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NO. 100

DATE 10-27-49

☐ PHOTOSTATING
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SIGNED

65- 5728-559

November 2, 1949

MEMO, SAC

RE: JUDITH COPLON
INTERNAL SECURITY

Mr. FLETCHER called from the Bureau today. He said the hearing in this case is scheduled in New York for November 9, 1949. He wanted to be sure all Agent witnesses are available for proceeding to New York on very short notice. In the event any have been transferred, communications should be sent out to their SACs in order that they will be available on short notice.

SA OBERNDORF was advised of the above.

C. E. HENNRICH
ASAC

CEH:VIM

*Handled 11/3/49.
MHO.*

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65-5128-561

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Oberndorf, MHO

Office Memorandum • UNITED STATES GOVERNMENT

TO : GUY HOTTEL, SAC, Washington Field

FROM : L. W. R. OBERNDORF, Supervisor

SUBJECT: JUDITH COPLON
ESPIONAGE - R

DATE: November 7, 1949

At 12:08 P. M. on November 3, 1949, Inspector HOWARD B. FLETCHER of the Bureau telephonically advised me that Special Agent THOMAS A. MENDENHALL was to be in New York City on the morning of November 9, 1949, for the hearing on the Motion by subject's attorney to Set Aside the Indictment on the basis that her arrest was illegal.

I have advised SA MENDENHALL accordingly.

LWRO:cl
65-5128

65-5128-563

NOV 10 1949

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Mendenhall

Office Memorandum • UNITED STATES GOVERNMENT

TO : GUY HOTTEL, SAC, Washington Field

FROM : L. W. R. OBERNDORF, Supervisor

SUBJECT: JUDITH COPLON
ESPIONAGE - R

DATE: December 1, 1949

Inspector H. B. FLETCHER of the Bureau requested me telephonically on the afternoon of November 30, 1949 to ascertain the dates on which this office had maintained a mail cover on the residence of the subject and whether any material from that cover was still available in this office.

At 9:00 A. M. on December 1, 1949, I advised Mr. FLETCHER that a mail cover was placed on January 5, 1949 and was discontinued on July 13, 1949. I advised him further that all mail cover slips and tracings had been destroyed and in response to his question as to whether this investigative technique had developed pertinent information, I advised him that this had not been the case.

LWRO:c1
65-5128

65-5128-577
FBI - WASH. FIELD

Mendenhall

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SPECIAL AGENT

RECHARGE _____

DATE _____

TO _____

FROM _____

AT

Office Memorandum • UNITED STATES GOVERNMENT

TO : GUY HOTTEL, SAC, Washington Field

FROM : L. W. R. OBERNDORF, Supervisor

SUBJECT: JUDITH COPLON
ESPIONAGE - R

DATE: December 5, 1949.

At 4:30 P. M. on December 5, 1949, Inspector H. B. FLETCHER of the Bureau telephonically instructed me as follows:

He desires the immediate preparation of a Blind Memorandum to be entitled, "Results of Microphone Coverage of Office of JUDITH COPLON", (dates of coverage to appear immediately underneath); a similar Blind Memorandum entitled, "Results of Telephone Coverage, Office of JUDITH COPLON", (with the pertinent dates); and another Blind Memorandum with the same caption for the Residence Telephone of JUDITH COPLON, (with the pertinent dates).

*Room not
Justice Bldg*

*Put actual
address*

These memoranda are to be prepared on the basis of the information appearing in the SM Summary and are to set forth in chronological order the results of the monitoring of the above three technical surveillances.

Mr. FLETCHER instructed that this was to be completed by Thursday Evening, December 8, 1949, and was to be in his hands by that time. He instructed further that I advise him on a day-to-day basis as to the progress being made by this office in the preparation of the aforementioned memoranda.

*440
12/5/49
Mendenhall & Payne
instructed to handle
me*

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65-5128-581
FBI - WASH FIELD

Mendenhall

LWRO:cl
65-5128

Office Memorandum • UNITED STATES GOVERNMENT

TO : GUY HOTTEL, SAC, Washington Field

FROM : L. W. R. OBERNDORF, Supervisor

SUBJECT: JUDITH COPLON
ESPIONAGE - R

DATE: December 8, 1949

At 1:15 P. M. on December 7, 1949, I delivered to Mr. FLETCHER a transcript of the pertinent portions of the SM Summary in instant matter in the form of a Blind Memorandum, in accordance with his request. I advised him that we expected to complete the project of transcribing the technical information obtained from COPLON's office on the evening of December 7, 1949.

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Office Memorandum • UNITED STATES GOVERNMENT

TO : GUY HOTTEL, SAC, WASHINGTON FIELD

DATE: December 7, 1949

FROM : SA T. A. MENDENHALL

SUBJECT: JUDITH COPLON
ESPIONAGE - R

The following is a list of all physical surveillances conducted in connection with the JUDITH COPLON case by agents of the Washington Field Office:

<u>Date</u>	<u>Time</u>	<u>Agents</u>
January 6, 1949	5:25pm - 6:30 pm	PAYNE MENDENHALL JONES OBERNDORF
January 7, 1949	3:30 pm - midnight	BUCHHOLZ, McCASLIN JONES, MENDENHALL, PAYNE
January 10, 1949	8:00 am to 9:00 am	MENDENHALL
"	4:15 pm - 11:20 pm	CRAIG LEONARD
January 11, 1949	8:10 am - 9:25 am	LEONARD, MENDENHALL,
"	5:00 pm - 11:35 pm	CRAIG, CAVADINE
January 12, 1949	4:30 pm - 11:30 pm	LEONARD, MENDENHALL, CRAIG, PAYNE
January 13, 1949	11:15 am - 2:10 pm	CRAIG, SMELTZER
"	12:40 pm - 12:57 pm	LEONARD, CAVADINE
January 14, 1949	12:45 pm - 4:45 pm	PAYNE, MENDENHALL
January 19, 1949	11:45 am - 12:55 pm	MENDENHALL, PAYNE
"	12:30 pm - 10:35 pm	CRAIG, CAVADINE

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FBI - WASH. FIELD
DEC 7 1949

Mendenhall

- 583

Re: JUDITH COPLON
ESPIONAGE - R

December 7, 1949

<u>Date</u>	<u>Time</u>	<u>Agents</u>
January 29, 1949	12:00 noon - 9:40 pm	MENDENHALL, LEONARD
January 30, 1949	4:40 pm - 6:00 pm	PAYNE
January 31, 1949	6:20 pm - 9:00 pm	PAYNE, MENDENHALL
February 1, 1949	5:20 pm - 11:30 pm	LEONARD, CRAIG
February 2, 1949	7:40 am - 5:00 pm	BUCKHOLZ, MENDENHALL
February 2, 1949	5:15 pm - 11:30 pm	LEONARD, CRAIG
February 3, 1949	7:45 am - 5:00 pm	BUCKHOLZ, URIE, MENDENHALL
"	11:15 am - 2:00 pm	MENDENHALL, CRAIG, McCASLIN, McQUEEN
"	5:15 pm - 11:40 pm	LEONARD, SMELTZER
February 4, 1949	5:40 pm - midnight	CRAIG, LEONARD
February 5, 1949	8:15 am - 4:00 pm	CANAVAN, SMELTZER
"	4:00 pm - 10:00 pm	BUCKHOLZ, J. WALSH
February 6, 1949	8:10 am - 3:50 pm	McCASLIN, TIERNEY
"	2:50 pm - 12:18 pm	MENDENHALL, TURTON
February 7, 1949	5:15 pm - midnight	SMELTZER, SHAW
February 8, 1949	8:00 am - 8:56 am	MENDENHALL, BEDFORD
"	12:20 pm - 1:55 pm	MENDENHALL, CRAIG
" (Incidental Surv.)	9:15 am - 5:00 pm	BEDFORD

Re: JUDITH COPLON
ESPIONAGE - R

December 7, 1949

<u>Date</u>	<u>Time</u>	<u>Agents</u>
February 8, 1949	5:15 pm - 11:40 pm	SMELTZER, SHAW
February 9, 1949	8:00 am - 8:47 am	BEDFORD, MENDENHALL
"	11:45 am - 1:55 pm	SMELTZER, LEONARD
" (Incidental surv.)	9:05 am - 4:05 pm	BEDFORD
February 9, 10/ 49	5:30 pm - 12:35 am - 2-10-49	SHAW, PEASINGER
February 10, 1949	8:00 am - 9:17 am	MENDENHALL
"	11:45 am - 1:40 pm	MENDENHALL, CRAIG
"	5:45 pm - 11:30 pm	CHAPMAN, SMELTZER
February 11, 1949	8:00 am - 9:21 am	MENDENHALL, GLENN MAGUIRE
"	1:30 pm - 4:15 pm	CRAIG, BUCHHOLZ
"	4:00 pm - 11:40 pm	SMELTZER, URIE
February 12, 1949	8:30 am - 4:15 pm	CRAIG, BERGER
February 12, 13/49	4:00 pm - 2:12 am 2-13-49	BIASZEK, LEONARD
February 13, 1949	8:00 am - 4:00 pm	BEDFORD, SLEVIN
"	4:00 pm - midnight	NEALE, PEASINGER
February 14, 1949	8:17 am - 8:24 am	MENDENHALL
"	5:10 pm - 11:35 pm	MCGUIRE, URIE
February 15, 1949	8:21 am - 9:05 am	MENDENHALL, BEDFORD

Re: JUDITH COPLON
ESPIONAGE - R

December 7, 1949

<u>Date</u>	<u>Time</u>	<u>Agents</u>
February 15, 1949	12:40 pm - 1:45 pm	CRAIG, MAGUIRE
"	5:10 pm - 11:40	URIE, GLENN
February 16, 1949	8:15 am - 8:50 am	MENDENHALL
"	12:20 pm - 1:00 pm	CRAIG, MENDENHALL
"	5:10 pm - 11:30 pm	GLENN, URIE
February 17, 18/ 1949	4:45 pm - 2:30 am 2-18-49	URIE, MAGUIRE
February 18, 1949	8:00 am - 9:05 am	BEDFORD, MENDENHALL, BUCHHOLZ
"	11:45 am - 6:40 pm	MENDENHALL, BUCHHOLZ
" (Incidental)	1:30 pm - 2:60 pm	CRAIG, CHAPMAN
"	1:32 pm - 1:53 pm	PAYNE, OBERNDORF
February 23, 24/ 1949	5:20 pm - 12:10 am 2-24-49	SHAW, TURTON
February 24, 25/ 1949	5:20 pm - 12:20 am 2-25-49	NEALE, SHAW
February 25, 1949	12:38 pm - 2:10 pm	BUCHHOLZ, MAGUIRE
"	5:20 pm - 11:45 pm	SHAW, SMELTZER
February 26, 1949	7:55 am - 3:30 pm	MAGUIRE, BARRY
February 26, 27/ 1949	3:00 pm - 1:00 am 2-27-49	McQUEEN, FENSTERMACHER

Re: JUDITH COPLON
ESPIONAGE - R

December 7, 1949

<u>Date</u>	<u>Time</u>	<u>Agents</u>
February 27, 1949	7:55 am - 4:35 pm	DeTEMPLE, MAGUIRE
"	3:20 pm - 10:30 pm	GLENN, BOWERS
February 28, 1949 (Incidental)	8:45 am - 11:05 am	CRAIG, BOWERS
"	5:15 pm - 11:30 pm	URIE, CANAVAN
March 1, 1949	12:15 pm - 8:20 pm	SHAW, URIE
" (Incidental)	11:25 am - 4:00 pm	CRAIG
March 4, 1949	11:55 am - 12:45 pm	BUCHHOLZ, PAYNE, MENDENHALL, CHAPMAN, OBERNDORF, BOWERS, CRAIG, SMELTZER
"	11:55 - 12:45 pm	JONES
"	12:45 pm - 5:35 pm	PAYNE, MENDENHALL

Office Memorandum • UNITED STATES GOVERNMENT

TO : GUY HOTTEL, SAC, Washington Field

FROM : L. W. R. OBERNDORF, Supervisor

SUBJECT: JUDITH COPLON
ESPIONAGE - R

DATE: December 7, 1949

At 9:00 A. M. on December 6, 1949, Inspector FLETCHER of the Bureau telephonically advised me that in transcribing the technical logs in this office, inferences appearing in these logs were to be eliminated from the transcript and only that material which actually was overheard was to be included.

He also subsequently advised me that the transcript was to contain only conversations involving the subject and that conversations involving other individuals in the subject's office were not to be included.

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Serialized 65-5128
Indexed _____
Filed 20

65-5128-584
DEC 10 1949
Mendenhall

Office Memorandum • UNITED STATES GOVERNMENT

TO : GUY HOTTEL, SAC, Washington Field

FROM : L. W. R. OBERNDORF, Supervisor

SUBJECT: JUDITH COPLON
ESPIONAGE - R

DATE: December 7, 1949

At 4:40 P. M. on December 6, 1949, I advised Inspector FLETCHER of the Bureau telephonically that this office expected to complete the transcription of the technical logs in this case by the evening of December 7, 1949.

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65-5128-585

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Office Memorandum • UNITED STATES GOVERNMENT

TO : GUY HOTTEL, SAC, Washington Field

FROM : L. W. R. OBERNDORF, Supervisor

SUBJECT: JUDI TH COPLON
ESPIONAGE - R

DATE: December 8, 1949

At 11:20 A. M. on December 8, 1949,
I personally delivered to Mr. FLETCHER of the Bureau, the
remainder of the material he desired (transcription of
technical information obtained from COPLON's office).

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65-5128-586

Wendelbach
Oberndorf

Office Memorandum • UNITED STATES GOVERNMENT

TO : GUY HOTTEL, SAC, WASHINGTON FIELD

DATE: December 9, 1949

FROM : THOMAS A. MENDENHALL, SA

SUBJECT: JUDITH COPLON
ESPIONAGE - R

The following Washington Field Office Agents participated in physical surveillances of JUDITH COPLON.

AGENTSDATES OF SURVEILLANCES

1. BARRY	2/26
2. BOWERS	2/27, 2/28, 3/4
3. BEDFORD	2/8, 2/9, 2/13, 2/15, 2/18
4. BERGER	2/12
5. BLASZEK	2/12-13
6. BUCHHOLZ	1/7, 2/3, 2/2, 2/5, 2/11, 2/18, 2/25, 3/4
7. CANAVAN	2/5, 2/28
8. CAVADINE	1/11, 1/13, 1/19
9. CHAPMAN	2/10, 2/18, 3/4
10. CRAIC	1/10, 1/11, 1/12, 1/19, 2/1, 2/2, 2/3, 2/4, 2/8, 2/10, 2/11, 2/12, 2/16, 2/18, 2/28, 3/1, 3/4
11. DE TEMPLE	2/27
12. FENSTERMACHER	2/26-27
13. GLENN	2/11, 2/15, 2/16, 2/27
14. JONES	1/6, 1/7, 3/4
15. LEONARD	1/10, 1/11, 1/12, 1/13, 1/29, 2/1, 2/2, 2/3, 2/4, 2/9, 2/12-13
16. MAGUIRE	2/11, 2/14, 2/16, 2/17-18, 2/25, 2/26, 2/27
17. MC CASLIN	1/7, 2/3, 2/6
18. MC QUEEN	2/3, 2/26-27
19. MENDENHALL	1/6, 1/7, 1/10, 1/11, 1/12, 1/14, 1/19, 1/29, 1/31, 2/2, 2/3, 2/6, 2/8, 2/9, 2/10, 2/11, 2/14, 2/15, 2/16, 2/18, 3/4
20. NEALE	2/13, 2/24-25
21. OBERNDORF	1/6, 2/18, 3/4
22. PAYNE	1/6, 1/7, 1/14, 1/19, 1/30, 1/31, 2/18, 3/4
23. PEASINGER	2/9-10, 2/13
24. SHAW	2/7, 2/8, 2/9-10, 2/23-24, 2/24-25, 2/25, 3/1
25. SLEVIN	2/13

TAM:dtk
65-5128

15-5128-587

SAC, GUY HOTTEL

December 9, 1949

AGENTS

26. SMELTZER

27. TIERNEY

28. TURTON

29. URIE

30. WALSH

DATES OF SURVEILLANCES

1/13, 2/3, 2/5, 2/6, 2/8, 2/9, 2/10,
2/11, 2/25, 3/4

2/6

2/6, 2/23-24

2/3, 2/11, 2/14, 2/15, 2/16, 2/17-18,
2/28, 3/1

2/5

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~~Filed _____~~

Criminal

No. 129-158

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

JUDITH COPLON et al.,

Defendants

PETITION AND ORDER TO SHOW
CAUSE RE SUPPRESSION OF
EVIDENCE OBTAINED THROUGH
WIRE TAPPING, etc.

ARCHIBALD PALMER

Solicitor for Defendant Coplan

320 BROADWAY,
Borough of Manhattan New York City

at 5:50 P.M.

James H. Saypol
U.S. 7A

mtm
-1D
m 2 132
761

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA

v.

Criminal No.

JUDITH COPLON and VALENTINE
A. GUBITCHEV,

129-156

Defendants
-----X

Upon the annexed petition of ARCHIBALD PALMER,
duly verified the 28th day of November, 1949, upon the in-
dictment in the above entitled proceeding, upon the minutes
taken at the pretrial hearing in the above matter, and upon
all of the other papers and proceedings had herein,

LET the HONORABLE IRVING H. SAYPOL, United
States Attorney for the Southern District of New York, show
cause before the HONORABLE SYLVESTER J. RYAN, United States
District Judge, at the Criminal Part of this Court, to be
held at Room 1506 of the United States Court House, Foley
Square, in the Borough of Manhattan, City of New York, on
the 5th day of December, 1949 at ten-thirty o'clock in the
forenoon of said day, or as soon thereafter as counsel can
be heard,

WHY an order should not be made

- (1) Suppressing all records, transcripts and notes of
any kind made of intercepted telephonic communica-
tions between the defendant JUDITH COPLON and
Valentine A. Gubitchev;
- (2) Suppressing all evidence obtained as a result or
use of such intercepted telephonic communications
between JUDITH COPLON and Valentine A. Gubitchev;
- (3) Directing the UNITED STATES to turn over to the
defendant JUDITH COPLON such records, recordings,
transcripts and notes of any kind whatsoever of

such intercepted telephonic messages between the said defendant JUDITH COPLON and Valentine A. Gubitchew;

- (4) Suppressing all notes or information obtained as a result of intercepting mail addressed to or mailed by the defendant JUDITH COPLON, and suppressing all evidence obtained as a result of such intercepting of the mail;
- (5) Dismissing the indictment pending against JUDITH COPLON in the event it appears upon said hearing that the indictment was based upon evidence illegally obtained, directly or indirectly, as a result of such interception of telephone messages and/or mail;
- (6) Granting such other, further and different relief as may be just and proper in the premises;

and it is further

ORDERED, that the UNITED STATES OF AMERICA is directed to submit to an examination with respect to the wire tapping, mail cover dropping, or any other activity connected with the interception of telephone communications, messages, and mail, wherein the defendant JUDITH COPLON was a party, and with respect to the use made by it of such intercepted messages and facts ascertained by it as a result of such use, and to produce, for the purpose of said examination, all F.B.I. agents, supervisors and any and all other persons connected with the F.B.I., or the DEPARTMENT OF JUSTICE, who, in any way, directly or indirectly, participated in said wire tapping, mail cover, ^{cover} dropping, ~~or~~ of any other activity connected with the interception of telephone communications, or messages, or mail covers, between the defendant JUDITH COPLON and Gubitchew; and it is further

ORDERED, that the examination as aforesaid be set before the HONORABLE SYLVESTER J. RYAN, on the 5th day of December, 1949 at ten-thirty A.M., at Room 1506 of the United States Court House, Foley Square, in the Borough of Manhattan, City of New York.

SUFFICIENT reason appearing therefor, let service of a copy of this order, together with the petition upon which

the same is based, on the HONORABLE IRVING H. SAYPOL, United States Attorney, on or before the 30th day of November, 1949, be deemed good and sufficient service thereof.

DATED, New York,
November 28th, 1949.

Sylvester J. Ryan
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA

v.

JUDITH COPLON and VALENTINE
A. GUBITCHEV,

Criminal No..

129-158

Defendants
-----X

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK:

The petition of ARCHIBALD PALMER respectfully
shows to this Court and alleges:

1. That he is attorney for JUDITH COPLON, one of
the defendants above named, and makes this petition in sup-
port of the relief as set forth in the annexed order to show
cause.

2. That heretofore, and on the evening of March
4, said defendant Judith Coplon was seized by Robert R.
Granville, Special Agent of the Federal Bureau of Investiga-
tion of the United States, hereinafter referred to as the
F.B.I., without the authority of either a warrant of arrest
or a search warrant.

3. That shortly thereafter agents of the F.B.I.
seized from said defendant a ladies' hand bag belonging to
her and containing papers and other personal property also
belonging to and being the property of said defendant, part
of which has not been returned to her up to the present time,
although duly demanded.

4. That on or about May 9, 1949, a motion was made
in the above entitled matter under Rule 41 (c) of the Fed-
eral Rules of Criminal Procedure for the return of said

property so withheld from said defendant, Judith Coplan, upon the ground that the same was illegally seized without warrant or consent, in violation of the Fourth and Fifth Amendments to the Constitution. Subsequent thereto a motion was made in the Civil Part of this Court for substantially the same relief.

5. As a result of the two motions as aforementioned a pre-trial hearing was held before the Honorable Sylvester J. Ryan, District Judge, on the 14th, 15th and 16th days of November, 1949, during which pre-trial hearing the arresting officer, Robert R. Granville, was asked by following questions by petitioner, to which he gave the following answers (a.m. 133, 134, 136, 137 of Pre-trial Hearing):

"Q While you were here in New York in charge of this matter did your FBI agency in anywise tap the wires of either her home telephone or the telephone of her brother or anyone else connected with her?

MR. KELLY: I object.

THE COURT: Overruled.

A I have no personal knowledge of that.

Q I didn't ask you that. I asked you, did you get any information from anybody connected with the F.B.I. that the wires connected with her home or anywhere else, or where she lived or worked, were being tapped?

MR. KELLY: I object to this question.

THE COURT: Overruled.

A Yes.

Q Who told you they were being tapped? A Mr. Belmont.

Q When did Mr. Belmont tell you about the tapping of telephones, so far as she is concerned? When did he tell you about that? A I don't recall.

Q Did he tell you who listened in on the phones? A No.

Q Did you know as a lawyer that it is against the law for any federal agents to tap telephones?

MR. KELLY: I object.

* * * *

Q Did you know whether Mr. Gubitchev's telephones were tapped?

MR. KELLY: I object.

THE COURT: Overruled.

A I have no personal knowledge of that, no.

A I am asking you, did you hear of it? A Yes, I had.

Q You knew, did you not, as you told us before -

MR. PALMER: Strike it out, please.

Q The United Nations is stateless, is that right, ever since San Francisco?

THE COURT: What has that got to do with this case?

MR. PALMER: All right.

Q Will you kindly tell me when you found out about Mr. Gubitchev's telephone being tapped, was that from his home or was that from where he worked in the United Nations? A From his home.

Q From his home. Did he have a telephone there? A Where? At his home?

Q Yes. A Yes, he had."

6. It appears conclusively from the foregoing testimony that Robert R. Granville, who directed and supervised the entire investigation against the defendant Coplon in this matter, and who arrested her on March 4, 1949, as aforesaid, admitted that her wire was tapped, thereby admitting a violation of the ^VFourth and Fifth Amendments to the Constitution and the Federal Communication Act.

7. It also appears from the foregoing testimony that the wire tapping was done with the knowledge of Mr. Belmont, head of the New York F.B.I. office and that Mr. Belmont had informed Mr. Granville as to that wire tapping.

8. It further appears from said testimony that the Government had strongly objected to all questions of petitioner in connection with the wire tapping but that the

Honorable Sylvester J. Ryan, District Judge, overruled said objections and directed the witness, Robert R. Granville, to answer said questions.

9. Your petitioner had endeavored to elicit information to the effect that there had been wire tapping of the defendant Geplen's telephone during a trial in which she was the defendant in the United States District Court for the District of Columbia, held before the Honorable Albert L. Reeves, District Judge, but said District Judge Reeves sustained the Government's objection to all questions concerning wire tapping. It appears, therefore, from the foregoing, that the information with respect to the tapping of said defendant's telephone was received only as late as the pre-trial hearing above referred to.

10. Section 605 of the Federal Communication Act prohibits the intercepting and divulging of telephone conversations; that this prohibition is not limited only to private persons but applies also to Government agents, including agents of the F.B.I.; and that a violation of said section is a crime and punishable by imprisonment.

11. The Supreme Court of the United States, in the two Nardone cases, to wit, Nardone v. United States, 58 Supp. Ct. 275, 302 U. S. 379; and Nardone v. United States, 60 Sup. Ct. 266, 308 U. S. 338, definitely settled the question involved, to the effect that evidence obtained through illegal wire tapping cannot be used in a Federal Court. In the second Nardone case the Supreme Court expressly held that not only the intercepted messages themselves but also all evidence and knowledge derived therefrom should be suppressed, that the Government should not be allowed to make use of the "fruits of the poisonous tree", and that the Government should submit in a pretrial hearing to an examination with respect to those intercepted messages and with

respect to the uses made by it of such intercepted messages and facts ascertained by it as a result of such use.

12. The case of United States v. Weiss, 34 Fed. Supp. 99 (U.S.D.C. S.D.N.Y.), decided by the Honorable Mortimer W. Byers, substantially granted the relief sought herein.

13. The Honorable Edgar G. Hoover, Head of the FBI of the United States, himself recognizes the illegality of wire tapping and termed it "an archaic and inefficient practice" which "has proved a definite handicap or barrier in the development of ethical, scientific and sound investigative technique" (Letter to Harvard Law Rev. Feb. 9, 1940; 53 Harvard Law Rev. 863, 1940). He further stated in a press release of the Department of Justice on March 15, 1940, in opposition to a bill then pending in Congress which would have legalized wire tapping, that "while I concede that the telephone tap is from time to time of limited value in the criminal investigative field, I frankly and sincerely believe that if a statute of his kind were enacted the abuses arising therefrom would far outweigh the value which might accrue to law enforcement as a whole." Furthermore, it was stated by the Attorney General then in office to be the belief of himself and Mr. Hoover that "the discredit and suspicion of the law enforcing branch which arises from the occasional use of wire tapping more than offsets the good which is likely to come of it."

14. During the trial of the case in Washington, D.C., petitioner had requested the Government to produce the FBI Investigative Reports in connection with the papers seized from the defendant Coplon. The Government strongly objected to the production of said FBI reports and went so far as to make a statement on the record to the effect that if District Judge Reeves would direct the Government to

produce such investigative reports the Government would be compelled to nolle prosequere said prosecution. Notwithstanding such threat, however, District Judge Reeves, in an historic decision, ordered the Government to produce those investigative reports and the Government, in spite of the foregoing statement made by it, continued with the prosecution of the case. Said investigative reports showed that in many investigations the FBI not only used illegal wire tapping but also mail cover, trash cover, and also intercepting of mail delivered to and from a suspect.

15. Petitioner is informed that the defendant Coplon, from some time, did not receive her mail duly, in the regular course, but thereafter received a large number of letters at one time, which had been sent out to her sometime previous thereto. Petitioner is therefore of the opinion that the mail of said defendant was intercepted, in violation of the Fourth and Fifth Amendments to the Constitution of the United States and the Federal Postal Laws.

16. The reason why this application is made by way of an order to show cause instead of the usual notice of motion is that all motions to be made in this matter were directed to be made returnable before the Honorable Sylvester J. Ryan, District Judge, and that the office of the United States Attorney requires that all motions be made returnable before the District Judge sitting in the regular motion term of the Criminal Part of this Court.

WHEREFORE, in view of all of the foregoing, your petitioner respectfully prays for the relief set forth in the annexed order to show cause, for all of which no previous application has been made herein.

DATED, New York,
November 28, 1949.

ARCHIBALD PALMER

CITY OF NEW YORK
COUNTY OF NEW YORK
STATE OF NEW YORK

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ARCHIBALD PALMER, being duly sworn, deposes and says that he is the petitioner named herein; that he has read the foregoing petition and knows the contents thereof; that the same is true of his own knowledge except as to the matters therein stated to be alleged upon information and belief and as to those matters he believes it to be true.

SWORN TO BEFORE ME THIS)

28th day of November, 1949)

ARCHIBALD PALMER /s/