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Note.—Prior to repeal the sections were added by Stats 1901 ch 274, Stats 1905 ch 287, Stats 1913 ch 570, Stats 1917 ch 780. and amended by Stats 1905 ch 287.

§ 632. [Eavesdropping on confidential communication; Punishment]

(a) Every person who, intentionally and without the consent of all parties to a confidential communication, by means of any electronic amplifying or recording device, eavesdrops upon or records such confidential communication, whether such communication is carried on among such parties in the presence of one another or by means of a telegraph, telephone or other device, except a radio, shall be punishable by fine not exceeding two thousand five hundred dollars (\$2,500), or by imprisonment in the county jail not exceeding one year, or by imprisonment in the state prison, or by both such fine and imprisonment in the county jail or in the state prison. If such person has previously been convicted of a violation of this section or Section 631 or 636, he is punishable by fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in the county jail not exceeding one year, or by imprisonment in the state prison, or by both such fine and imprisonment in the county jail or in the state prison.

(b) The term "person" includes an individual, business association, partnership, corporation, or other legal entity, and an individual acting or purporting to act for or on behalf of any government or subdivision thereof, whether federal, state, or local, but excludes an individual known by all parties to a confidential communication to be overhearing or recording such communication.

(c) The term "confidential communication" includes any communication carried on in such circumstances as may reasonably indicate that any party to such communication desires it to be confined to such parties, but excludes a communication made in a public gathering or in any legislative, judicial, executive or administrative proceeding open to the public, or in any other circumstance in which the parties to the communication may reasonably expect that the communication may be overheard or recorded.

(d) Except as proof in an action or prosecution for violation of this section, no evidence obtained as a result of eavesdropping upon or recording a confidential communication in violation of this section shall be admissible in any judicial, administrative, legislative or other proceeding.

(e) This section shall not apply (1) to any public utility engaged in the business of providing communications services and facilities, or to the officers, employees or agents thereof, where the acts otherwise prohibited herein are for the purpose of construction, maintenance, conduct or operation of the services and facilities of such public utility, or (2) to the use of any instrument, equipment, facility, or service furnished and used pursuant to the tariffs of such a public utility, or (3) to any

but do not necessarily pre-
t from making use thereof,
en. Code, § 633.5, specifically
provisions shall not be "con-
inadmissible in a prosecution
involving violence against the
ence so obtained." Moreover,
g the recordings was harmless
nce the persons solicited testi-
have testified to the conver-
cordings made by the police
g. *People v Ayers* (1975) 51
ptr 283.

unlawful narcotics sales in
t admitted in evidence tape
ne conversations between de-
ff's department investigative
efendant and a woman who
in a criminal investigation of
or a promise to recommend
charge against her, the trial
failing to find the recordings
having been made without
in violation of Pen. Code,
properly ruled the recordings
r Pen. Code, § 633, which
at nothing in Pen. Code,
construed as rendering inad-
obtained by law enforcement
ording any communication
ecord prior to the effective
People v Blend (1981) 121
ptr 263.

Telegraph or Telephone Obtained

belief that the defendant,
ary or District Attorney)
, that is: A violation of
on or about _____
nd there, _____ [by
r specify other manner),
orized connection with)
ble or instrument), that
f all parties thereto, or
attempted to learn) the
r report or communica-
or communication) was
telegraph or telephone)
received at) _____
d by statute].

G C § 1421) p

t seq.

telephonic communication system used for communication exclusively within a state, county, city and county, or city correctional facility.

(f) This section does not apply to the use of hearing aids and similar devices, by persons afflicted with impaired hearing, for the purpose of overcoming the impairment to permit the hearing of sounds ordinarily audible to the human ear.

Added Stats 1967 ch 1509 § 1 p 3585; Amended Stats 1976 ch 1139 § 258, operative July 1, 1977.

Prior Law:

(a) Former § 653h, as added by Stats 1941 ch 525 § 1 p 1833.

(b) Former § 653j, as added by Stats 1963 ch 1886 § 1 p 3871.

Amendments:

1976 Amendment: Amended subd (a) by deleting (1) "not exceeding three years" after "state prison" the first time it appears in the first sentence; and (2) "not exceeding five years" after "state prison" the first time it appears in the second sentence.

Former Section: Former § 632, similar to present F & G C §§ 2356-2358, 5505, 5507, 8431-8433, was enacted 1872, amended by Code Amdts 1873-74 ch 305 § 1 p 465, Code Amdts 1875-76 ch 451 § 1 p 114, Stats 1883 ch 43 § 3 p 81, Stats 1895 ch 202 § 20 p 260, Stats 1897 ch 24 § 1 p 20, Stats 1901 ch 50 § 2 p 55, Stats 1903 ch 22 § 3 p 24, Stats 1905 ch 192 § 7 p 188, Stats 1907 ch 239 § 4 p 302, Stats 1911 ch 338 § 3 p 563, Stats 1913 ch 580 § 1 p 1004, Stats 1915 ch 431 § 1 p 716, Stats 1917 ch 681 § 1 p 1247, Stats 1919 ch 246 § 1 p 391, Stats 1921 ch 276 § 1 p 374, Stats 1927 ch 575 § 1 p 964, Stats 1929 ch 727 § 1 p 1332, Stats 1931 ch 605 § 1 p 1305, and repealed by Stats 1933 ch 73 (F & G C § 1421) p 511.

Cross References:

Privileged communications: Ev C §§ 900 et seq.

Open and public meetings of legislative bodies of local agencies: Gov C § 54953.

Collateral References:

Cal Jur 3d Criminal Law §§ 374, 1033, 1086, 3265 et seq.

Cal Digest of Official Reports 3d Series, Privacy §§ 1 et seq.

Am Jur 2d Eavesdropping § 1, Evidence §§ 433-435, Privacy § 40, Telecommunications § 216.

Proof of Facts:

Wiretapping. 29 Am Jur Proof of Facts 591.

Electronic eavesdropping by concealed microphone or microphone-transmitter. 30 Am Jur Proof of Facts 113.

Law Review Articles:

Recording telephone conversations: The problem of participant monitoring. (1974) 8 Bev Hills BJ No. 3, p. 47.

Gesmore, Toward the preservation of personal privacy: Chief Justice Wright's opinions on search and seizure and the right of privacy. (1977) 4 Hast Const LQ 723.

Persons in police station or jail facility as having no reasonable expectation of privacy in their oral communications. 14 Santa Clara Law 144.

The scope of searches incident to traffic arrests in California: Rejecting the Federal Rule. (1974) 9 USF LR 317.

Attorney General's Opinions:

55 Ops Atty Gen 151 (inspectors of Bureau of Food and Drug Inspections not exempt from prohibitions against wiretapping and use of electronic recording and

amplifying devices; right of inspectors to use electronic devices under direction of law-enforcement officers designated in Pen. Code § 633).

Annotations:

Admissibility, in criminal prosecution, of evidence secured by mechanical or electronic eavesdropping device. 97 ALR2d 1283.

What constitutes an "interception" of a telephone or similar communication forbidden by the Federal Communications Act [47 USC § 605] or similar state statutes. 9 ALR3d 423.

Eavesdropping as violating right of privacy. 11 ALR3d 1296.

Admissibility, in criminal prosecution, of evidence obtained by electronic surveillance of prisoner. 57 ALR3d 172.

Admissibility in evidence of sound recording as affected by hearsay and best evidence rules. 58 ALR3d 598.

Right of accused in state courts to inspection or disclosure of tape recording of his own statements. 10 ALR4th 1092.

Construction and application of provision of Omnibus Crime Control and Safe Streets Act of 1968 (18 USCS § 2520) authorizing civil cause of action by person whose wire or oral communication is intercepted, disclosed, or used in violation of act. 25 ALR Fed 759.

What constitutes adequate response by government, pursuant to 18 USCS § 3504, affirming or denying use of unlawful electronic surveillance. 53 ALR Fed 378.

What constitutes compliance by government agents with requirement of 18 USCS § 2518(5) that wiretapping and electronic surveillance be conducted in such manner as to minimize unauthorized interception of communications. 54 ALR Fed 120.

Under what circumstances is suppression of wiretap evidence required when person overheard in wiretap but not mentioned in order therefor is not served with inventory notice provided for by 18 USCS § 2518(8)(d). 54 ALR Fed 599.

Applicability of provisions of Omnibus Crime Control and Safe Streets Act of 1968 prohibiting interception of wire or oral communications (18 USCS § 2511(1)) to interception by spouse, or spouse's agent, of conversations of other spouse in marital home. 55 ALR Fed 936.

Application to extension telephones of Title III of the Omnibus Crime Control and Safe Streets Act of 1968 (18 USCS § 2510 et seq.), pertaining to interception of wire communications. 58 ALR Fed 594.

Authority of District Court to order telephone company to assist law enforcement agents in tracing telephone calls. 58 ALR Fed 719.

NOTES OF DECISIONS

1. In General
2. Effect of Federal Statutes
3. "Confidential Communication"
4. Exclusion of Evidence

1. In General

When a subscriber of a telephone system uses the system's facilities in a manner which reasonably justifies the telephone company's belief that he is violating his subscription rights, then he must be deemed to have consented to the company's monitoring of his calls to an extent reasonably necessary for the company's investigation. *People v Garber* (1969) 275 CA2d 119, 80 Cal Rptr 214.

A participant to telephone conversations, whose cross-complaint alleged that the conversations had been recorded by other participants to the conversations without his consent and that the recordings had been admitted into evidence in arbitration

proceedings between the participants, was entitled to amend his cross-complaint if he could assert that the conversations were also recorded without his knowledge, and, as amended, the cross-complaint would state a cause of action good against a demurrer. Pen. Code, § 632, providing that every person who intentionally and without the consent of all parties to a confidential communication records the communication shall be punished by fine or imprisonment except if such person is known by all parties to the communication to be overhearing or recording the communication, prohibits one participant to a telephone conversation from recording the conversation without the knowledge or consent of the second participant to the conversation. Section 632 prohibits not only eavesdropping, but also recordation by a party to the conversation. A participant to a telephonic communication is exempted from the prohibition

against recording such communication only if the other participant to the communication knows that it is being recorded. *Olson (Forest E.), Inc. v Superior Court* (1976) 63 CA3d 188, 133 Cal Rptr 573.

A telephone extension, not equipped with features for amplification or recording, is not an electronic amplifying or recording device within the meaning of Pen. Code, § 632, prohibiting eavesdropping upon or recording of a confidential communication by the use of any electronic amplifying or recording device. Thus, the action of a motel manager who listened to conversations by staying on the line after she had connected incoming calls with the telephone in a motel room was not electronic eavesdropping within the meaning of § 632. *People v Soles* (1977) 68 CA3d 418, 136 Cal Rptr 328.

Pen. Code, § 632, which prohibits the recording of a confidential communication without the consent of all the parties to the conversation, is not unconstitutionally vague. *People v Wyrick* (1978) 77 CA3d 903, 144 Cal Rptr 38.

Pen C, § 632, a part of the Invasion of Privacy Act, prohibiting the recording of a confidential communication, is intended to prohibit one party to a confidential communication from recording that communication without knowledge or consent of the other party. However, under Pen C, § 637.2, a civil action for invasion of privacy may be brought only against the person who committed the violation. Thus, an amended complaint in an action by an attorney against a former client and others for damages stemming from the alleged recording by defendant client of confidential conversations between himself and plaintiff was sufficient to state a cause of action against defendant client under § 632, but not against the other defendants. The amended complaint alleged that defendant client recorded the conversations without the knowledge and consent of plaintiff, that he made the recordings available to another defendant who, in turn, made them available to defendant law firm which was representing the other defendant in a suit against plaintiff. The fact that the client was blind did not indicate that plaintiff should have known that his telephone conversations would be recorded. *Warden v Kahn* (1979) 99 CA3d 805, 160 Cal Rptr 471.

A civil action alleging a violation of Pen C § 632, prohibiting one party to a confidential communication from recording that communication without knowledge or consent of the other party, is an action to recover a statutory penalty or forfeiture within the meaning of C C P, § 340, subd. (1), establishing a one-year period of limitations for such actions. *Warden v Kahn* (1979) 99 CA3d 805, 160 Cal Rptr 471.

Pen C § 632, prohibits not only eavesdropping upon a confidential communication, but also the recording of a confidential communication. A participant to a telephone communication is exempted

from the prohibition against recording the communication only if the other participant knows that it is being recorded. *People v Suite* (1980) 101 CA3d 680, 161 Cal Rptr 825.

An action for the invasion of a right of privacy by wrongful electronic eavesdropping or recording of a confidential communication (Pen. Code, §§ 632, 637.2) may be maintained by a corporation that has had such right violated. *Ion Equipment Corp. v Nelson* (1980) 110 CA3d 868, 168 Cal Rptr 361.

The trial court erred in sustaining the general demurrer by a former employee of a corporation to the corporation's cause of action against him for statutory invasion of privacy (Pen. Code, §§ 632, 637.2) for secretly and without authorization recording a confidential conversation with an employee of the corporation during the course of that employee's employment, on the theory that the cause of action had been barred by collateral estoppel. The basis for that theory was that it had allegedly been determined in a prior action between the former employee and the corporation that the conversation the former employee had recorded was not a confidential communication as required under Pen. Code, § 632, subd. (c), for the statutory tort of invasion of privacy. However, the corporation's complaint did not allege or refer to any prior determination of the confidentiality issue, and the former employee, therefore, could not raise that issue by general demurrer. *Ion Equipment Corp. v Nelson* (1980) 110 CA3d 868, 168 Cal Rptr 361.

2. Effect of Federal Statutes

Reliance upon Pen C § 632 to exclude evidence of taped intercepted communications is unavailable where interception is permissible under federal law, the Special Agent's actions here falling within ambit of 47 USCS § 605. *United States v Johnson* (1973) 484 F2d 165, cert den 414 US 1112, 38 L Ed 2d 739, 94 S Ct 842.

A violation of state telephonic search warrant procedures, even if such a violation would result in suppression in the California courts, would not necessarily require suppression in federal court. *United States v Turner* (1977) 558 F2d 46.

3. "Confidential Communication"

In a criminal prosecution, the taking and use in evidence of an incriminating voice recording was not violative of former Pen Code, § 653j, relating to the recording of a confidential communication, where it appeared that defendant and his accomplice were under arrest, handcuffed and seated in the back of a police car at the time the recording was taken, and that they had been advised of the charges against them, and where the defendant testified that at the time of the conversation with his accomplice he knew it was being recorded. *People v Chandler* (1968) 262 CA2d 350, 68 Cal Rptr 645, cert den 393 US 1043, 21 L Ed 2d 591, 89 S Ct 670.

An inmate of a jail or prison may not successfully complain of the recording of his incriminating conversation with an accomplice even if its taking was not known to him at that time; and the right of an arrestee to privacy while under valid arrest in a police car can be no greater than if he were confined to jail, and he cannot successfully claim a violation of his constitutional right of privacy in the recording of a conversation under such circumstances. *People v Chandler* (1968) 262 CA2d 350, 68 Cal Rptr 645, cert den 393 US 1043, 21 L Ed 2d 591, 89 S Ct 670.

In a prosecution for a robbery for which defendant's brother had already pleaded guilty, the introduction of a taped conversation between the two brothers in jail did not constitute a violation of Pen Code, § 632, subds. (c) and (d), prohibiting the admission into evidence of recordings of confidential communications unless the parties thereto might reasonably have expected them to be recorded, where the police sergeant in charge testified without contradiction that he had twice told defendant that their conversation would, in fact, be recorded, and where, although the brother might have thought otherwise, having been told by defendant that they were talking in the attorney's room of the jail, the brother did not object to the tape's admission, and where, moreover, the conversation, sought by defendant to discuss the possibilities of a confession after he had been advised and understood his Miranda rights, was of the type exempted from the operation of Pen Code, § 632, by the law enforcement provision of Pen Code, § 633. *People v Blair* (1969) 2 CA3d 249, 82 Cal Rptr 673.

A tape recording of a conversation between a juvenile murder suspect and his uncle which took place in an interrogation room in a police station, and which was surreptitiously monitored and recorded, was properly admitted into evidence under the general rule that persons within a jail or police facility have no reasonable expectation of privacy as to conversations, where the parties had no recognized privileged relationship; where there was no evidence that the police made any representation of confidentiality or that the uncle was acting as a police agent. The police made no implied representation of privacy by granting the uncle's request to see defendant "by himself"; the words "by himself" are ambiguous and can reasonably be construed as meaning "away from other persons in custody" rather than "in private." *Joseph A.*, In re (1973) 30 CA3d 880, 106 Cal Rptr 729.

On appeal from a conviction on pleas of guilty to receiving stolen property and other offenses, defendant could not successfully contend that the secret tape recording of a conversation between him and his female companion violated his constitutional right of privacy or that it was in violation of Pen. Code, § 632, prohibiting the use of electronic recording devices to eavesdrop or record confidential communication, and 18 U.S.C. § 2511, prohib-

iting the wilful interception of oral communications, where the two were under arrest and in police custody in a patrol car when their conversation was recorded. The constitutional right of privacy and the state and federal regulations prohibiting the recording of conversations are all designed to protect confidential communications, and it could not be said that defendant and his companion had a reasonable and justifiable expectation of privacy at the time of the recording. *People v Newton* (1974) 42 CA3d 292, 116 Cal Rptr 690.

In an action against a city and an employee for damages for recordation of a telephone conversation between plaintiff and the employee concerning plaintiff's request to use the city council chambers for a meeting, the trial court did not abuse its discretion in denying plaintiff's oral requests, made immediately prior to trial and at the close of his case, for leave to amend to allege a violation of Pen. Code, § 632, proscribing the recording of a confidential communication without the consent of all parties to the communication, where plaintiff waited about year and a half before making the request, and where he failed to show how he could allege that a communication with a public employee concerning public business, such as use of the council chambers, could be confidential within the meaning of the statute. *Rogers v Ulrich* (1975) 52 CA3d 894, 125 Cal Rptr 306.

On a motion to dismiss an indictment charging defendant with recording a confidential communication without the consent of a party to the conversation (Pen. Code, § 632), the trial court erred in focusing upon the subjective expectations of the parties in regard to possible recommunication rather than upon the circumstances under which the conversation was conducted in order to determine whether the conversation had been a confidential communication. *People v Wyrick* (1978) 77 CA3d 903, 144 Cal Rptr 38.

In a prosecution of defendant for embezzlement from his partnership, a tape recording of a conversation between defendant and some general partners was not a confidential communication made inadmissible under Pen. Code, § 632, and the trial court properly admitted it into evidence. Whether a communications is confidential is a preliminary question of fact, and there was substantial evidence to support the trial court's finding that the recorded conversation was not a confidential communication, where the nature of the meeting and the manner in which it was carried was such that the trial court could reasonably conclude that it was no different than other business meetings of the parties that were not confidential. *People v Pedersen* (1978) 86 CA3d 987, 150 Cal Rptr 577.

In a criminal prosecution, the admission into evidence of tapes of defendant's conversations with his sister and brother-in-law while in jail did not violate defendant's rights under U.S. Const.,

Fourth Amend., the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C., §§ 2510-2520), the right to privacy under Cal. Const., art. I, § 1, or the California Invasion of Privacy Act (Pen. Code, §§ 630-637.2), where defendant failed to show that he had any reason to believe his communications were confidential and would remain private. The federal and state constitutional provisions apply only when parties to the communication have a "reasonable expectation of privacy" with respect to what is said. Similarly, the protection afforded by the statutes prohibiting the introduction into evidence of certain conversations, applies only to communications "uttered by a person exhibiting an expectation that the communication is not subject to interception under circumstances justifying such expectation" (18 U.S.C., §§ 2510(2), 2511), or to a communication that is intended to be "confidential" (Pen. Code, § 632, subd. (a)). *People v Estrada* (1979) 93 CA3d 76, 155 Cal Rptr 731.

Telephone bomb threats to state university police made by defendant did not constitute confidential communications within the meaning of Pen C § 632, prohibiting the recording of such conversations, and thus the trial court, in defendant's subsequent prosecution for possession of a destructive device or explosive in a public place, properly

denied defendant's motion to suppress evidence seized as a result of tape recordings of the telephone conversations. *People v Suite* (1980) 101 CA3d 680, 161 Cal Rptr 825.

4. Exclusion of Evidence

On appeal from convictions of solicitation to commit murder, the trial court's admission in evidence of conversations between a defendant and the persons solicited, recorded by those persons without police authorization, could not be successfully challenged under the provisions of Pen. Code, §§ 631, 632, making conversations recorded by private individuals without the consent of all parties inadmissible. Those provisions deny violators of the sections any personal benefit from the evidence so obtained but do not necessarily prevent the government from making use thereof, and, in any event, Pen. Code, § 633.5, specifically provides that the provisions shall not be "construed as rendering inadmissible in a prosecution for . . . any felony involving violence against the person, . . . any evidence so obtained." Moreover, any error in admitting the recordings was harmless beyond any doubt since the persons solicited testified at trial and could have testified to the conversations, and other recordings made by the police were equally damaging. *People v Ayers* (1975) 51 CA3d 370, 124 Cal Rptr 283.

§ 632a. [Added by Stats 1921 ch 171 § 1 p 179 and repealed by Stats 1933 ch 73 (F & G C § 1421) P 511.]

See F & G C § 5901.

§ 632b. [Added by Stats 1907 ch 239 § 5 p 304 and repealed by Stats 1925 ch 170 § 1 p 321.]

Note—There was another section of this number which was added by Stats 1909 ch 638 § 1 p 973 and repealed by Stats 1925 ch 169 § 1 p 321.

Former Section: Former § 632b, relating to taking fish near a hatchery, was added by Stats 1895 ch 202 § 22 p 261 and repealed by Stats 1897 ch 230 § 5 p 347.

§ 632b3. [Enacted 1872 and repealed by Stats 1911 ch 152 § 1 p 319.]

§ 632c. [Added by Stats 1917 ch 97 § 1 p 140 and repealed by Stats 1933 ch 73 (F & G C § 1421) p 511.]

See F & G C § 8430.

§ 632(4). [Added by Stats 1911 ch 58 § 1 p 74 and repealed by Stats 1933 ch 73 (F & G C § 1421) p 511.]

See F & G C § 5506.

still crowd

airport.
And it is a measure of Reagan's confidence in himself and his standing with the American people that he would so boldly absolve the military from accountability in the 241 deaths of Oct. 23.

It can be argued that it was the only thing for Reagan to do because it is increasingly apparent that he represents a small minority within his administration who fa-

but the Druze can."

One reason given is that he believes that the Syrians are Soviet surrogates and that withdrawal would occasion intolerable Kremlin crowing. Another is that he hasn't the faintest idea of how to get out without total loss of face.

A third may be that, to him, no price is too high to pay for what he regards as his ultimate responsibility—to restore respect for the United States around the world.

Former vice president Walter F. Mondale has not really been heard from since the Israelis marched into Lebanon over a year ago. Sen. John Glenn (D-Ohio) learned some time ago that any tilting toward Arab concerns is costly.

Sandro Pertini, the venerable and outspoken president of Italy, put the matter with uncommon bluntness in a meeting with reporters in Rome.

him until the United States quits Lebanon. Goodman sank like a stone in the national consciousness. Jackson brought him back up by proposing to go to Damascus to negotiate his release.

Immediately, the usual outcry went up, much of it from Democrats, about "interfering" with delicate diplomatic efforts toward the same end.

But the Reagan team played into Jack-

White House Expects No Reprimand

Wick Informs Reagan of His Secret Taping

By Lou Cannon

Washington Post Staff Writer

LOS ANGELES, Dec. 28—Charles Z. Wick, director of the U.S. Information Agency, called President Reagan Tuesday night to say that he had tape-recorded telephone conversations without informing the other party, White House spokesman Larry Speakes said today.

Speakes said that he did not know how Reagan responded. Wick, a former movie executive, is a long-time social friend of the Reagans.

In the daily White House briefing held here today while Reagan vacations in California, Speakes said that the president does not want Wick to resign, and added that what is done about the telephone calls is "up to Wick."

"I don't know whether he [Rea-

gan] really approves or disapproves," Speakes said when asked the president's opinion about Wick's actions. "I would judge he generally would not approve of it. He doesn't do it himself; it's not done in the White House—not since 1974."

Reporters greeted the latter comment with laughter, and Speakes joined in. He was a staff assistant in the press office during the administration of Richard M. Nixon, when the president made a practice of tape-recording Oval Office conversations.

The New York Times, in a report published today, said that it had obtained transcripts of some of Wick's telephone conversations in 1982, which his callers said must have been taped although they did not know it at the time.

Among those whose conversations had been recorded without their knowledge, the newspaper said, were Sen. Mark O. Hatfield (R-Ore.), Kenneth Adelman, currently the director of the U.S. Arms Control and Disarmament Agency, and Walter Annenberg, former U.S. ambassador to Britain. (Reagan and his wife, Nancy, are scheduled to attend the annual New Year's Eve party at the Annenberg estate in Palm Springs.)

Wick at first denied that he had surreptitiously taped telephone calls. But after six callers said that they had been secretly taped, Wick telephoned The Times to say that "a small percentage" of his conversations had been taped without the knowledge of the other party, the newspaper reported.

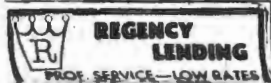
White House officials here made light of the incident and said that they did not expect Reagan to reprimand his friend.

A statement issued Tuesday on Wick's behalf by USIA spokesman Jim Bryant said that Wick began the taping in January, 1983, and continued it for "several months." However, The Times report said that the transcripts it obtained were of conversations taped in 1982.

Bryant said that he was unable to clarify the discrepancy about when the taping began and ended. He said that an employee of the telephone company who installed the taping device and who later disconnected it was on vacation and could not be located. Bryant added that the phone company employee's files are locked during his absence.



CHARLES Z. WICK
... at first denied surreptit



The Washington Post

WP, Wed. Dec. 28, 1983

...dumped near an ancient Miwok Indian village and burial site.

"Nobody's going to get hurt. This is going to be a freebie for the public," says project director Joe Davis of the Sonora Mining Corp., a subsidiary of the Canadian-based ABM Mining Group. But many residents aren't so sure.

"I'm not against progress or even against mining," said Joe Hurst, owner of the Hurst Feed and Fuel Co. of Jamestown. But

he said.

Miwok Indians in the area said they are concerned that Indian artifacts and burial grounds would be dug up, thrown away and lost.

But the area's unemployment rate is 14 percent, and bartender Nick Lewis says, "Jamestown has fallen and risen over the last 100 years because of mining. I know a lot of people who wouldn't care two cents about noise and pollution if they had a job to feed their families."

Wick Acknowledges Taping Phone Calls Until Last Year

Associated Press

Charles Z. Wick, director of the U.S. Information Agency, said last night that he sometimes tape-recorded his telephone calls but stopped doing so after his staff "raised concerns" about the practice.

In a statement read by USIA spokesman Jim Bryant, Wick said he "recorded a small percentage of my own incoming and outgoing telephone conversations with others, utilizing commercially available equipment. This was done solely to ensure accuracy and facilitate appropriate follow-through on the topics discussed, and for no other purpose."

The statement was prepared in apparent response to an interview Monday with The New York Times, which published a report on the taping in today's editions.

The Times said it had obtained transcripts of conversations Wick taped in 1982 with Sen. Mark O. Hatfield (R-Ore.); Kenneth L. Adelman, director of the Arms Control and Disarmament Agency; Walter H. Annenberg, former ambassador to Britain, and actor Kirk Douglas.

Wick said he "often advised the caller that I was recording the conversation or a portion of it, but in haste I did not do this consistently."

"When concerns about this practice of taping were raised by my staff, I recognized that in my desire to ensure accuracy and promote the mission of the agency, I may have been insufficiently sensitive to concerns some may have about the practice of recording telephone conversations; accordingly, I discontinued the practice."

Wick also said he "... meant no offense to anyone and apologize if any was taken."

Wick said he began the taping in January of this year and continued it for "several months." Bryant said he did not know whether anyone besides USIA staff members had their telephone calls taped or exactly when the taping was stopped.

In The Times interview, Wick said he had dismantled taping equipment attached to his office Dictaphone "a year ago or more" because "I didn't want it misunderstood" around the agency.

"I've never done it without telling somebody," the newspaper quoted Wick as saying about the taping. "I had it pulled out—I don't know, a year ago or more."

Wick said in the statement that he had transcripts made of the conversations and then erased the tapes for future use.

1976 Assassination

Chile's Airline Posts a Bond To Cover Letelier Liability

NEW YORK, Dec. 27 (UPI)—Chile's national airline posted a \$4 million bond today to cover the Chilean government's liability in the

In his order, Lasker noted that the airline is the "alter ego" of the Chilean government.

ASK
Out

How would you like to term life insurance? And If you're a non-smoker GEICO Annuity and Insurance of GEICO) has just introduced "Term Life Insurance." How much can you save? There's an easy way to and compare your current All it takes is a five-minute our rates are so low.

WE PUT GOOD H TOWOR

Everyone knows that shouldn't have to pay the Everyone knows the bigger quantities. you

White House Inquiring Into Taped Telephone Calls

By JANE PERLEZ

Special to The New York Times

WASHINGTON, Dec. 28—The White House said today that it was looking into the circumstances of the secret tape-recording of office telephone calls by the director of the United States Information Agency, Charles Z. Wick.

The White House counsel, Fred F. Fielding, said, "Obviously we're not ignoring the situation."

In California, where President Reagan is on vacation, his spokesman, Larry Speakes, said he believed the President "generally would not approve" of surreptitious taping of telephone calls.

Mr. Speakes said Mr. Reagan "does not wish Mr. Wick to resign." He added: "The point is that it is up to Mr. Wick as to what he does about recording phone calls. It is up to his agency about how they deal with it."

Concern About Political Effects

White House aides said they were concerned about the political repercussions of the secret taping. They said they were trying to determine how long Mr. Wick had been making tapes and if there were any tapes in his possession.

On Tuesday, Mr. Wick, who is a friend of the President, acknowledged that he had secretly taped telephone conversations. His statement came after an interview with The New York Times on Monday in which he repeatedly denied that he had recorded telephone callers without their consent.

The Times obtained transcripts of telephone conversations taped by Mr. Wick in 1982. Seven of the callers have said they did not know they were being taped.

In his acknowledgment, Mr. Wick said he began taping calls secretly last January and later discontinued the practice. He did not specify when he

stopped recording calls.

It is not a crime under Federal law or District of Columbia law for one party to tape-record a telephone conversation without telling the other. At least 13 states, including Florida, California and Maryland, have laws making the practice a crime, but there are court decisions in some states that construe the laws narrowly.

Reaction in Congress

On Capitol Hill, the chairmen of the Senate Foreign Relations Committee and the House Foreign Affairs Committee, which oversee the information agency, said they would inquire into Mr. Wick's taping.

Senator Charles H. Percy, Republican of Illinois, chairman of the Senate committee, said, "I have asked the staff to undertake an adequate study to see what procedures were used, to be sure we're exercising due diligence."

Representative Dante B. Fascell, Democrat of Florida, the acting chairman of the House committee, said, "We'll be investigating and taking appropriate action." He said he believed that taping telephone calls without telling the other party was "unwise, unethical and bad public policy."

Mr. Wick, who was said by his office to be "on vacation" at his home in the capital, postponed a planned trip to California. He was on the telephone with staff aides today and also spoke to Mr. Percy. James Bryant, a spokesman for Mr. Wick, said the director "would have no comment" on the White House statements or other questions.

Among those who say their phone conversations were taped by Mr. Wick without permission were Walter H. Annenberg, the publisher and former United States Ambassador to Britain; Senator Mark O. Hatfield, Republican

of Oregon, chairman of the Senate Appropriations Committee; Kenneth Adelman, director of the United States Arms Control and Disarmament Agency; the actor Kirk Douglas and Jeffrey Bell, the Republican candidate in New Jersey last year for the United States Senate. Caspar Weinberger Jr., the son of the Defense Secretary, who worked for Mr. Wick last year, and Geoffrey Swaabe, the United States Ambassador to Belgium, were also taped without their knowledge.

In his acknowledgment of the taping, Mr. Wick apologized, saying that "upon reflection I can understand how some might find it intrusive." He added, "I meant no offense to anyone and apologize if any was taken."

In the interview at his home on Monday, Mr. Wick said he had taped the conversations to increase efficiency.

"I recognized in my desire to insure accuracy and promote the mission of the agency I may have been insufficiently sensitive to concerns some may have about the practice of recording telephone conversations," he said.

Mr. Fielding, the White House counsel, who approved Mr. Wick's Tuesday statement before its release, said he did not find it an "acceptable practice" to tape a telephone conversation secretly, even for reasons of efficiency.

Asked what the penalty would be for such a practice, Mr. Fielding replied, "It would depend on the circumstances." He acknowledged that Mr. Wick had said in the past that he would resign if he caused embarrassment to the Administration or the President.

Asked about the discrepancy of dates between Mr. Wick's assertion that he had started secretly taping in January this year and the transcripts dated in 1982 made available to The Times, Mr. Fielding said he could not attest to the veracity of Mr. Wick's dates.

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NYT, Wed. Dec. 28, 1983



United Press International

Pope John Paul II meeting with Mehmet Ali Agca, the man who tried to kill him in 1981, in a Rome prison.

POPE MEETS IN JAIL WITH HIS ATTACKER

Two Converse 'as Brothers' in
Agca's Prison Cell in Rome

By HENRY KAMM

Special to The New York Times

ROME, Dec. 27 — Pope John Paul II and the gunman who gravely wounded him in 1981 sat in a prison cell for 20 minutes today, alone, in quiet conversation.

"What we said to each other is a secret between him and me," the Pope told reporters after the meeting. "I spoke to him as I would speak to a brother whom I have forgiven and who enjoys my confidence."

A Vatican spokesman, the Rev. Pierfranco Pastore, said the assailant, Mehmet Ali Agca, knelt and kissed John Paul's ring as the Pope rose to leave. Mr. Agca is a 25-year-old Turkish Moslem. Prison guards and papal officials observed the meeting from a corridor outside the open cell, but the two men spoke with such low intensity that they could not be heard.

Serving Life Sentence

The Pope publicly forgave his assailant, who is serving a life sentence, from his sickbed four days after the shooting in St. Peter's Square on May 13, 1981. Mr. Agca has publicly expressed his repentance. But the two men had not been so close to each other since that day when the gunman struck the Pope with two bullets fired from a pistol at close range as John Paul was driven through a crowd of 10,000 people attending his weekly general audience.

Speaking to inmates in the women's section of Rebibbia Prison after his

Continued on Page A4, Column 3

U.S.I.A. Director Acknowledges Taping Telephone Calls in Secret

The following article is based on reporting by William Safire and Jane Perlez and was written by Miss Perlez.

Special to The New York Times

WASHINGTON, Dec. 27 — The director of the United States Information Agency, Charles Z. Wick, has secretly tape-recorded his office telephone conversations with Government officials, his staff and friends, according to his aides and to transcripts of the conversations.

In an interview on Monday, Mr. Wick denied that he had taped telephone calls surreptitiously, saying he had always informed the other party when a conversation was being recorded.

After six of his callers said they had been secretly taped, Mr. Wick telephoned a statement to The New York Times late today saying that starting in January of this year, he recorded "a small percentage" of his telephone conversations and had not always informed the other party.

Practice Discontinued, He Says

The statement, which he said had been approved by the White House counsel, Fred F. Fielding, said that the practice had been discontinued, but it did not say when.

"I often advised the caller that I was recording the conversation or a portion of it, but in haste I did not do this consistently," Mr. Wick's statement said. "I may have been insufficiently sensitive to concerns some may have about the practice of recording telephone conversations; accordingly I discontinued the practice."

No Federal or District of Columbia statute makes it a crime for one party to tape a telephone conversation without the knowledge or the consent of another. But legal experts say that at least 13 states, including California,

Florida and Maryland, have criminal statutes prohibiting such taping.

The New York Times has obtained transcripts of some of Mr. Wick's telephone conversations, which all took place in 1982, that his callers say must have been taped, although they did not

Continued on Page D17, Column 4

U.S. Steel to Cut 3 Plants to Be Closed

By STEVEN GREEN

Special to The New York Times

PITTSBURGH, Dec. 27 — The United States Steel Corporation, the nation's largest steelmaker, announced today that it was closing three plants and parts of more than a dozen others, eliminating 15,430 jobs.

Most of the steelmaking facilities at Chicago's 102-year-old South Works complex will be idled, and the Cuyahoga Works in Cleveland, a wire plant in Trenton and a specialty steel products plant in Johnstown, Pa., will be shut.

The closings will reduce the Pittsburgh-based company's steelmaking capacity by 16 percent, accelerating the shrinkage of the nation's steel industry in the face of competition from low-priced imports and the small non-union steelmakers that have developed in the last decade.

Concessions Were Sought

The closings, which will be effective next April, followed weeks of efforts by the company to extract concessions from the workers that would make the plants more competitive. The company's decision will intensify the economic hardship of the steelworkers and the steel communities and is another in

Where They Stand

Jackson's Plan Stresses

...relate to company pro-
...look for a physics back-
...semiconductors, for ex-
...e said. "We stress the im-
...of a modern background
...in a particular discipline.
...refer law firm experience."
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...r. Massengill and Mr. Mar-
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...rate for attorneys of about
...a year," he said. "It
...its policy and began to hire
...miners with an engineering
...nd."

...two corporate officials are
...ntly hiring, their former em-
...according to Cynthia Nel-
...patent office. She holds the
...supervisory personnel classi-
...and staffing specialist.
...ave been hiring patent ex-
...who may or may not have
...rees," she said. "The pri-
...alification is an engineering
...al sciences background," by
...e means majors in areas like
...chemistry, astronomy.
...with superior grades from
...leges can start at around
...and within five years might
...re than \$42,700.
...dd, "The Government can
...job-related training, which
...they could take some law
..." She added that chemistry
...with biological training were
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...e current fiscal year, which
...Oct. 1, the patent office ex-
...hire 180 examiners. In the
...year, about 245 were hired.
...m is to whittle down some of
...e backlog of patent applica-
...We also are hiring some attor-
...he said, explaining that they
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...ve high grades and suitable
...courses.

Steel Output Down by 6.8%

...el production fell to 1.6
...n tons in the holiday-
...ened week ended last
...day, a decrease of 6.8 per-
...from the previous week's
...million tons, the American
...and Steel Institute said
...lay.
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...y during the week, down
...59.5 percent in the previ-
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...timated figures for the
...to date showed production
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...e of 17.2 percent from the
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...terstate or international calls may vio-
...late a seldom-enforced Federal Com-

...cases involving interstate or interna-
...tional calls.

...authority to prohibit
...Congress had not prohibited.

U.S.I.A. Chief Says He Taped Phone Calls Secretly

Continued From Page A1

know it at the time.

Transcripts were read to Senator Mark O. Hatfield, Republican of Oregon and chairman of the Senate Appropriations Committee; Kenneth L. Adelman, the director of the United States Arms Control and Disarmament Agency, and Walter H. Annenberg, former Ambassador to Britain. They all said they recalled the conversations but said they had not been told by Mr. Wick they were being taped.

Kirk Douglas Spoke to Him

The actor, Kirk Douglas, Caspar W. Weinberger Jr., the son of the Defense Secretary, who worked for Mr. Wick at the agency, and the Ambassador to Belgium, Geoffrey Swaabe, whose conversations were taped and transcribed in 1982, said they were not informed of the taping.

Mr. Wick, who is a close friend of President Reagan and who with his wife spent Christmas Day with Mr. and Mrs. Reagan at the White House, said in the Monday interview that he had dismantled the taping equipment attached to his office Dictaphone "a year ago or more" because "I didn't want it misunderstood" around the agency.

"I've never done it without telling somebody," Mr. Wick said on Monday of the taping. "I had it pulled out — I don't know, a year ago or more."

Mr. Wick's executive assistant, Robert L. Earle, 32 years old, asked whether Mr. Wick surreptitiously taped calls, said: "I have the impression that such a thing happened." He added: "I'm not aware of a specific instance where the director taped a call without warning."

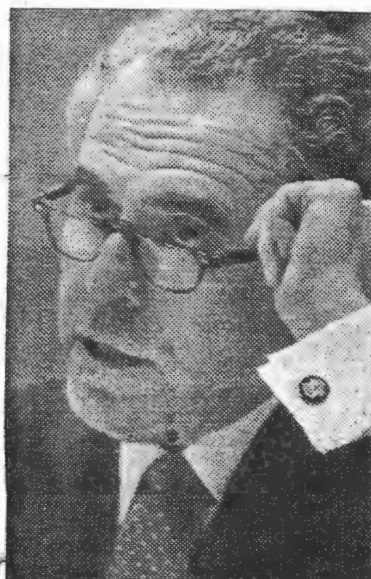
Mr. Earle, who is a Foreign Service officer, said that he had warned Mr. Wick that such a practice was an invasion of privacy and "in nobody's interest." Mr. Earle said he believed that Mr. Wick had "no intention to subvert anything, he just pushed himself to the physical limit to find out what's going on."

In the interview with Mr. Wick, which took place in his rented home in the Northwest section of the capital, the director, who is 66, said that he was an inveterate user of a Dictaphone.

He said that when the agency moved into a new building in May, the Dictaphone system he had used in his previous office was moved into his new office. He said it was a Dictaphone purchased with Government funds.

The district manager of Dictaphone in Washington, Daniel J. Hilbert, said an examination of his files showed that Mr. Wick's office had bought a "micro-cassette desktop Dictaphone unit, Model 3891" which was capable of making recordings of telephone conversations. The telephone recording on this model is activated by a light touch of the finger on a control.

Asked if he had any audio tapes made from telephone conversations in his possession, Mr. Wick, who is a lawyer, replied: "Not to my knowledge." When



The New York Times

Charles Z. Wick

the question was repeated, Mr. Wick said: "It's not my practice to have them."

Mr. Wick, who angrily refused to continue the interview after 15 minutes, acknowledged that he had been warned "some time ago" by Jonathan W. Sloat, then the general counsel to United States Information Agency, that he should not tape without permission.

He Concludes It Is Illegal

"That's when I became concerned about how it might look with some of the word going around," Mr. Wick said. The director said he had then examined the laws and regulations concerning taping and had reached the conclusion that it was illegal to tape over the telephone without the other party's permission.

Although such taping is not illegal under Federal statutes, the American Bar Association and many state bar associations say it is unethical for a lawyer to tape a telephone conversation without the permission of all participants.

Asked specifically if he had secretly taped Mr. Hatfield, Mr. Adelman and Mr. Annenberg, Mr. Wick said he had not.

According to current and former aides, Mr. Wick's office procedure called for daily notes to be typed from cassettes from his Dictaphone. Copies of some of these, dated March 1982 to March 1983, came into the possession of The New York Times.

They Mostly Involve Thoughts

They consisted primarily of Mr. Wick's own dictation of "thoughts in the middle of the night" and thoughts in the office, and telephone conversations, according to Mr. Earle.

These cassettes were transcribed by one of Mr. Wick's secretaries and the transcriptions were marked into what the office called "action requests" and distributed to members of his staff for follow-up, according to present and former aides.

The transcriptions were titled "CZW Daily Notes" and some of them contained verbatim transcripts of telephone conversations, such as those with Senator Hatfield, Mr. Adelman, Mr. Annenberg, Mr. Douglas and the younger Mr. Weinberger.

Senator Hatfield, after being read a transcript of a conversation about a John Adams quotation on the American Revolution with the director in October 1982, said he remembered talking to Mr. Wick. "I never knew that I was being recorded," said Mr. Hatfield. "I would have liked to know whether I was being recorded. I don't appreciate it."

Mr. Adelman, who according to a transcript also spoke to Mr. Wick in October 1982, said he recalled the conversation, which was about the nuclear freeze, but did not know of the taping. "I am surprised," he said.

Also in October last year, the tran-

scripts show, Mr. Wick spoke to Mr. Annenberg about policy on unemployed automobile workers. Mr. Annenberg, who has invited Mr. Wick to his annual New Year's Eve party with the President and top Administration officials, said he had no idea he was being taped. "To my memory, nobody — nobody — has ever asked my permission to record a conversation with me," Mr. Annenberg said.

Mr. Wick taped the younger Mr. Weinberger in March 1982 regarding his job performance. Mr. Weinberger said he had no knowledge of the taping but did not find anything unusual about it. "I am not bothered by it," Mr. Weinberger said.

One of the transcribed telephone conversations made available to The Times showed that Mr. Wick spoke to Ambassador Swaabe while he was at United States Mission to the European office of the United Nations in November 1982.

Conversation About Linkletter

Mr. Swaabe, now Ambassador to Belgium, who described himself as a long-time friend of Mr. Wick, said he recalled the conversation, about the visit of the entertainer Art Linkletter to the Swaabe home in Geneva. He said he could not remember if Mr. Wick had informed him that he was being taped.

But Mr. Swaabe said he was not particularly surprised that Mr. Wick had taped the conversation. "He has a habit of making it very public," Mr. Swaabe said of Mr. Wick's taping in his office. "I'm not sure as close as we are that he would find it necessary to say it to me" over the telephone.

Mr. Douglas, reached at his home in Palm Springs, said that he did not know that a conversation with Mr. Wick about his overseas trips on behalf of the agency had been taped. Mr. Douglas added that while in principle he thought an individual should be informed, he was being taped in a telephone conversation. "Frankly, from my point of view I don't care."

Another transcription involved a former director of the United States Information Agency, Leonard H. Marks. According to the transcript, he told Mr. Wick last December how he had acted as an intermediary between Mr. Wick and the Foreign Minister of Sri Lanka concerning a matter before the General Assembly.

Mr. Marks, who is a friend of Mr. Wick, said that he had advised Mr. Wick to tape the conversation "so that he could share it with his general counsel and others."

President's Aides File Papers for 2 Primaries

By United Press International

Representatives of President Reagan filed legal papers today to qualify him to become a candidate in the Republican Presidential primaries in New Hampshire and Illinois.

Although Mr. Reagan became a legal candidate in the two states, he has yet to make any oral declaration that he will seek re-election. Mr. Reagan is to announce his plans Jan. 29.

In Illinois, former Vice President Walter F. Mondale, Senator Alan Cranston of California and the Rev. Jesse Jackson, filed today for the Democratic Presidential primary. The Illinois primaries are to be held March 20, and today was the first day candidates could file.

The co-chairman of Mr. Reagan's Illinois campaign effort, Representative Lynn Martin, took petitions with 5,000 names to election board offices in Springfield. His state campaign chairman, Gov. James R. Thompson, was not present.

Representative Martin said, "This does not mean he has to be a candidate, but without his signature he would not be able to appear on the Illinois ballot."

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Opinions Differ on Law in Taping Phone Calls

By STUART TAYLOR Jr.

Special to The New York Times

WASHINGTON, Dec. 27 — For many years the tape-recording of conversations by one participant without the knowledge of the other has been a source of contention, a crime in some states but not in others, and generally under an ethical cloud.

The most celebrated case was President Nixon's use of a hidden taping system to record his conversations in the White House. This apparently was not a crime in itself but it provided the evidence in the Watergate coverup that led to his resignation.

Charles Z. Wick, director of the United States Information Agency, today acknowledged the accuracy of allegations that he had tape-recorded some of his telephone calls without informing the other parties and had asserted that the practice "is not illegal."

In an interview on Monday, Mr. Wick had emphatically denied the allegations while asserting that it would be "illegal without the person's permission" to tape a conversation surreptitiously.

Law Is Complicated

The law is more complicated than either of Mr. Wick's contradictory analyses of it. The legality of taping a telephone conversation without the consent of the other party depends primarily on where the parties to the conversation are, and in some cases who they are.

It is not a crime under Federal law or District of Columbia law for one party to tape-record a telephone conversation without telling the other. But it is a crime under state law in Florida, California, Maryland and at least nine other states. In Florida, for example, such taping is a felony punishable by up to five years in prison and a \$5,000 fine.

Surreptitious taping of calls made on Federal Government telephones may violate a General Services Administration regulation that generally bars such taping. And surreptitious taping of interstate or international calls may violate a seldom-enforced Federal Com-

munications Commission requirement in telephone company tariffs that a periodic beep be sounded to give notice of the taping.

In addition, an opinion of the American Bar Association Committee on Ethics and Professional Responsibility in 1974 stated that it was unethical for a lawyer to use an electronic device to record a conversation without the consent or prior knowledge of all parties to the conversation. Mr. Wick is a lawyer.

Many civil liberties experts and others concerned about the rights of privacy consider surreptitious taping to be morally offensive even when legal.

The Federal Omnibus Crime Control and Safe Streets Act of 1968 generally made it a crime for a third party to tap a telephone conversation or use an electronic bug to record or eavesdrop on a conversation without the consent of one of the parties to the conversation, unless the recording is carried out by law-enforcement officers under a judicial warrant.

What the Law Specifies

But this law specified that it is not a Federal crime for one participant in a conversation to record it or to allow a third party to do so without telling the other participants. The rationale is that a person must assume the risk of being betrayed by people to whom he or she willingly speaks.

The states are free, however, to go beyond the Federal law and make it a crime for any party to a conversation to record it without the consent of all others. Most states have not done so, according to Victor A. Kovner, a New York lawyer specializing in communications law. Those that have done so include Delaware, Georgia, Illinois, Massachusetts, Michigan, Montana, New Hampshire, Pennsylvania and Washington as well as Florida, California and Maryland.

Tricky legal questions could arise in cases involving interstate or international calls.

Thus, if a person in Washington surreptitiously taped a long-distance call with an acquaintance in Florida, there would apparently be no crime because there is no law prohibiting the practice in the District of Columbia, where the recording was done.

But if the person in Florida recorded the same conversation without telling the acquaintance in the District of Columbia, he or she might be committing a crime under Florida law.

In the bar association opinion in 1974 the ethics committee said that under the Code of Professional Responsibility as adopted in most states and the District of Columbia, "secret recording by attorneys of conversations of any persons is unethical even though legal under Federal law," except in special law-enforcement contexts.

'Conduct Involves Dishonesty'

The committee said that electronic recording without the consent of all parties constituted "conduct which involves dishonesty, fraud, deceit or misrepresentation" proscribed by legal ethics rules.

The General Services Administration rule prohibits secret recording of conversations on Federal Government telephones with certain narrow enumerated exceptions. It is not clear what sanctions would be appropriate for a violation.

A Federal Communications Commission "tariff" dating from 1947 requires telephone companies to prohibit recording of interstate and international telephone conversations unless all parties consent or a beep is sounded every 15 seconds. The most severe sanction for violation would be termination of telephone service.

The commission proposed in October that this tariff be repealed, in part because it was virtually impossible to detect such recording or otherwise to enforce the tariff, and in part because of concern that the agency might not have authority to prohibit a practice that Congress had not prohibited.



Richard Bennett

tional Trade Commission against three Japanese companies and a German company. They were importing material under the name Metglas, which is our trademark for amorphous metals." He explained that such metals solidify so rapidly under application of fast chilling that the metal does not form a crystal.

"Metglas has unique magnetic properties, great hardness, is ductile and not brittle," he continued. "We have put 13 years of work on this and have 200 patents."

His patent department obviously is busy. "Our company does about \$450 million in research each year and we handle about 2,000 possible patents," he said. "We apply for about 450 patents each year. We use about 25 percent of our patents to support our proprietary position."

At Honeywell Inc., there are 27 patent attorneys under the aegis of L. Joseph Marhofer, vice president and patent counsel. He is not sure about the current demand-supply situation for patent attorneys.

"We are not hiring any at present," he said last week, and when he does hire a new patent attorney, he seeks a background related to company products. "We look for a physics background for semiconductors, for example," he said. "We stress the importance of a modern background rather than a particular discipline. We also prefer law firm experience."

His department might handle three

to the trend toward technology.

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U.S.I.A. Chief Says He Taped Phone Calls

To John
Date 1/2/29 Time 4:55

WHILE YOU WERE OUT

M Larry Seares
of Wiley Johnson &
Phone 429-7010

	Area Code	Number	Extension
TELEPHONED	☒	PLEASE CALL	☒
CALLED TO SEE YOU	☐	WILL CALL AGAIN	☐
WANTS TO SEE YOU	☐	URGENT	☐
RETURNED YOUR CALL		☐	

Message _____

Operator ala

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n developing a "Japa-

nese connection." It tried its own
deal with Toyota a few years ago,
jointly produces cars and trucks with
Toyo Kogyo throughout the world and
later this decade it may bring parts of
Japanese cars to Mexico for assem-
bly and shipment to the United States.
American Motors is controlled by Re-
nault, which is owned by the French
Government.

Far from being a sign of G.M.'s
power and domination of the United
States market, the joint venture is a
direct admission that even G.M. can-
not handle a complex, totally global
market alone.



Richard Basil Mock

n War

ding supplies through
n should also do its ut-
re that economic, medi-
ational aid gets through
Finally, we must help
istan's economic prob-
grade our military aid to
which faces continued

the Russians and the Afghan resist-
ance leaders in direct negotiations. If
we merely increased military aid to
the resistance without making diplo-
matic overtures, we would risk seri-
ous military escalation and greater
devastation. Only with a two-track
policy can we hope to bring about a
"Finlandized" Afghanistan.

The Russians have not ruled out
such a solution, but American efforts
are necessary to promote a turn-
around. The United States must step
up its efforts to open a window of op-
portunity for compromise on Af-
ghanistan.

ESSAY

The Wick Tapes (I)

By William Safire

WASHINGTON, Dec. 28 — On Mon-
day of this week, Charles Wick, direc-
tor of the United States Information
Agency, flatly and repeatedly denied
that he had been secretly taping
many of his telephone conversations.

In an interview in his home, New
York Times reporter Jane Perlez and
I asked America's chief propagandist
if he had been surreptitiously taping
his callers. Mr. Wick's answer: "I've
never done it without telling." That
was untrue.

Did he ever tape Senator Mark Hat-
field? "Absolutely not." Again his
answer was untrue. Did he ever tape
Reagan intimate Walter Annenberg?
"No." Untrue. Did he insert or play
these secretly recorded telephone
conversations into his recorded daily
notes? "No, not at all." Untrue.

When asked if he had done any se-
cret taping when in the state of Flor-
ida — "no" — or in the state of Cali-
fornia — "not without permission" —
he abruptly terminated the interview.
"I just don't think it makes any sense
for me," said the coldly furious Mr.
Wick, "to sit here and be listening to
this stuff or try to answer this stuff."
He showed us to the door.

In the next 24 hours, we read tran-
scripts to some people who had been
secretly taped when the U.S.I.A. direc-
tor touched a button on the Dictaphone
equipment attached to his telephone
(more sophisticated than the device
used a dozen years ago by John Ehr-
lichman, but the same principle). All
verified the conversations, and all but
one — Leonard Marks, a former
U.S.I.A. head — said that they had not
been informed of the recording. Walter
Annenberg then told Mr. Wick what he
had truthfully told The Times.

Mr. Wick received advice from
friends, nervous aides worried about
their foreign service careers, and Ad-
ministration lawyers familiar with
the Watergate adage that the coverup
is worse than the deed. His first reac-
tion had been to deny the truth, but
since the evidence to the contrary
was irrefutable, it was probably
pointed out to him that his position
was untenable.

Late Tuesday afternoon, his secre-
tary called with a prepared statement
telling quite a different story: "From
January 1983 until [date not sup-
plied], I recorded a small percentage
of my own incoming and outgoing
telephone conversations with others.
... I often advised the caller that I
was recording the conversation or a
portion of it, but in haste I did not do
this consistently." He allowed that he
"may have been insufficiently sensi-
tive to concerns some may have" and

apologized to those who took offense.

Would Mr. Wick have changed his
story if we did not have hard evidence
to the contrary? Mr. Wick hopes that
his new position, expressing mild con-
trition for the "few tapes" that he
says were then "erased for further
use," will lay the story of the Wick
tapes to rest; in fact, it has only just
begun.

He refuses to continue the inter-
view with The Times because, ac-
cording to his aide, "your predisposi-
tion is not conducive to a constructive
conversation." He's right: We are
predisposed to expect truthful an-
swers from Government officials,
even when they are not under oath.
Some questions we have been unable
to ask are:

Have any notes or tapes been de-
stroyed in Mr. Wick's office or at his
home in the last two weeks? Why have
his aides destroyed records of his daily
notes that Government regulations
may require be held for three years?
Did he tape what his notes indicate
was a call to the F.B.I. director, Wil-
liam Webster, about a leaked memo
on Nov. 13, 1981; a call to Nancy Rea-
gan about a youth project on June 24,
1982; or a suggestion from John DeLo-
rean on June 8, 1982, on how to "help
America"?

Why has he admitted to secretly
taping only since Jan. 1, 1983, when
transcripts show he was taping
through much of 1982?

Does he have any tapes that have not
yet been transcribed? (Asked Monday
if he had tapes in his possession, Mr.
Wick stopped saying "no" and re-
sponded with a more careful "not to
my knowledge." Asked what that law-
yerly answer meant, he replied cau-
tiously, "It could mean that it's not my
practice to have them." One interpre-
tation of that answer is that on excep-
tional occasions he might have them.)
And on that misleading Monday, he
unequivocally denied that he had ever
secretly taped the President or James
Baker; we do not yet know how much
of that is true.

More is to come. The right-wing
whistle-blowers who responded to a
help-wanted ad in this space two
weeks ago for evidence of surrepti-
tious taping in a leak-obsessed Admi-
nistration are surely not finished yet.

The man charged with maintaining
the credibility of America's voice in
the world — the impresario of
"Project Truth" — turned out to be,
under pressure, an instinctive avoider
of the truth. And a charter member of
the Reagan anti-leak gang may be the
souvenir hunter responsible for the
most embarrassing leaks of all.

§ 101-37.311 Listening-in or recording of telephone conversations.

This section describes the limited circumstances under which listening-in or recording of telephone conversations may be performed by Federal agencies and prescribes policies that limit the practice within the Federal Government.

NOTE: The provisions of this § 101-37.311 do not apply to telecommunications monitoring conducted in accordance with Executive Order 12036. Nothing in this regulation shall be construed as authorization for the listening-in or recording of any telephone conversations for the purpose of committing any criminal or tortious act in violation of the Constitution of the laws of the United States.

[46 FR 19472, Mar. 31, 1981]

§ 101-37.311-1 Definitions.

(a) "Consensual" means that one party to a telephone conversation has given prior consent to the interception or recording of the conversation.

(b) "Nonconsensual" means that none of the parties to a telephone conversation has given consent to the interception or recording of the conversation.

(c) "Listening-in devices" as used in this subpart means such devices that can intercept any telephone communication and be used to listen-in and/or record telephone conversations without the knowledge of one or more of the parties to the conversation.

(d) "Determination" means a written document (usually a letter) that specifies the operational need for listening-in or recording of telephone conversations, indicates the specific system and location where it is to be performed, lists the number of telephones and/or recorders involved, establishes operating times and an expiration date, and justifies the use. It is signed by the agency head or the agency head's designee.

[46 FR 19472, Mar. 31, 1981]

§ 101-37.311-2 Nonconsensual listening-in or recording.

Nonconsensual listening-in or recording of telephone conversations shall be authorized and handled in accordance with the requirements of the

Omnibus Crime Control and Safe Streets Act of 1968, as amended (18 U.S.C. 2510 et seq.), and the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

[46 FR 19473, Mar. 31, 1981]

§ 101-37.311-3 Consensual listening-in or recording.

Consensual listening-in or recording of telephone conversations on the Federal Telecommunications System or any other telephone system approved in accordance with the Federal Property and Administrative Services Act of 1949, section 201(a) (1) and (3) (40 U.S.C. 481(a) (1) and (3)), and implementing regulations thereof is prohibited except under the following conditions:

(a) When performed for law enforcement purposes in accordance with procedures established by the agency head, as required by the Attorney General's Guidelines for Administration of the Omnibus Crime Control and Safe Streets Act of 1968, and in accordance with procedures established by the Attorney General.

(b) When performed for counter-intelligence purposes and approved by the Attorney General or the Attorney General's designee.

(c) When performed by any Federal employee for public safety purposes and when documented by a written determination of the agency head or the designee citing the public safety needs. The determination must identify the segment of the public needing protection and cite examples of the hurt, injury, danger, or risks from which the public is to be protected. Examples of these practices are police and fire department operations, air traffic safety control, and air/sea rescue operations.

(d) When performed by a handicapped employee, provided a physician has certified (and the head of the agency or designee concurs) that the employee is physically handicapped and the head of the agency or designee determines that the use of a listening-in or recording device is required to fully perform the duties of the official position description. Equipment shall be for the exclusive use of the handicapped employee. The

records of any interceptions by handicapped employees shall be used, safeguarded, and destroyed in accordance with appropriate agency records management and disposition systems.

(e) When performed by any Federal agency for service monitoring but only after analysis of alternatives and a determination by the agency head or the agency head's designee that monitoring is required to effectively perform the agency mission. Strict controls must be established and adhered to for this type of monitoring. (See § 101-37.311-4 on agency responsibilities for minimal procedures.)

(f) When performed by any Federal employee with the consent of all parties for each specific instance. This includes telephone conferences, secretarial recording, and other acceptable administrative practices. Strict supervisory controls shall be maintained to eliminate any possible abuse of this privilege. The agency head or the agency head's designee shall be informed of this capability for listening-in or recording telephone conversations.

[46 FR 19473, Mar. 31, 1981]

§ 101-37.311-4 Agency responsibilities.

Each agency shall ensure that:

(a) All listening-in or recording of telephone conversations as defined in § 101-37.311-3 (c), (d), or (e) shall have a written determination approved by the agency head or the agency head's designee before operations.

(b) Service personnel who monitor listening-in or recording devices shall be designated in writing (see § 101-37.311-3(e)) and shall be provided with written policies covering telephone conversation monitoring. These policies shall contain at a minimum the following instructions:

(1) No telephone call shall be monitored unless the Federal agency has taken continuous positive action to inform the callers of the monitoring.

(2) No data identifying the caller shall be recorded by the monitoring party.

(3) The number of calls to be monitored shall be kept to the minimum necessary to compose a statistically valid sample.

(4) Agencies using telephone instruments that are subject to being monitored shall conspicuously label them with a statement to that effect.

(5) Since no identifying data of the calling party will be recorded, information obtained by the monitoring shall not be used against the calling party.

(c) Current copies and subsequent changes of agency documentation, determinations, policies, and procedures supporting operations under § 101-37.311-3 (c), (d), or (e) shall be forwarded before the operational date to the General Services Administration (CPEP), Washington, DC 20405. Specific telephones shall be identified in the documentation and/or determination to prevent any possible abuse of the authority.

(d) Procedures for monitoring performed under § 101-37.311-3(a) (law enforcement) shall contain at a minimum:

(1) The identity of an agency official who is authorized to approve the actions in advance;

(2) An emergency procedure for use when advanced approval is not possible;

(3) Adequate documentation on all actions taken;

(4) Records administration and dissemination procedures; and

(5) Reporting requirements.

(e) Requests to the General Services Administration for acquisition approval and/or installation of telephone listening-in or recording devices shall be accompanied by a determination as defined in § 101-37.311-1(d).

(f) A program is established to re-evaluate at least every 2 years the need for each determination authorizing listening-in or recording of telephone conversations.

[46 FR 19473, Mar. 31, 1981]

§ 101-37.311-5 GSA responsibilities.

(a) GSA's Automated Data and Telecommunications Service, Office of Policy and Planning (CPEP), will be accountable for information concerning the use of listening-in or recording of telephone conversations in the Federal Government as requested under § 101-37.311-3 (c), (d), and (e).

(b) GSA will periodically review the listening-in programs within the agencies to ensure that agencies are complying with the intent of the Federal Property Management Regulations.

(c) GSA will provide assistance to agencies in determining what communications devices and practices fall within the listening-in or recording category; i.e., those that have the capacity to listen in, monitor, or intercept telephone conversations. GSA will also help develop administrative alternatives to the listening-in or recording of telephone conversations. Requests for assistance shall be addressed to: General Services Administration (CT), Washington, DC 20405.

(d) GSA will take appropriate steps to obtain compliance with this regulation if an agency has not documented its devices in accordance with this section.

[46 FR 19473, Mar. 31, 1981]

§ 101-37.312 Toll-free telephone service.

For the purpose of this subpart, toll-free telephone service is any incoming intercity circuit arrangement that allows the public to make long-distance telephone calls to authorized locations at Government expense. This intercity circuit arrangement includes but is not limited to Inward Wide Area Telephone Service (INWATS or dial 800) and foreign exchange (FX) circuits. The service is usually used for providing or obtaining information concerning Government programs, such as social welfare, disaster aid, veterans affairs, income tax, or health. Intercity toll-free telephone service shall be established only when the service is:

(a) Essential to mission accomplishment; (b) necessary to meet program requirements; or (c) required by statute, Executive order, or other regulation.

[46 FR 7983, Jan. 26, 1981]

§ 101-37.212-1 Agency responsibilities

(a) The acquisition and management of intercity toll-free telephone service should be centrally managed within executive agencies to the greatest extent practicable. Prior approval of a responsible agency official shall be ob-

tained for the acquisition of toll-free services.

(b) The requirement for intercity telephone service must be approved by GSA. (See § 101-37.203(b) for justification requirements.)

(c) An annual review of incoming intercity toll-free telephone services shall be conducted in accordance with agency procedures. The results of these reviews shall be retained in agency files. As a minimum, this review shall address:

(1) The need for continuing the service at the same level,

(2) Whether the existing toll-free service is the most cost effective method of satisfying the requirement, and

(3) Whether the intended program objectives are being achieved.

[46 FR 7983, Jan. 26, 1981]

§ 101-37.312-2 GSA responsibilities.

(a) GSA maintains a record of all toll-free service requests. The request lists the name of the agency, reasons for the circuits, type of service, number of circuits, terminations, and cost. This record provides a current, central, Government-wide source for managing, engineering, budgeting, and planning; and for public and congressional inquiries.

(b) GSA (CT) will assess the technical and operational efficiency and the cost of the requested toll-free service. The purpose of the assessment is to ensure that the requested service is the most effective and/or economical arrangement from the standpoint of the Government's interest relative to the specialized requirement.

[46 FR 7983, Jan. 26, 1981]

§ 101-37.313 Use of line identification equipment.

Line identification equipment may be installed on FTS telephone facilities to assist Federal law enforcement agencies to investigate threatening telephone calls, bomb threats, and other criminal activities. No invasion of privacy is involved, and the use of this equipment does not violate the Privacy Act of 1974 or any Federal or State wiretap laws; e.g., title III of the

Omnibus Crime Control and Safe Streets Act of 1968. Information and assistance may be obtained from General Services Administration (CT), Washington, DC 20405.

[46 FR 19474, Mar. 31, 1981]

Subpart 101-37.4—Contracting, Negotiation, and Representation Involving Telecommunications Services

§ 101-37.401 General.

Contracting, negotiation, and representation functions for executive agencies for telecommunications services shall be undertaken pursuant to this Subpart 101-37.4. All actions authorized by this subpart are further subject to the requirements of Subpart 101-37.2, to the extent they apply.

[35 FR 82, Jan. 3, 1970. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.402 Contracting.

[35 FR 82, Jan. 3, 1970. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.402-1 Types of contracts.

GSA will enter into areawide, general-purpose, and special-purpose contracts for telecommunications services to executive agencies as indicated in this section. GSA has special statutory authority for entering into long-term contracts not to exceed 10 years. GSA will enter into appropriate contracts with communications common carriers, upon request, when it has been determined that such contracts are advantageous to the Government in terms of economy, efficiency, and service.

[35 FR 82, Jan. 3, 1970. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.402-2 Areawide contracts.

Where areawide contracts have been executed, each executive agency taking service in the franchised territory of the contracting carrier shall procure services under the terms of such contract, unless a general- or special-purpose contract is deemed by GSA, in consultation with the agency concerned, to be in the best interest of the Government.

[35 FR 82, Jan. 3, 1970. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.402-3 General-purpose contracts.

(a) Executive agencies will make written requests to GSA to contract for general-purpose services where:

(1) No areawide contract is available;

(2) Service requirements involve annual recurring charges or termination liabilities in excess of \$50,000; or

(3) Rates have not been established by a Federal or State regulatory body.

(b) Except for long-term contracts under the special statutory authority of GSA, executive agencies are authorized to enter into general-purpose contracts for requirements which are not within the specific limitations listed in § 101-37.402-3(a). One conformed copy of each such contract shall be furnished to GSA.

[35 FR 82, Jan. 3, 1970. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.402-4 Special-purpose contracts.

Executive agencies will make written requests to GSA to contract for special-purpose services where the requirements include:

(a) Nonstandard or special services involving annual recurring charges or termination liabilities in excess of \$50,000; or

(b) Establishment of new rate centers; or

(c) Establishment of new tariffs.

[35 FR 82, Jan. 3, 1970. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.403 Tariff interpretation.

GSA will provide, upon request, information on published tariff rates for communications services, including tariff interpretation and application. Inquiries should set forth in detail the nature of the communications service requested, proposed carrier rate treatment, if known, and agency comments pertinent thereto.

[29 FR 15624, Nov. 20, 1964. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.404 Representation and negotiation.

GSA, in behalf of executive agencies, will conduct negotiations with commu-

ducting a criminal investigation of questionable stock activities involving Deputy Defense Secretary Paul Thayer are waiting for the Securities and Exchange Commission to file civil charges against Thayer so they can obtain the SEC's records, according to knowledgeable sources.

The SEC has been negotiating with Thayer over the terms of a possible agreement to settle the civil case, which involves transactions made last year while Thayer was chairman of LTV Corp., the sources said. But they said a settlement appears unlikely and that the SEC is expected to file civil charges against Thayer as early as next week.

The Justice Department plans to continue its preliminary criminal investigation regardless of any civil

is examining whether Thayer or others in the case committed perjury or obstruction of justice in sworn depositions given to the SEC in the 10-month-old case, sources said. The SEC controls access to the evidence it has collected and, according to sources, wants to complete the civil case before sharing the documents with the Justice Department.

Meanwhile, sources said, U.S. Attorney Rudolph W. Giuliani in New York is looking into allegations that Thayer may have violated criminal statutes by passing to acquaintances stock information not available to the public.

Neither U.S. attorney's office would comment on the case.

Thayer's lawyer, Robert W. Fiske Jr., a former U.S. attorney in New

York was aware of the Justice Department investigation. In October, he said he had "given testimony" to the SEC, that the probe "does not involve any securities transactions by me" and that he had "every confidence that when this matter is concluded, it will be established that I have not done anything which violated the securities laws."

Reaction on Capitol Hill yesterday was guarded. Rep. Samuel S. Stratton (D-N.Y.), chairman of a House Armed Services subcommittee, said the investigations were "unfortunate" and "wouldn't be very helpful" to Thayer, but added that he would await their outcome. Sen. Carl Levin (D-Mich.) said "there will be a temporary cloud" over Thayer's head if the SEC announces that it

was based conglomerate and top military contractor, from 1970 until he joined the Pentagon last January. He also was a director of Anheuser-Busch Cos., Allied Corp., Altec Corp. and Mercantile Texas Corp.

Anheuser-Busch has "been contacted by the SEC and we have cooperated fully," said spokesman Jim Morice, adding that the firm is not a target of the probe. LTV has complied with an SEC subpoena for records, a spokesman said. Officials at the other three companies said they were not aware of any contact with the SEC.

The Defense Department told the Office of Government Ethics yesterday that Thayer early this year disposed of his stock holdings in LTV and other firms that do business

The SEC settles most insider trading cases through a consent decree in which the person under investigation admits no guilt, but agrees to repay any questionable profits and to obey securities laws in the future.

One sticking point in the SEC's negotiations with Thayer is how much information about the case will be made public, sources said. But one source said Thayer was "digging in his heels," which may force the commission to file civil charges without the customary agreement.

SEC enforcement chief John M. Fedders has declined to confirm or deny any SEC investigation of Thayer. Commission spokesman Andy Rothman said that in negoti-

USIA Director to Keep Job

WP, Fri., Dec. 30, 1983, p. A3

Reagan Backs Wick Despite Taping of Phone Calls

By Lou Cannon

Washington Post Staff Writer

LOS ANGELES, Dec. 29—President Reagan approves of Charles Z. Wick and will keep him as director of the U.S. Information Agency despite disclosures that he surreptitiously tape-recorded telephone conversations, White House spokesman Larry Speakes said today.

"The president has confidence in him," Speakes said. "He thinks he's done a good job and will continue to do a good job."

Wick, a movie impresario and former Reagan fund-raiser, is a longtime social friend of the president's. His standing with Reagan appears undiminished by the admission that he sometimes taped telephone conversations without telling his callers about it.

In Washington, both the House Foreign Affairs and Senate Foreign Relations committees announced

that they would conduct separate investigations of Wick's taping of conversations, which they hope to complete before Congress reconvenes in January.

"We're trying to find out just what happened and whether there's any action required by this committee," a House committee aide said.

Sen. Howard M. Metzenbaum (D-Ohio) said today he will introduce legislation to prohibit any federal official from taping conversations without the other party's permission.

"I thought this sort of offensive practice stopped 10 years ago," Metzenbaum said of the taping by Wick. "I was stunned to read that it could still occur."

During the briefing today, Speakes announced that Wick would not attend the New Year's Eve party Saturday night at the Palm Springs estate of Walter Annenberg, where the Reagans will be the most prominent guests.

But a subsequent check with Wick's office produced a follow-up announcement from Speakes that Wick did plan to attend.

Annenberg, a former U.S. ambassador to Britain, is one of several persons who Wick has acknowledged taping without telling them. Others were Sen. Mark O. Hatfield (R-Ore.) and actor Kirk Douglas.

New York Times columnist William Safire, who interviewed Wick on Monday, wrote today that Wick had lied to him and a reporter for the newspaper about the telephoned tapings.

Safire quoted Wick as responding when asked whether he had surreptitiously taped his callers: "I've never done it without telling."

On Tuesday, Wick issued a prepared statement saying he had recorded a small percentage of his telephone conversations and usually told his callers he was doing it "but

in haste I did not do this consistently."

Wick called the president Tuesday evening to tell him that he made the unauthorized recordings, Speakes said. He said Wick also informed the White House that he had never recorded conversations with the president or Nancy Reagan.

Speakes and other officials here declined to comment on whether the president was embarrassed by the disclosures or whether they undermined Wick's efforts as head of "Project Truth," which promotes the virtues of American democracy abroad.

In effect, the determination of what to do about Wick's conduct is at this point being left to Wick. Speakes said that White House counsel Fred F. Fielding is reviewing the matter but said that any investigation by the executive branch of what Wick had done "is in USIA's hands."

Board Snubs Berkeley Over Pledge to Flag

BERKELEY, Calif., Dec. 29 (AP)—The City Council's refusal to recite the pledge of allegiance before meetings has cost it a seat on a board that will decide how to spend \$12 million in federal job training funds.

Berkeley Vice Mayor Gilda Feller called the board's 11-to-2 vote not to give the city a seat "a shameful act."

The "Dump Berkeley" drive was led by Alameda County Supervisor Charles Santana, who represents the county on the Alameda County Training and Employment Board-Associated Community Action Program.

The board decides where and how the job and community assistance funds will be used.

The Washington Post

AN INDEPENDENT NEWSPAPER

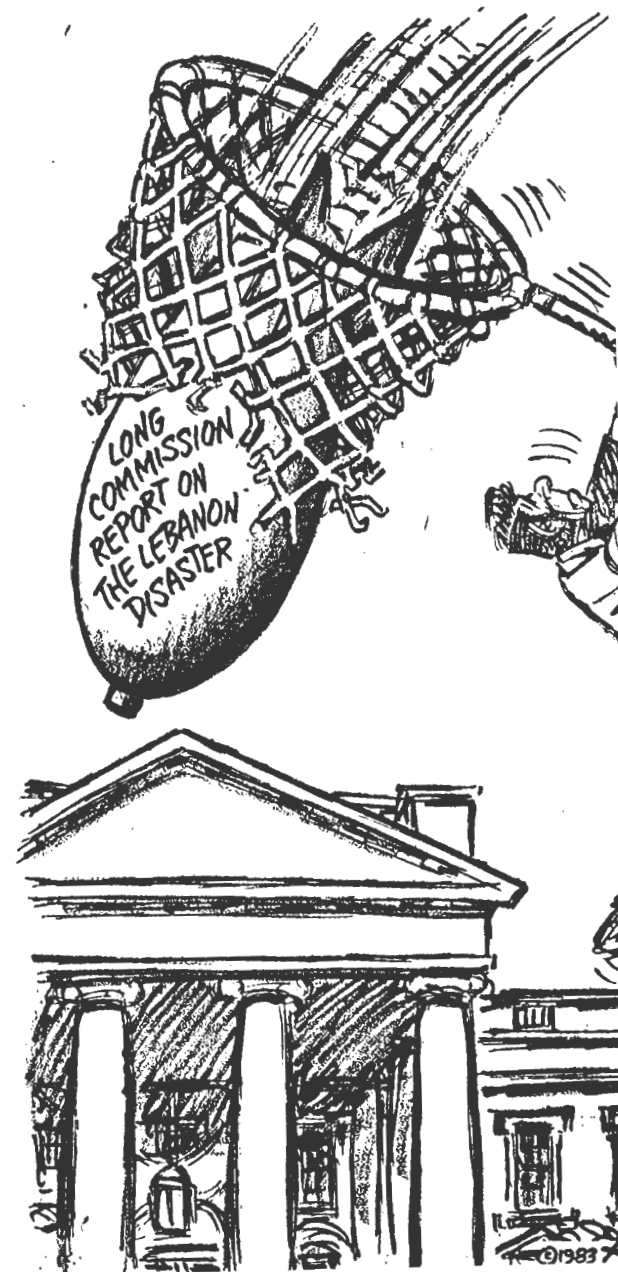
Secret Tapes, Again

ONE-SIDED taping of conversations with unsuspecting friends and colleagues violates the normal good-faith assumption most people make in their personal communications. The abuse contributed substantially to Richard Nixon's disrepute and brought into question the motives of other high government officials who have bugged their own offices or had their secretaries monitor telephone calls. Now we learn, from a story in The New York Times, that one member of the present administration—Charles Z. Wick, director of the U.S. Information Agency—secretly taped his office telephone conversations.

It's easy to understand why Mr. Wick was embarrassed to the point of making an outright denial when he was first asked if he recorded these conversations without advising his callers. But he was confronted with transcripts and with the news that many whose conversations had been recorded—including Sen. Mark Hatfield, actor Kirk Douglas and former U.S. ambassador Walter Annenberg—denied they had been informed that they were being taped. Mr. Wick then issued a statement. "I may have been insufficiently sensitive to concerns some may have about the practice of recording telephone conversations," he conceded. "[A]ccordingly, I have discontinued the practice."

Except in 13 states, any party can legally record a telephone conversation without telling the other party. Mr. Wick did not break a federal or a District of Columbia law when he did so. But he must surely have lost the full confidence of a number of friends and government officials for initiating this unnecessary and distasteful practice. Secret tapes are a holdover from an era that most of us had thought was long gone. One would think that no responsible government official would want to act in a way stirring even faint recollections of that time.

What does President Reagan think of all this? A spokesman said he didn't know whether Mr. Reagan approves or disapproves of the taping but judged he generally would not approve. The spokesman also said that what is done about Mr. Wick's telephone calls is "up to Wick." Is it really Mr. Reagan's position that each of his appointees may make an individual decision on the matter? Can't the president see the public interest, if not the presidential interest, in having it clearly understood that he rejects the abuse of the regular just-between-us confidentiality that every citizen is entitled to expect in his personal communications? He does reject the abuse, doesn't he?



Head of U.S.I.A. Secretly Taped Top Reagan Aide

The following article is based on reporting by Jane Perlez and William Safire and was written by Miss Perlez.

Special to The New York Times

WASHINGTON, Jan. 3 — Charles Z. Wick, the director of the United States Information Agency, secretly tape-recorded two telephone conversations with James A. Baker 3d, the White House chief of staff, Mr. Baker confirmed today.

In the telephone calls last March, Mr. Wick, who called Mr. Baker from Florida, asked Mr. Baker to assure that President Reagan would attend a meeting Mr. Wick had arranged in the White House with a group of publishers

and businessmen, according to transcripts obtained by The New York Times.

In an interview last week, Mr. Wick denied taping any conversations with Mr. Baker. He later acknowledged that he had taped some conversations with his staff and other Government officials without their knowledge.

Mr. Baker, in recalling the telephone calls today, said that he had not been informed by Mr. Wick that their conversations were being tape-recorded.

"I don't secretly or overtly tape any-

one," Mr. Baker said of surreptitious taping. "Notwithstanding the question of illegality, it is not good ethics. In my opinion, the practice is unacceptable. It is basically not fair to tape without telling them in advance."

It is not illegal under Federal law or District of Columbia law to tape-record a telephone conversation without the permission of the other party. But under Florida law it is a felony punishable by up to five years in prison and a \$5,000 fine.

The director of the criminal division of the Attorney General's office of Flor-

Continued From Page A1

ida, George R. Georgiëff, said it was unclear whether the Florida law would apply to interstate calls.

In response to questions about the secret tape recording of his conversations with Mr. Baker, a spokesman for Mr. Wick issued a statement saying that the Information Agency would have "no further comment" until it had completed "preliminary work" on gathering documents requested by two Congressional committees looking into the tapings.

"These requests are being considered by counsel," said the statement, which was approved by Mr. Wick. "At the same time pertinent documentary materials are being gathered and evaluated. The agency intends to cooperate with Congressional committees and to discuss appropriate procedures for responding to their requests."

Mr. Wick had arranged the meeting of publishers and businessmen as part of an effort to raise money for the Information Agency's "Project Democracy," an effort to support democratic institutions abroad. In presentations to Congress by the Administration about the organization of "Project Democracy," stress was laid on the bipartisan nature of the undertaking.

But in his call to Mr. Baker, Mr. Wick suggested that it would be useful for the President's re-election chances in 1984 if Mr. Reagan attended the meeting.

"If you are interested in '84 in addition to doing what we are trying to do, can you imagine a better group of guys?" Mr. Wick said to Mr. Baker, according to the transcript. Mr. Wick concluded his conversations with Mr. Baker, after Mr. Baker had arranged for the President to attend the meeting, by saying, "We will win in '84."

Government and Politics

Asked today if he knew there were 1984 campaign considerations involved in the meeting organized by Mr. Wick, Mr. Baker said that it was sometimes not easy to separate Government and politics and often "domestic, political" reasons were advanced for the President "to do something."

Other transcripts obtained by The New York Times of conversations Mr. Wick had with his staff in Washington the day he telephoned Mr. Baker show that he was eager for the businessmen, who included Sir James Goldsmith, publisher of the French magazine L'Express; Rupert Murdoch, who owns newspapers and magazines in United States, Britain and Australia, and a representative of Axel Springer, a German publisher, to contribute funds to meet a \$300,000 budget for "Operation Democracy."

Mr. Wick, who was staying at the Breakers Hotel in Palm Beach, told Mr. Baker that the "right hand man" of the German publisher would be attending the meeting and that W. Clement Stone, a Chicago businessman, had promised to contribute money. He added: "I got Dwayne Andreas, Henry Salvatori," in reference to two businessmen who have contributed heavily to the Republican party.

Frustrated by Schedulers

In the conversation with Mr. Baker, Mr. Wick explained his frustrations with the White House scheduling office and its director at the time, William K. Sadleir, who he said was reluctant to have the President attend the meeting until more specifics of "Project Democracy" were presented.

Mr. Wick said to Mr. Baker: "I have been waiting for two and a half weeks for an answer... I understand the President does have time between 3 P.M. and 5 P.M., and I think that I was asked to do it. Got some high-powered guys, and the word I get is that they are turning it down — Sadleir and others — on the basis that there isn't enough specificity of the agenda. Well, hell. If there is any specificity, I wouldn't hook these guys."

Mr. Baker: "Who has turned it down, the N.S.C.? I mean..."

Mr. Wick: "No. The N.S.C. is for it."

Mr. Baker: "The schedulers never turn it down on specificity. They don't..."

Mr. Wick: "Well, maybe it is somebody over there then, but I just talked to Bill Clark's office and she said — As a matter of fact, his gal Jackie thought you might be helpful. I hadn't even thought about calling you. I tried Mike before and he is away."

Mr. Wick was referring to the National Security Council; Jackie Hill, a special assistant to William P. Clark, who was then national security adviser, and to Michael K. Deaver, deputy chief of staff at the White House.

Mr. Wick continued: "The bottom line is: I was asked to do it. I think, you know, this is important."

Mr. Baker: "Project Democracy. O.K., let me find out."

When Mr. Baker said that his response might not be the answer Mr. Wick desired, Mr. Wick expressed strong irritation.

Mr. Wick: "Well, fine. Look. That is fine. I will cancel the thing, and I will also tell the President when I get back he can forget about me for anything in the private sector."

Mr. Baker: "That is right."

Mr. Wick: "These guys are going to kill him, and if you are interested in '84 in addition to doing what we are trying to do, can you imagine a better group of guys?"

Mr. Baker: "Oh, hell no. They are good. Let me find out whether he is really behind it. If N.S.C. is saying, 'No, we don't want it done for some foreign policy reason or something.' I just got to let you know that, and then you can..."

Mr. Wick: "Well, lookit. If that is right, then I will cancel right now. I am fully sympathetic to that."

Mr. Baker: "Let me find out."

Mr. Wick: "O.K. Thanks. Bye."

Mr. Baker called back less than 10 minutes later.

Mr. Baker: "You are on, O.K. You are on in the afternoon. I can't give you the exact time because the scheduling people couldn't give it to me, but the President will drop by. O.K."

Mr. Wick: "Great."

Mr. Baker: "And he will be there. You know, he will stay and visit for 20 minutes plus or so."

Mr. Wick then asked if Mr. Baker would be free to come to the meeting. Mr. Baker was noncommittal.

Mr. Wick: "Well, drop by, too. I would like you to meet these guys and give them a little..."

Mr. Baker interrupted to say that the National Security Council was preparing the papers for the meeting.

Mr. Wick: "God bless you my boy."

Mr. Baker: "Have a nice evening."

Mr. Wick: "We will win in '84."

Mr. Baker: "Goodbye."

Continued on Page A14, Column 3

(COVER)

Conversations were also taped, while Mr. Wick was in Florida, with Walter Raymond, a special assistant to the President on the National Security Council; two of Mr. Wick's special assistants at the agency and the special assistant to Mr. Clark, transcripts show. None returned repeated telephone inquiries about tapings of their calls.

The meeting on the Democracy Project took place on March 21, with several of the businessmen invited not in attendance.

Among those present were Dr. Hans Joachim Maitre, then editor-in-chief of Axel Springer Gesellschaft, and identified by Mr. Wick in the transcripts as Mr. Springer's "right hand man;" Sir James Goldsmith; Mr. Murdoch; George Gallup, the poll taker; Peter H. Dailey, the United States Ambassador to Ireland, and John W. Kluge, the chairman and president of Metromedia Inc.

Neither Mr. Andreas nor Mr. Salvatore attended, according to two of the participants.

President Reagan made an appearance and Vice President Bush stayed for about 20 minutes of the hour-long meeting, three of the participants recalled. Mr. Raymond of the National Security Council, together with a State Department officer, conducted the meeting, the participant said.

Mr. Dailey said he lectured the gathering on the need to "get out the fundamental facts of arms control."

He said he would not comment on whether contributions had been requested.

Mr. Murdoch described the meeting as being concerned with "European public opinion regarding missiles and the NATO alliance."

"I said we were getting mixed signals from Washington, and they should send a clearer signal from the press office. That went down like a lead balloon," Mr. Murdoch said.

Asked if he contributed to Project Democracy, Mr. Murdoch said: "I wasn't asked for money at that meeting, I did not give any subsequently."

Several of the participants said there had been a follow-up meeting in late June but that they had not attended.

Mr. Wick's concern about the President's absence from the meeting was fanned by Mark E. Everson, his 27-year-old aide, who told him that Mr. Murdoch and another invited businessman, Alfred Lerner, the president of Realty Refund Trust of Cleveland, were disappointed when told Mr. Reagan's presence was not assured.

At one point, Mr. Wick, who is a personal friend of Mr. Reagan, said to his assistant that if he had to cancel the meeting because he could not guarantee the presence of the President, he

Tuesday, January 3, 1984

RICHARD COHEN

MAN OF 1984

It is a bit early for this sort of thing, but surely Charles Z. Wick is already Man of the Year. This is because the year is 1984, with all its literary significance, and because Wick has confessed (under torture from William Safire) that he has secretly taped his own telephone conversations, a practice that is neither necessarily illegal nor unethical but just plain frightening.

Wick, director of the U.S. Information Agency, hooked up a recording device to his office telephone and recorded his conversations with, among others, Kirk Douglas, Sen. Mark Hatfield (R-Ore.) and former ambassador Walter Annenberg, a pal and the president's New Year's Eve host. He did this without telling any of them, and—as far as we know—no complaints have issued from any of them, either. There is, after all, a difference between recording a conversation and publicizing it. No one has accused Wick of the latter.

Almost instantly, though, what Wick did produced outrage. At the very least, it seemed rude, but the word "unethical" was also employed, almost in the sense that if secret taping is not unethical, it downright ought to be. Emotionally, that's a satisfying response, but then the going gets rough. What's so awful about taping? Some take notes. Some dictate their recollections and some foolhardy types even rely on their memories. Of them all, taping seems merely the most convenient and the most precise.

It also is the one manner of recording a conversation that precludes deniability. If you don't know you're being taped, you speak on one assumption (deniability) only to find it isn't true. You can challenge memory. You can dispute notes. But if your voice is on tape, you are stuck with what you said. You can't lie—hardly an ethical act in itself. All you can say is that you've reconsidered or say you were lying in the first place. In other words, secret taping stops others from denying what they really said. That sounds wonderful, but it's precisely why it ought to be

HOLIDAY ON ICE



Skaters and other aficionados of frozen fun enjoy a New

By Paul W. Valentine
Washington Post Staff Writer

Unpleasant as Washington's cold weather has been, it was just dandy yesterday for one group of people: ice skaters. Hundreds of them scooted, sped and sprawled thick-coated and mittened along the area's iceways, taking advantage of the lingering cold while it lasts.

There were skaters at the Reflecting Pool, skaters at Constitution Gardens, skaters at the pool at the foot of the Capitol and skaters along much of the C&O Canal from Georgetown to suburban Maryland.

There were kids on bikes, kids in baby carriages and kids playing impromptu games of hockey. There were also dogs and big people on the ice, slipping and sliding skateless among the small fry.

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Bear in mind that this really is 1984, both the year and the literary epoch and the overriding question raised by George Orwell was one of privacy. It's hard to define exactly what that means, but a piece of it has to do with escape hatches, with the right to be who you say you are—even to be a hypocrite. Technology is the enemy of hypocrisy. A recent Lou Harris survey, for instance, found widespread anxiety that computers can invade privacy. Contained in that fear is the realization that the computer's ability to store information holds everyone accountable. Now you can go to three different neighborhood bars and cash three different checks, knowing that you do not have the money to cover them—but that you will. You will not be able to do that if the bars are linked by computer and the computer is linked to the bank.

You lose the ability to pretend to be something you are not—even for the moment. The computer, the recording device, says that you cannot recreate yourself. Your credit record, your bank accounts, your recorded conversations follow wherever you go. You're not who you say you are. You're who technology says you are.

The upshot is that pieces of yourself are taken away. Less and less of you remains your own. A bad year makes you a bad credit risk—sorry, no excuses. A slip of the tongue remains recorded. You wind up "owning" less of yourself than you would like—in some cases, your very voice no longer belongs to you. The tape, the computer, is steady and consistent—so unforgiving. It sits in judgment on us—we who are so human, so changeable.

The remedy is withdrawal, to move into yourself, to watch your words and your actions, to offer only what you can afford to have taken.

Speech—wonderful, frank, improvisational speech—will have all the candor and spontaneity of an interoffice memo. The utility of hypocrisy, that much-maligned ability to speak your mind in one place and be well-mannered in another, will suffer.

This is why what Wick has done is so frightening. He's not just ill-mannered or a mere boor, but something much more menacing. Orwell spotted him from way off. He's the future.

Charles Z. Wick



Army and Navy Club

By Ken Ringle
Washington Post Staff Writer

The Army and Navy Club, onetime habitat of Indian fighters, sailing ship captains and the purported first daiquiri in the United States, closed the doors of its 72-year old building on Farragut Square New Year's Day, writing an end to one of Washington's more monumental military institutions.

The khaki-brick building, opened Aug. 10, 1912, by a cavalry bugler and a bibulous general who rode his horse through the front door, has been slated for demolition, save for two facades destined to camouflage its 12-

story replacement two years.

The new building will date both the old and the new life style of the club, which will have included the building, Nimitz and Patton.

Born in Klotz's Restaurant, the Army and Navy Club in the age of the computer turned here.

Marines Hunker Down In Territorial Dispute

By Charles Fishman
Washington Post Staff Writer

It is hunting season in Virginia, and as they have for a 20 years, the hunters have come to a beautiful piece of land in Northern Virginia seeking deer and wild turkeys.

The land, 4,514 acres about 35 miles south of Washington, is a quiet, scenic plot wrapped around the Breckenridge Reservoir just off I-95. The peaceful, thickly forested area is the center of a decades-old dispute that is anything but peaceful over who owns the land and who can use it.

To the north of the land to which the hunters return every winter is Prince William Forest Park. To the south, the Marine Base. Though the National Park Service owns the disputed land, the Marines use it for training exercise and manage it in all but a few matters as if it were their own.

It is the Marines who allow hunters on the land in apparent violation of a federal regulation that explicitly forbids hunting on park land in the National Capital Region.

Occasionally, the Park Service has said to the Marines that hunting on the land is forbidden and must be stopped.

The discussions about hunting rarely go beyond that, however, for there are more important questions to settle about this particular chunk of forest.

Why do the Marines still occupy the land, long after the need has passed for the secret World War II maneuver area which it was originally used?

Why does the Park Service still own the land, when a law transferred legal title to the Navy?

Why has the Park Service gotten nothing but an end-

See FOREST, C7, Col. 1

Winners and Losers In Maryland in '83

1983 was a good year for some, a bad year for others in Maryland. A look at some of the year's memorable winners and losers and a list of people and issues to watch in 1984.

Details on Page C4

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THE WHITE HOUSE

WASHINGTON

January 4, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS /s/
SUBJECT: Florida Law on Recording
Telephone Conversations

The story in today's New York Times suggests that Florida law governing recording of telephone conversations may be of interest. Until October 1, 1974, Florida law was identical to Federal law on this subject, excepting from the general prohibition against interception of wire communications any interception by or with the consent of one party to the conversation. In 1974, however, the Florida legislature repealed this exception and substituted an exception reading: "It is lawful under this chapter for a person to intercept a wire or oral communication when all of the parties to the communication have given prior consent to such interception." Fla. Stat. Ann. § 934.03(2)(d).

Since no exception covers one-party consent taping of telephone conversations, we are thrown back to the general prohibition. That general prohibition makes it a third degree felony in Florida for anyone willfully to "intercept" a wire or oral communication. Fla. Stat. Ann. § 934.03(1)(a). "Intercept" is defined as "the aural acquisition of the contents of any wire or oral communication through the use of any electronic, mechanical, or other device." Id. § 934.02(3). This is an awkward way of prohibiting the recording of one's own telephone conversations, and it is clear that the statute was primarily directed at the more common notion of third-party "bugging." Nonetheless, the language of the prohibition can be considered to embrace taping conversations to which one is a party, a conclusion fortified by the negative pregnant flowing from the explicit exception for taping conversations with the consent of all parties.

The question whether the Florida statute prohibits recording of one's own telephone conversations without the consent of the other party was decided in the affirmative in 1981 by the narrowest of margins, 4-3. State v. Tsavaris, 394 So. 2d 418 (Fla. 1981).

As correctly noted in the Times story, a third degree felony is punishable by imprisonment not to exceed five years and/or a fine not to exceed \$5,000.