

Ottawa, June 18th, 1954.

MEMORANDUM FOR FILE

Monitoring of subversive telephone
conversations

The Minister and Deputy Minister of Justice saw the president, Mr. Eadie, and the general counsel, Mr. Munnock, of the Bell Telephone Company in Montreal last Friday, June 11th, and discussed with them the best means of providing alternative authority to continue the substance of Order in Council P.C. 3486 of July 4th, 1951, in force despite the lapsing of the Emergency Powers Act - the authority under which it was originally made.

Mr. Munnock had for some time contended that sufficient authority for the purposes set out above was contained in section 382 of the Railway Act. On the other hand, the Ministers and officials concerned with this matter felt that section 11 of the Official Secrets Act probably provided at least as good, if not better statutory authority for the monitoring of telephone conversations. It was further pointed out that if the government availed itself of the provisions of section 11 of the Official Secrets Act in this instance, it would be remaining within the spirit and intent of that legislation whereas it would be difficult to contend that this was so if resort were had to the Railway Act.

The legal and other relevant issues involved were made clear to Messrs. Eadie and Munnock by Mr. Garson and Mr. Varcoe during the course of last Friday's meeting in Montreal and it was finally agreed that the Bell Telephone Company would be prepared to co-operate on the basis of search warrants issued under section 11 of the Official Secrets Act provided,-

- (a) that the R.C.M. Police continued to pay rental for the monitoring facilities provided by the company as is presently the case;
- (b) that search warrants under section 11 of the Official Secrets Act would be issued at Ottawa only by the Commissioner (or, in his absence, by one of the Deputy Commissioners) of the R.C.M. Police;

- (c) that these warrants would, in all cases, be served upon the Assistant to the President of the Bell Telephone Company at Ottawa;
- (d) that the Deputy Minister of Justice would forward to the company, for its records, a copy of his opinion as to the legality of the suggested course of action; and
- (e) that officers and constables of the R.C.M. Police would not make known this arrangement to members of provincial or municipal police Forces as this might result in renewed attempts to make use of search warrants under the Criminal Code for the purpose of obtaining evidence relating to illegal book-making operations and other offences under the Code.

There is no difficulty in meeting all of the conditions set out above, except possibly that set out under paragraph (c) above and this is being pursued further by officers of the R.C.M. Police with Mr. Munnock.

Mr. Varcoe has today sent to Mr. Munnock a copy of the legal opinion referred to in (d) above and also samples of the search warrants which it is proposed to use henceforward.

It is expected that within a very few days the search warrants, which were prepared shortly before May 31st last to replace the various ministerial Orders under the secret Order in Council, will actually be served on the telephone companies involved - i.e. the Bell Telephone Company and the British Columbia Telephone Company. The last named company has indicated some time ago that it would have no objection whatever to the course of action we propose to follow.

P.P.

ALL CORRESPONDENCE TO BE
ADDRESSED:—
THE COMMISSIONER,
R. C. POLICE,
OTTAWA

BY HAND

TOP
SECRET

ROYAL CANADIAN MOUNTED POLICE
HEADQUARTERS

IN REPLY PLEASE QUOTE

FILE NO. [REDACTED]

OTTAWA, April 5, 1954.

CANADA

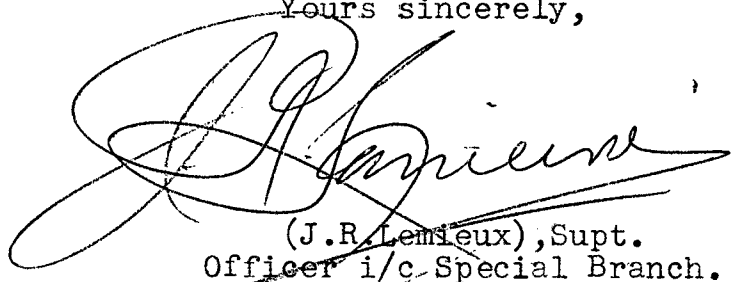
TOP SECRET - PICNIC

Dear Mr. Dwyer:

1. Further to your telephone conversation this morning with Inspector T.M. Guernsey on the subject of authority for "Picnic", our files reveal that when this subject was first discussed during the summer of 1949, the telephone companies concerned stated that they would be prepared to accept as an official sanction for this operation a letter of assurance from the Federal Government. A draft letter for this purpose was produced at a meeting in January 1950 by Mr. Thomas Eadie, then Vice-president and now President of the Bell Telephone Company, and there discussed by officials of the Privy Council Office, External Affairs, and the RCMP. A memorandum on file dated 4 October 1950 recorded that the Minister of Justice had established a clear understanding with the Secretary of State for External Affairs to the effect that Mr. Pearson would undertake any action required in this connection and that Mr. Garson had no responsibility in the matter. Accordingly, Mr. Garson declined to sign with Mr. Pearson the necessary letter to the telephone companies. It was at this time therefore that the government had to make other arrangements with the result, as you know, that Order in Council P.C. 3486 of 4 July 51 was passed.

2. The system as you know has proved to be of the greatest value to us and, at the same time, its security has been preserved as far as we know. Perhaps these two circumstances would now make it possible for the government to issue such a letter of assurance and that the telephone companies would be prepared to accept it. We therefore attach for consideration a draft of such a letter based upon the one produced by Mr. Eadie in 1950, modified in the light of the important changes since that time.

Yours sincerely,



(J.R. Lemieux), Supt.
Officer i/c Special Branch.

Mr. P.M. Dwyer,
Secretary,
Security Panel,
Privy Council Office,
East Block - Room 137,
OTTAWA, Ontario.

Encl.

TOP SECRET - PICNIC

TO: Telephone Companies

1. You will recall that in 1949 and 1950 the government discussed with representatives of your company the international situation which we deemed to be such as to warrant emergency action being taken, particularly recording of conversations over ^{certain} the telephone lines leased by you (to representatives of certain foreign governments.) Our appreciation of the international situation remains unchanged.
2. You will also recall that the government established a legal authority for conducting such operations under Order in Council P.C. 3486 of 4 Jul 1951. This Order in Council was passed under the Emergency Powers Act due to lapse next month. However the government is convinced of the necessity to continue this kind of surveillance as an important measure of national security.
3. When this telephone surveillance was first discussed with your company, you expressed your willingness to accept from the government a letter of good faith as a sufficient authority for your co-operation. We now consider that it would be ~~more~~ advantageous to use this method of continuing this operation as it at present exists in both scope and procedures, provided you are willing to do so. To try to extend the Emergency Powers Act or to make amendments to other available legislation would, we feel, probably excite public attention and thereby jeopardize the security of the whole operation, which as far as we know has continued inviolate.
4. I attach high importance to this arrangement and assure you of the desire of the government that it should be carried out. It is my understanding that you will accept this letter as evidence of the

TOP SECRET - PICNIC

government's good faith in the matter and as an agreement that the government will not make public this present undertaking without prior consultation with yourself. It is further understood that the same procedure will be adhered to on your part.

L.S. St.Laurent

Ottawa, March 31st, 1954.

MEMORANDUM TO MR. PELLETIER

You asked me to give you my views about tapping telephones as a measure of counter-espionage, in view of the concern which the Prime Minister feels at the proposed extension of the government's powers to do this.

I think our first consideration should be to place this particular distasteful measure in its right perspective by emphasizing that it is only one of the improper things which a security service, or a counter-espionage organization, is forced to do because the foreign intelligence services against which it is committed are themselves completely ruthless and amoral. You cannot protect yourself against an all-in wrestler by observing the Marquess of Queensbury rules.

A telephone tap is simply a clandestine method of acquiring information vital to the security of Canada. If Special Branch were to obtain by

surreptitious means a document setting forth the organization of the Soviet Intelligence Services in Canada we should not be unduly concerned as to how they had obtained it. Or if they were to eavesdrop a conversation which provided some insight into Soviet strategic intentions we should not question the propriety of their actions. When Gouzenko came to us with his information we did not seriously consider whether or not his action was a proper one for an accredited diplomat.

Tapping a telephone, which is a technological method of eavesdropping, does not perhaps loom so large when it is related to these other protective measures which a security service must take. It remains, of course, a normally unacceptable invasion of a person's privacy and only due safeguards and a real requirement can justify this and similar measures. The requirement must depend upon the nature of the threat to national security, and it is therefore often argued with some force that measures of this kind are only justified in time of war or

extreme peril. Indeed in our own case this thought is apparent since the enabling legislation is the Emergency Powers Act.

There are, I think, two points which make this argument unreal. Counter-measures against espionage are not something which can simply be put into effect when the danger is immediate, as guards might perhaps be put on a building. They must be laboriously built up, developed and maintained over a long period of time before they become effective. Il faut cultiver notre jardin - even if it is a rather dirty one. It is probable that the measures the police have taken so far are only just beginning to show some small results, and in a way it is only an effective continuance of them which can really justify our having put them into effect in the first place.

The second point is that the danger to national security from espionage is not seriously affected by war. Espionage continues uninterrupted and it is frequently the results of peacetime espionage which are used against a country in time of

war. In the field of espionage there is no such thing as peace time, and indeed a professional spy will tend to regard war as a serious inconvenience which increases his work and renders the conditions under which he does it extremely difficult. For these reasons it does not seem valid to relate counter-espionage methods to the urgencies of war. Counter-espionage should not be confused with measures such as the internment of suspected subversives; that is an emergency measure and not counter-espionage.

It is, of course, for the R.C.M.P. to say what has been the value of telephone taps in Canada to date. Elsewhere in the past the measure has proved of great importance and it is now considered a normal weapon of counter-intelligence in both the U.K. and the U.S.A. both of which have enabling legislation. In the U.K. it is obscured in the Post Office Act, in the U.S.A. it is done by Presidential directive. In both countries there are safeguards designed to prevent abuses. The value of the powers provided by the Post Office Act can perhaps be demonstrated by a quite remarkable case which happened during the last war.

Throughout the war the whole German intelligence service in the U.K. was under the control of and operated by the U.K. security service. And apart from the head agent, who was known as Garbo, its networks existed mainly in the minds of British counter-intelligence officers - though it appeared real enough to the Germans. The whole object of the Garbo operation was to provide deception to cover the Overlord landings and lead the German High Command to believe that the main attack would come across the Pas de Calais. It was successful in leading Van Rundstedt to hold his main forces on a deep perimeter so that the first landings did not meet the full brunt of German arms. Sir Winston Churchill, I understand, estimated that it may have saved the lives of a division.

Shortly before the landings Garbo's wife, as a result of an emotional crisis, became disaffected and decided to tell the Spanish Ambassador what she knew. As I recall, her intention to do what would certainly have wrecked the cover plan was first discovered by a telephone tap. As a result

she was prevented. In this case it is not unreasonable therefore to assess the value of a telephone tap in the terms of men's lives.

Of course one could go a great deal further back in history to find many examples of similar methods being used to counterespionage. One would certainly be Sir Francis Walsingham's ingenious methods in the 16th century for obtaining, opening and resealing the correspondence passing between Philip of Spain's agents and Mary Queen of Scots. However, it is obviously dangerous though easy enough to seek historical precedents to justify improper actions. I only mention them, as devil's advocate, because the position in which the government at present finds itself is by no means a new or exceptional one; and in using distasteful measures of this kind we should at least be keeping quite good company.

P. M. D.

