot be obliged to serve notice on the suspect. We seek to impose on this situation a public defender (either a permanent public official or a Court appointed barrister) upon whom notice must be served and who would make representations before the judge on all applications for warrants to eavesdrop. With the intervention of a defence, the Crown could be properly challenged on the character and amount of evidence which it could be tendering before the judge. The judge would have the benefit of conflicting arguments so that he would not be in the invidious position of allowing something so terrible as eavesdropping without as thorough an examination of the entire matter as the occasion permits.

With the intervention of the public defender, we could even provide right of appeal. In the interests of limiting the number of people with knowledge of such matters, the public defender, if he believed the warrant to have been improperly allowed, or the Crown, if it believed the warrant to have been improperly denied,

might appeal to a single judge of the Court of Appeal. The appeal Judge could confirm, vary or vacate the warrant. Again, in the interest of secrecy and expedition, no further appeal should lie.

Without the intervention of some defence, there could be no right of appeal. In our view, the power to eavesdrop is so dangerous to the fabric of our community life, that we should devise some system for allowing appeals against the decision to allow such intrusions.

The admission of evidence so obtained in a subsequent trial should depend completely upon the legality of the eavesdropping. In our present law, we admit most evidence, no matter how illegally obtained, if the evidence is relevant to the charge. We consider our present law to be defective in this respect, resting as it does on the fallacious assumption that the victim of improper police methods can always sue or prosecute for the injury which the improprieties have caused him. In fact, this does not constitute a very effective deterrent to police illegality. The police would correctly believe that the chances of successful retaliation would be slight or the damages minimal, particularly if their victim were found guilty of an offence.

Moreover, unlike the situation with most of the methods of illegally obtaining evidence, the republication of an unlawful eavesdrop would involve a greater invasion of privacy than the original snoop could have achieved. Instead of only a few police officers being privy to the intimacy of private conversation, the republication and admission in open court would make eavesdroppers of the entire public. Thus, the only effective way to protect the privacy of a conversation which should not have been overheard, is to rule such conversation completely inadmissible as evidence and unpublishable in any form.

Warrants for eavesdropping should be granted only for limited specified periods of time, say a few days. Upon expiry of the period, the warrant should automatically expire, unless the Crown seeks to have it renewed. At that stage of course, the Crown would again be obliged to serve notice on the public defender and again the matter would be argued before a judge.

We would recommend an additional safeguard for the right of privacy. Once a charge is laid, it should be open to defense counsel to make a retroactive challenge of the warrant. What we advocate is that if the public defender had decided not to appeal the warrant, defense counsel should be able to do so before the evidence is admitted at the trial. A High Court Judge, either at trial or on a stated case should be empowered to exclude the evidence if he is satisfied that upon the evidence tendered to the judge who issued the warrant, there was no valid basis for the original decision. The decision at trial should be subject to all the formal rights of appeal before the evidence is admitted, but there should be provision for expeditious appeal.

On the other hand, if the public defender had appealed the case and if the judge on appeal had confirmed the warrant, it should be conclusively presumed at trial that the warrant was valid and it should not be open to further attack.

In the case of danger to life, the judge of first instance should be a member of the High Court of the Province and the appeal judge should be a member of the Appeal Court. In the case of foreign espionage, the judge of first instance should be a member of the Exchequer Court and the appeal judge should be a member of the Supreme Court of Canada.

Part 7 - Summary of Recommendations

1. The Parliament of Canada should enact a law prohibiting all electronic eavesdropping as outlined in Part 2, except in emergency circumstances where such eavesdropping is the only reasonable means available to prevent the commission of espionage on behalf of a foreign government or an offence against human life.

2. On those occasions where electronic eavesdropping might be permitted, the Attorney General or Minister of Justice must authorize the procedure and then secure a warrant from a High Court Judge or Exchequer Court Judge upon demonstrating that:

   a. there are reasonable and probable grounds for believing that a crime will be committed against human life or that an act of espionage will be committed on behalf of a foreign government.

   b. apart from eavesdropping on the intended victim, there is no method reasonably available to prevent the commission of such offence.

3. The following safeguards should apply:

   a. Require the Crown to serve notice of its application for a warrant upon a public defender who would be required to make representations before the Judge in opposition to the warrant.

   b. Permit the public defender or the Crown to appeal the High Court or Exchequer Court Judge's decision to a Judge of the Court of Appeal or Supreme Court of Canada as the case may be. The appeal decision shall end the matter.

   c. Provide that the warrant shall expire after a few days unless the Crown seeks to renew it in which case the aforementioned procedure applies again.

   d. Provide that the evidence obtained from unwarranted eavesdropping be ruled inadmissible in court and unpublishable in every other respect.

   e. Provide that if an appeal judge has not ruled on a warrant, defense counsel at trial may attack the warrant and have the evidence ruled inadmissible if a High Court Judge at trial or on a stated case is satisfied that the warrant should not have been issued on the evidence originally tendered. This should be appealable through expeditious appeal procedures before the evidence becomes admissible.

4. The law should provide penalties for eavesdropping without warrant.

5. The sale and distribution of all eavesdropping equipment should be regulated by a government agency in order to promote compliance with the law.

Respectfully submitted,

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General Counsel.

FOOTNOTES:

1. Re Pacific P Commission 32 Fed Rep 241 at page 250

2. Dash, Samuel: The Eavesdroppers, page 66

3. Quoted in The Problem of Electronic Eavesdropping, published by the Joint Committee on Continuing Legal Education of the American Law Institute and the American Bar Association, page 63

4. Dash, Op. Cit., page 42

5. Ibid. pages 65-66

6. Ibid., page 152

7. Ibid., page 128

8. 44 Cornell L Q 175 pages 183-4.

9. Quoted in 46 Canadian Bar Review, 643 at page 683 (December 1968)

10. Report of the Commission of Inquiry into Invasion of Privacy (Public Inquiries Act, RSBC 1960 C. 315 and Order in Council No. 1, January 3, 1967) page 43.

11. Canadian Bar Review, Ibid. page 686

12. The Wiretapping Problem Today (A Report of the American Civil Liberties Union) page 18.

13. Westin, Alan F., Privacy and Freedom, page 371

14. Loc. Cit.