
**Report of Assembly Investigating Committee on Interference
With the Legislature.**

To the Honorable Speaker and Members of the Assembly.

Your Assembly Investigating Committee on Interference with the Legislature, appointed under the terms of Assembly Resolution No. 46 and Assembly Resolution No. 49, submits herewith its report of its investigations.

This committee entered into its investigation aware of many rumors and reports that certain members of the Legislature, during the 1939 regular session, were being subjected to furtive watching, covert candid camera shots, and secret recordings of their conversations by listening devices and dictagraph plants. Repeated rumor had it that the victims of this surreptitious and gestapo prying were legislative members opposed to portions of the administration's policies and programs.

The rumors were rendered capable of belief by administration announcement of a "purge list" composed of members of the Assembly obnoxious to the administration because of their independence in voting for or against pending legislation in a matter contrary to administration desires. In some instances pre-election campaigns were instituted against these members. Included, and particularly marked by the administration, was Gordon H. Garland, member of the Assembly from the Thirty-eighth District, composed of Tulare and Kings Counties. It was the announced intention of the administration to see him defeated for reelection.

When the Legislature met in special session in January of this year, Gordon Garland, the administration purgee, was elected Speaker of the Assembly. Coincident with his election the ugly rumors of 1939 were revived and talk again filled Capitol corridors of spying tactics directed against members outside the pale of administration favor. These reports gained credibility by the unexplained presence, at State expense, of numerous SRA employees in the hotels of Sacramento continually contacting members of the Legislature and what was apparently a centrally directed harassment and attempted intimidation of Assemblymen and Senators by membership of left wing organizations.

These rumors and suspicions crystallized into fact on February 18th when the Speaker of the Assembly, Gordon Garland, discovered in the private rooms used by himself and his wife, a microphone. This microphone was attached to wires running to another room in the same hotel where a recording device was installed.

By reason of this disclosure the Assembly adopted, on February 21, 1940, House Resolution No. 46, creating a committee of five members with authority and directions to investigate any and all things connected with attempts to coerce officers and members of the Assembly in the performance of their legislative duties. This resolution was supplemented by House Resolution No. 49, adopted on February 22, 1940, increasing the membership of the committee from five to seven members.

At the outset of this report specific attention is called to the fact that of the seven members of the committee a majority, four, were Democrats, the party of the administration

Obstruction of Committee.

This committee by its terms of resolution had the duty to investigate attempts to coerce officers and members of the Assembly in the performance of their legislative duties. Such authority should have enlisted whole-hearted support of every official and employee of the State to enable the committee to complete its duties. The wide publicity attending the creation of the committee made it a matter of common knowledge that the resolution had its impetus in violation of privacy of the Speaker and his wife.

Such loathsome tactics are so repugnant to the lowest ideal of democracy and so despicable to every standard of common decency, that it was natural to assume and expect that the committee would receive every possible cooperation in its endeavors. Particularly, such cooperation was to be anticipated from the heads and officials of our executive department.

The committee, however, regretfully reports that from the beginning its investigation was hampered by administration disapproval and deliberate withholding from the committee of information possessed by administration officials in office. Such testimony as the committee did obtain was given involuntarily and in many instances under the compulsions of warning that contumacious refusals would be punished.

The recalcitrant attitude of certain State officers can well be understood from the burden of guilt they carried. As to others, it may be explained that, in spite of press statements of the Governor advocating the purpose and trusting for a complete disclosure, there was a prevailing impression reflected in the attitude of witnesses and press statements of the Governor's secretaries, that the Governor was opposed to the investigation. This coincided with his veto of Assembly Bill No. 64 which appropriated the funds necessary for this committee to function. It was necessary to pass this bill over the Governor's veto to allow this committee to meet.

Now that the investigation of the committee is completed your committee reports that in its opinion the reluctance of the administration to assist was the knowledge of guilt and its silence was the silence of shame.

The office of the State Controller and the State Personnel Board are not included in this criticism. The officers and employees of these State agencies readily responded with their usual courtesy and efficiency to all requests made.

Responsible Parties.

The committee had broad powers of investigation. However, because of early efforts to sabotage its work it concluded that its prime duty

was to fix responsibility for the placement of the microphone in the rooms of the Speaker.

The committee determined that if it established guilt for this atrocity the members of the Assembly and the public could form their own opinion as to the many other reputed violations of personal privacy and intimidating tactics.

Likewise, the efforts of this committee were necessarily restricted to ascertaining the facts of this one transaction because of the impediments placed in the way of the committee's investigation. There seemed to be a well conceived plan to discredit the committee's efforts. It is significant to note that the members of the administration who attempted to foul the work of the committee were themselves implicated and the leading conspirators in the plot. These specific details of individual responsibility will be later discussed.

The committee, however, reports that it is satisfied it has established guilt for the dictagraph incident. That the persons implicated directly or indirectly are:

Howard R. Philbrick,
Robert E. Voshell,
Paul H. Rowe,
M. Stanley Mosk,
Charles Henderson,
Governor Culbert L. Olson.

Howard R. Philbrick was, until approximately April 8th, the Director of Motor Vehicles of the State of California.

Robert E. Voshell was an investigator used by Philbrick for a period of two or three years. He was placed upon the State pay roll of the State Relief Administration on Philbrick's recommendation and suggestion.

Paul H. Rowe is the operator of an organization known as the Sound Laboratories of California. He was trained in Germany in the use of sound equipment and has operated for Philbrick over a period of years.

M. Stanley Mosk is the Governor's executive secretary and made the Governor's funds available to Rowe and Voshell on Philbrick's orders and directions.

Charles Henderson was an aide of the Governor with the title of lieutenant colonel, on the pay roll of the National Guard at a munificent salary of \$491 a month with such duties as the Governor should assign.

The Governor of the State of California, Culbert L. Olson, also must share a burden of responsibility for tolerating his direct appointees, secretaries and aides, or persons being subsidized from funds appropriated for the support of his office to engage in such activities. If the Governor is ignorant of the activities of these employees, it constitutes extreme negligence upon his part to suffer them to use State moneys appropriated to him without knowledge for what purpose it is being used and to permit his appointees such extreme latitude in their pursuits.

The essential facts from which the committee draws these conclusions and inferences from the sworn testimony, follow

Facts Relative to Dictagraph Placement.

The essential facts relative to the placing of the dictagraph in Speaker Garland's room may be summarized briefly from the sworn testimony before the committee, as follows:

During the months of January and February, 1940, Speaker Gordon H. Garland, member of the Assembly from the Thirty-eighth District, while in attendance at the session of the Legislature, had rooms at the Senator Hotel, which rooms, on the fourth floor, were used by himself and his wife as their private living quarters.

On Sunday, February 18th, he observed a light streaming through a hole in his bedroom door. Further examination disclosed a microphone cleverly hidden between the drapes and curtains of his room. Officers of the Sacramento police department were summoned and on investigation found the microphone attached to wires which ran outside the building to a room on the eighth floor occupied since February 2d by one Robert E. Voshell. In this room the police found, locked in the closet, a recording device which they removed on February 21st.

Robert E. Voshell has been intermittently associated in detective work since 1938 with Howard R. Philbrick.

Ever since this administration has been in office, including the time prior to September 12, 1939, when appointed Director of Motor Vehicles, Philbrick has been engaged in various investigations apparently financed by Governor's office funds. With his appointment as Director of Motor Vehicles his influence enabled him to have Voshell placed on the pay roll of the State.

From October 15, 1939, on the orders of Philbrick, Voshell was allowed \$250 a month as a purported auditor, Grade 3, in the SRA. Voshell's actual appointment was not made final until late in November. Voshell's duties were not in any way connected with the administration of relief, but he was engaged under Philbrick's directions and supervision, for the purpose of discrediting the report of Senator Phillips of subversive influence in the State Relief Administration.

Another person who from time to time over a period of the last two years has done special service for Philbrick, is one Paul H. Rowe. Rowe trained in Germany in the use of sound equipment, and is Philbrick's expert on sound devices.

During the period November, 1939, to the end of January, 1940, both Rowe and Voshell testified that Rowe was working for Voshell. From February 1st on, Voshell was working for Rowe.

On February 2d, Voshell secured a room at the Senator Hotel. He registered alone. Later one of the clerks registered for his wife who occupied the room with him. His wife was a trained stenographer.

On February 2d Rowe had another employee of his, one Jack Morris, install the microphone in Speaker Garland's room and connect the microphone with wires to the room on the eighth floor occupied by Voshell and his wife. In Voshell's room there was placed a recording device which was set up in the closet and the closet lock plugged by means of a special locking device.

In addition to this recording device Voshell admitted he had a listening device connected with the microphone in Speaker Garland's room. There was also another or a third device in this room which recorded conversations. This particular recording device was one which had

been ordered in the month of October by Charles Henderson, acting for the Governor's office.

Henderson had made arrangements for the delivery to him of this recording device, microphones, and 116 aluminum discs by placing the order with George F. Cake, agent of the Federal Laboratories, Incorporated. He also at various times had placed orders for quantities of microphone cables of different colors, the purpose of the variety of colors in the microphone cable being to render detection difficult.

Henderson, on February 14th, contacted Cake and complained to him that the machine was not performing entirely satisfactorily. This conversation was in the Governor's office and Cake was advised that he could not inspect the machine at that time because it was in use and not in the Governor's office. The conversation in the Governor's office between Cake and Henderson was in the afternoon. Later on the same day Cake and Henderson contacted each other in the Senator Hotel and on Henderson's direction Cake went to Voshell's room, took out the recording device, brought it down the stairs from the 8th to the 5th floor, examined it, and advised that the machine had not functioned properly because an improper microphone was being used. At Henderson's further instructions Cake carried the machine to the Governor's office.

Voshell denied that he had ever used the machine purchased for the Governor's office in recording conversations in Garland's room. He did admit, however, that over a listening device he had listened to conversations in Garland's room from February 2d to February 18th.

However, during the entire period at his listening post, he discovered not one iota of evidence.

Early in the morning of February 21st, Voshell discovered that the police had removed the recording device from his closet. After discovery of the fact that the machine had been removed Voshell precipitately checked out of the hotel at 4 o'clock in the morning and after notifying Philbrick that he was "hot" and borrowing money from him fled to the State of Washington. From there he did not return until he was requested to do so by Philbrick and Rowe.

Of further vital importance to this investigation is the fact of how Rowe and Voshell were paid. Voshell, between the period October 15, 1939, and January 30, 1940, took from the relief funds, on a salary of \$250 a month, the sum of approximately \$887.10, in addition to \$187.23 from the same funds for traveling expenses. In addition he was given a check by M. Stanley Mosk, secretary of the Governor, in the sum of approximately \$236 which check was drawn on the Governor's secret or special fund; and he was also paid or loaned other money by both Rowe and Philbrick.

Rowe, for the period November, 1939, to the end of January, 1940, according to his testimony, worked for Voshell. Voshell, from February 1st on, during the Garland espionage, worked for Rowe. Rowe, for his services between November and the end of January, was paid approximately \$1,500 from the Governor's secret or special fund. He asserted he had not yet billed for his February services but was looking to Philbrick for payment for himself and Voshell; that the basis of his pay was to be for expenses plus "results."

Checks from the secret fund, signed by M. Stanley Mosk, were issued on Philbrick's instructions. Mosk stated that he never drew a check for an individual, but a check was always drawn payable to a company.

The foregoing constitutes a brief resume of the facts developed before this committee. A narrative statement of the entire testimony received will be appended to this report as an exhibit. The specific relation of each individual named will be next developed.

Howard R. Philbrick.

Howard R. Philbrick is not unknown to espionage work in this State. With him it has been a business. For some years prior to September 12, 1939, he was a member of the detective firm of Atherton & Associates, of San Francisco. He has drawn thousands upon thousands of dollars from State funds for the purpose of investigations of a political nature, and in conducting such investigations he exhibited a ruthless disregard of the rights of privacy or character of individuals. In 1938 Governor Merriam conceived the idea of having an unlimited fund at his disposal for investigation by supplementing the annual \$2,500 fund which had always been appropriated to the Governor. This was done by additions from the Emergency Fund to which there is normally appropriated approximately \$1,000,000. By drawing on the Emergency Fund for replenishment of the secret fund, an entirely new device, Governor Merriam was able to employ Philbrick for the purpose of making an investigation during the political campaign of 1938.

This investigation covered every corner of the State.

With the close of the Sacramento County Grand Jury and the making of its final report, Philbrick remained unsatisfied with the official work of the jury and presented his own report to Governor Merriam. This report Governor Merriam refused to make public. The report, however, was publicized by Governor Olson.

This report, consisting of a maze of hearsays, suppositions, and implications, seeks to discredit many members of the Legislature.

As disclosed by his testimony before this committee for this service \$36,000 of State funds were sent to Philbrick. Questioned about reimbursing Rowe for 1940 expenses, his testimony was as follows.

Q. He (Rowe) has already testified those expenses ran between \$300 and \$400.

A. That is not surprising. The expenses in the Merriam investigation ran around \$36,000.

Q. I am not interested—

A. Well I am.

Q. That's your business. Mr. Williamson says you got most of it.

A. I got all of it.

Q. A pretty fair racket.

A. It's good if you can get it.

Q. They didn't pay for results on that one, did they?

A. Yes. That's—

Williamson: You must owe the State money.

A. That's your opinion.

Having thus learned the method of extracting money from the State of California without being on the State's payroll, Philbrick aligned himself with Governor Olson and continued to make private investiga-

tions during the year 1939 for which he apparently was paid from the Governor's fund in the same manner that he had been paid during the Merriam administration.

This witness attempted from the start to sabotage the investigation of this committee. A subpoena was served on him. Instead of appearing he sent a letter to the committee which, coming from an official occupying the high and responsible position that he did, is unique for its conceit, its trading upon his past association with the Federal Bureau of Investigation, and his calloused, sneering indifference for the violation of the right of privacy of Mr. and Mrs. Garland. The letter follows:

STATE OF CALIFORNIA, DEPARTMENT OF MOTOR VEHICLES,
OFFICE OF THE DIRECTOR, TWELFTH AND N STREETS,
SACRAMENTO, CALIFORNIA, March 4, 1940

*Honorable Harrison W. Call, Member of the Legislature,
State Capitol, Sacramento, California*

DEAR MR. CALL. The legality of the Call Investigating Committee has been challenged and until this question is determined, I can not be expected to testify before the committee.

However, because of the careless way in which my name has been used in this situation, I feel that I am entitled to place before the committee and the public a statement of my position.

Since my appointment as Director of Motor Vehicles, I have devoted my energies to reorganizing the Department on an economical basis. What Mr. Garland chooses to say in the privacy of his hotel rooms does not interest me.

Since September 12, economies amounting to \$600,000 for the present fiscal year have been accomplished in the Motor Vehicle Department. In the next fiscal year these economies will amount to approximately one million dollars and for the first time in years the department will be on a self-supporting balanced budget basis. The establishment of proper business methods to accomplish such economies and a balanced budget is the problem which has interested me.

It is true that before I became Director of Motor Vehicles I had been an agent for the Department of Justice and a private investigator. And, it is equally true that the Department of Justice, Bureau of Investigation, the San Francisco Police graft investigators and other agencies concerned with law violations use this dictagraph equipment to obtain evidence of criminal activities. Consequently I suppose that it is natural, because of my previous work, to connect my name with any incident involving a dictagraph, regardless of the fact that the job I was appointed to do and have been doing is that of running the Motor Vehicle Department.

Purely as a personal observation, based on my previous experience investigating criminal activities, may I say that no one with Federal Bureau of Investigation or other adequate training would install a dictagraph with wires leading nowhere. This, I understand from press reports, is the fact in the case of Mr. Garland's harrowing experience. The entire Garland dictagraph incident has hippodrome aspects reminiscent of his recent pulling of an unconnected telephone from the Assembly Speaker's Rostrum for the benefit of newspaper cameramen.

The name of Mr. Voshell has been connected with the dictagraph that wasn't connected, and I would like to make clear my relationship with Mr. Voshell. I was asked to coordinate certain investigative activities within the SRA. This work, in so far as I was connected with it, was completed prior to February 1, 1940. Mr. Voshell was one of the investigators for the SRA and, consequently, he turned to me for advice. As stated above, my connection with that work terminated on February 1, and I, therefore, have had no interest in Mr. Voshell's activities since that date. Mr. Voshell, himself, would be the logical person to interrogate regarding his subsequent moves. In his absence, the next investigative step would be to trace the ownership of the equipment and to have that person interrogated.

My energies are being fully exercised in the performance of duties as Director of Motor Vehicles.

Very truly yours,

(Signed) HOWARD R. PHILBRICK, Director

HRP:NV

At the time this letter was sent, Philbrick knew that Voshell had occupied room 825 at the Senator Hotel; Philbrick knew that Voshell

was working under his supervision and direction; Philbrick knew that the Federal Bureau of Investigation would not countenance wire-tapping; Philbrick knew he was misstating when he said that he had no interest in the work of Mr. Voshell since February 1st.

The character of the investigation supervised by Philbrick is in accord only with an ideal of a dictator form of government. The Speaker of the Assembly, the victim, had committed no fault unless difference on principle with the Governor's office and steadfast holding to his own convictions be an offense. For these failures he was spied upon and the machinery of a highly organized espionage system was placed in use against him—not for anything he had done—but to “get something on him.”

Philbrick was the spearhead of this investigation. Apparently it was he who had the authority to make commitments from the Governor's secret fund with Mosk, the Governor's executive secretary, having no function to perform except merely sign the checks. While he disclaims knowledge of Voshell's and Rowe's precise acts in installing the dictagraph and listening in on conversations, it was to him that they were to report. Also, from the record it seems clear that they were pursuing a course used in previous investigations.

It was Philbrick who was to assume responsibility for the work and he did so. In the official performance of the duties confided to him by statute he had the opportunity to make and was making an enviable record. It is unfortunate that the opportunity for an excellent career of public service should have been marred and blemished by participation in any affair of the character in which he engaged.

Because of the intelligence he demonstrated in his conduct of the Department of Motor Vehicles the question arises: “What made him participate in the underhanded tactics of the type used?” To the committee two conjectures are open—either he has developed an uncontrolled passion for prying into others' affairs or at the time of his appointment he was specifically ordered to continue the private work he had originated.

Charles F. Henderson.

Upon Charles F. Henderson, a young man of thirty-two, there has been conferred all the glamor, insignia and excitement of official public life.

In 1935, section 141 of the Military and Veterans' Code was enacted which allowed the Governor to appoint five aides-de-camp to have the rank of lieutenant-colonel. The power of this appointment was never used until Henderson was appointed in 1939. In such position he testified he had a salary and allowance from the funds appropriated for the defense of the State based on a thirty-one day month amounting to \$481 monthly plus traveling expenses. His duties were defined by him as doing anything he may be directed to do by the Governor.

Apparently he devoted no time whatsoever to the National Guard business of the State, and the salary paid him from National Guard moneys was a sinecure. His position, title and inclination made him assume all the insignia and benefits of high position, in the way of uniforms with Federal insignia, highway patrol cars with red lights and sirens chauffeured by members of the California Highway Patrol,

and, until the Federal Government prohibited the use of National Guard airplanes (except for the purpose of National Guard or Federal business), he was able to commandeer for the purposes of completing his errands, the official airplane of the National Guard.

Before this committee he was an unwilling, hesitant, hostile and reluctant witness, and in the minds of the committee guilty of fabrication in his testimony. He testified before the committee only after Governor Olson, according to press releases, directed him to appear before the committee immediately and testify to any and all facts within his knowledge as to who placed a dictagraph in Mr. Garland's room.

It is to be observed that this witness purposefully and carefully observed the limitations as to the matters to which he was to testify and although the committee had broad powers of investigation he carefully limited his testimony "as to who placed a dictagraph in Mr. Garland's room."

From him, however, the committee was able to establish that ever since his entry into State employ he has been meddling with dictagraph machines and has been engaged in surreptitious pursuits.

This witness refused to answer questions touching upon his investigation activities as is revealed by the following statements from his testimony:

Q. Did you ever take any part whatsoever in any investigation since you assumed the position you now hold?

A. Not relating to any matters which this committee may be investigating, outside of a few things.

Q. Your answer, then, is that you participated in such investigations?

A. No. My answer is that I have not participated in anything having anything to do with the subject this committee is investigating.

Q. * * * Would you permit this committee to pass upon whether or not that was by telling us any fact connected with that investigation?

A. No. I don't answer any such questions.

Concerning the use of this machine at places other than the Senator Hotel, he was asked whether or not he had ever had any recordings made. He stated that he had never heard any records from the machine of conversations in Garland's room, answering:

A. The only records I know anything about or have heard are records I made myself on this machine.

Q. Where were those records made?

A. Various places.

Q. Where for instance?

A. I refuse to testify about them on the same ground that I stated before.

This witness also, while admitting that he had been in the town of Fresno at the time of the Friant Dam celebration in company with the Governor, set up the recording machine in the suite occupied by himself and the Governor, and while stating that no recordings of any kind had been made, refused to answer the purpose for which

the machine had been set up although he admitted that at least one member of the Legislature had visited the room while he was there.

Likewise, he refused to answer as to whether or not the microphone, at the time of this episode, was so concealed that it would not be observed by a person coming into the room.

There is an absolute contradiction between a portion of the testimony of this witness and the testimony of George F. Cake.

Cake was the person with whom Henderson made the arrangements for buying the machine. At the time he was testifying Cake's bill had not yet been paid. Cake testified that in the Senator Hotel Henderson had instructed him to go up to Voshell's room and bring the machine down by the stairs and not in the elevator. Henderson denied that he had given such instruction. Also, Cake advised that after examining the machine he had informed Henderson that the reason the machine wasn't operating properly was because an improper microphone was being used. Relative to this testimony Henderson's testimony was, "If that's what he said it is not true."

Cake testified that when he saw Henderson in the Governor's office on February 14th, that Henderson, after making a phone call, had told him he could not examine the machine because it was in use. Henderson denied that he had such conversation.

Cake testified that Henderson, on the twenty-third day of February, had seen him in the lobby of the Senator Hotel. At that time Henderson asked him concerning some special wire which he had ordered for the machine. The conversation turned to whether Cake would be subpoenaed. Henderson advised him if he was, to testify that the purchase of the recording machine was a personal purchase by Henderson and was not made for the Governor's office. Cake testified Henderson had requested him to testify matters not in accord with the facts. Henderson denied that he had any conversation whatsoever relative to any testimony Cake might give before the committee.

The committee places no trust in Henderson's testimony, passing upon his credibility as opposed to that of Cake's, the committee unhesitatingly accepts Cake's testimony and rejects Henderson's.

The committee is advised Henderson has left the service of the State of California. By reason of his untruthful statements, his attempted suborning of Cake, and parasitic extraction of taxpayers' funds, the committee expresses the hope that his absence from the State service is to be complete and permanent.

M. Stanley Mosk.

M. Stanley Mosk is executive secretary to Governor Olson. Among other duties in the Governor's office he signs all checks on the Governor's support fund and also the special fund. On these funds he has carte blanche and in making withdrawals from the secret fund it is his explanation that he does so upon the direction of some department head without knowing the purposes of the investigation.

Although he had written checks for the Sound Laboratories and through him they were delivered to either Rowe or Voshell, he denied having any knowledge whatsoever as to any of the incidents of the investigation.

This witness' part in the actual placing of the dictagraph in the room of the Speaker would be excused by the committee with the statement that he was extremely negligent in the handling of State funds appropriated for State purposes; and paying out those funds without knowing the precise and exact purposes for which the funds are being used. It seems that any person having such authority should have positive knowledge of employment of the fund unless a deliberate scheme has been evolved whereby the writer of the check is to know nothing, except that he signed his signature.

The committee, however, calls the attention of the membership to the attempts of this witness to discredit the committee's work. He was first subpoenaed to testify before this committee on March 4th. Instead of appearing, like Philbrick he sent a letter to the committee, on the letterhead of the Governor's office, stating in substance he considered the committee illegal and until the committee's legality was established by a court of competent jurisdiction he would fail to appear.

Following this refusal, on March 6th he released to the State press a statement alleging that the dictagraph affair was a frame-up of the Governor's political enemies. He alleged that the planting of the dictagraph and the spying activities were known to anti-administration individuals a number of days before their discovery. His statement was so worded as to be susceptible to the construction that John Phillips, member of the Senate from Riverside County, was a party to the dictagraph plot in an attempt to discredit the administration.

Mosk attempted to implant in the public mind an idea that Voshell was not an agent of the administration but was directly allied with Senator Phillips. Linking Voshell's and Senator Phillips' names in his statement, he said "It indicates a chain of suspicious circumstances all having a decidedly anti-administration flavor." Such a statement did not lie well in the mouth of the individual who had less than two months before passed a \$236 check from the Governor's secret fund, payable to Sound Laboratories, to Voshell for Voshell.

This witness finally consented to appear, announcing his willingness to testify by sending a telegram addressed to the chairman of the committee reading as follows:

Honorable Harrison Call,

Eaton Drive, Redwood City, California

I have heretofore questioned the legality of your committee. The press reports the Attorney General has rendered an opinion finding your group legal. While I retain my misgivings as to your right to pursue this partisan political inquiry at State expense and feel confident the courts would declare your activities null and void, it has been called to my attention that appeal to courts might take several months or longer than the duration of your investigation. I am unwilling to permit that ordinary delay to lead to an inference of concealment of facts or knowledge of any improper activities. Therefore I volunteer to appear before you and your six colleagues in Sacramento Tuesday or at any other time or place you may designate and to testify as to all matters relevant to your inquiry.

M. STANLEY MOSK,

Executive Secretary

When he did appear relative to the implication of Senator Phillips he testified as follows:

Mr. Millington: At the very time you put that statement out that cast a stigma on Senator Phillips' name all you had to do was to get Howard Philbrick and you could have found the whole truth of this thing, couldn't you?

A. I didn't have the truth of the situation.

Relative to his allegations in the telegram that the committee's work was a partisan political inquiry, he stated that the complexion of the committee led him to that conviction, testifying as follows:

Q. Have you got any evidence?

A. No, the complexion of the committee, I think——

Q. That's all. Other than that you had no such evidence?

A. No, that is true.

The committee is of the view that this witness testified truthfully. It observes, however, that a Governor's secretary is guilty of gross negligence if the duty of supervising funds is entrusted to him and he pays them out without knowledge of their use. The committee also observes that not excessive zeal or blind loyalty can excuse the rash indiscretion of publicly accusing an innocent person, as in the case of Senator Phillips, of subversive actions.

Robert E. Voshell.

Voshell's function as a listening post and his employment with the State have already been made clear. It is significant to observe that his work in the State Relief Administration was designed to offset the results of the investigation being conducted by Senator Phillips into abuses in the SRA. He was selected by Philbrick, apparently for the purpose of white-washing the administration of State relief and rendering nugatory Senator Phillips' work. It was an investigation of the administration, by the administration, and paid for by the administration.

From all his testimony it appears that this witness' employment by the SRA was in the nature of a stop-gap employment to keep him available for the purpose of investigating members of the Legislature as soon as the special session would convene. On this point he testified:

A. At the time that I went to work it was understood that my work was to cease at the time that the special session started, because then we expected all of these investigations to be aired and the recommendations adopted.

Q. Well, then it was your understanding as I——

A. If the Legislature had convened on January 9th instead of January 29th my work would have stopped then.

Q. If it had continued on up to April, May or June would you have gone right on?

A. I would have still gone right on.

This witness likewise was reluctant to testify and followed Henderson's lead by refusing to divulge matters relating to the investigations he had made except relative to the specific incident relating to Speaker Garland. The testimony as to his investigations for the period October 15th to February 1st is as follows:

Q. Where were your investigations carried on?

A. Wherever the nature of the investigation took me.

Q. Well, where did it take you?

A. Largely in Sacramento, San Francisco, and Los Angeles. There was some investigation in Fresno, some in San Mateo County.

Q. And what was the nature of that investigation?

A. I came down here to testify and I am willing to establish my own background. I will answer any questions you like. But I don't like to take up everyone's time and I don't like to fill the record with extraneous matters.

Q. Well, I think we will determine if that is within your province. * * * Now, I will ask you, did you make any investigation in the city of San Francisco?

A. I don't believe I am at liberty to tell this committee what I developed during my investigation.

Q. Well, I am not asking what you developed at all. Did you make an investigation?

A. Yes, sir, I did.

Q. Did you use sound equipment in making it?

A. I don't believe I will answer that question. That is not within the scope of this committee's investigating.

Q. Has anyone advised you that it was not within the scope?

A. I heard Colonel Henderson testify.

In spite of the fact that this witness was paid by the State Relief Administration his own testimony was that he rendered no service for the State Relief Administration.

Relative to the investigations he made of the SRA he said:

Q. Did you request Mr. Chambers * * *?

A. Mr. Chambers knew nothing of that investigation. * * *

And the director of SRA did not know that the investigation * * * was being made.

Asked with reference to his use of the recording device found locked in his closet at the Senator Hotel which had been removed by the police, he refused to answer any questions concerning it. He testified that he had not used this listening device during the time it was installed in his room at the Senator Hotel.

He was then asked:

Q. Was it ever used by you when it was in your possession?

A. I am unable to answer that question.

Q. Why are you unable to answer it?

A. It doesn't bear on anything having to do with this investigation.

Q. Well, then you refuse to answer the question, is that right? Am I to understand that?

A. Yes.

From all evidence given by this witness the committee concludes that he was a hired tool in the investigation, willing to perform services he did for the support it brought him.

The committee is of the opinion, however, that his employment with the SRA was so irregular that it may well constitute, both as to the time of his employment and the actual moneys paid to him, an illegal payment of State funds. In this respect it is recommended that the Attorney General conduct a further investigation.

Paul H. Rowe.

This witness appearing before the committee seemed to take pride in his reputation as an expert on sound equipment machines. He was, however, extremely embarrassed by photographs taken of him and

stated to the committee he saw no reason why he should be revealed to everybody and his brother.

He operates a concern in Los Angeles known as Sound Laboratories. It was on his specific direction that an employee of Rowe by the name of Jack Morris installed the microphone in Speaker Garland's hotel room. It was his recording machine that was found in the closet in Voshell's room.

He stated that he had been hired by Philbrick to continue the lobby investigation that had been commenced by Philbrick during the administration of Governor Merriam. His particular qualification for sleuthing and gestapo activity is his specialized training in sound work secured in Germany. Through him the committee established that working with Philbrick he had installed many dictagraphs in the State. He refused to testify relative to the amount he had been paid from the Governor's secret fund for investigation. (M. Stanley Mosk, the Governor's executive secretary, later supplied this information.)

As to his payment for his services on the Garland investigation he testified as follows:

Q. Oh, you have received no pay whatever for it?

A. That's right.

Q. You are referring to the recently conducted one?

A. That's right.

Q. But you expect to get that pay, don't you?

A. Yes.

Q. From whom?

A. I expect to get it through Howard Philbrick, I don't know who will eventually pay it.

Q. He's the man who hired you?

A. He is the one who directly is the one who hired me, yes.

Q. You expect, but you don't know whether it will come through him, or the State of California or from what funds?

A. I have no idea. I have never even given it a thought.

Q. Did you determine upon an amount of compensation?

A. Not as yet.

* * * * *

Q. Before the SRA investigation you were paid out of the—some fund of the Governor's office?

A. Out of the secret service fund.

As to the amount he was to be paid he testified:

Q. Do you on investigations charge by the day, on the investigation as a contract job, or by the work, or just how do you usually charge?

A. Well on a matter of this type it would be by the results.

This evidence as to manner and amount of payment seems in itself to be a method fostering corruption. Hired tools, whose definite objective attempts to secure information for sale, would be afflicted with the temptation to create it. A natural suspicion attaches to both Rowe and Voshell by reason of the testimony of their rapid changes between themselves as employee and employer. Apparently this method of operation was devised to attempt to clear Voshell of any responsibility for taking State funds from the SRA while doing other work. The fact that Rowe was continuously paid from the Governor's secret

fund, whether investigating SRA or legislators, and that Rowe paid Voshell money rather than Voshell paying Rowe money, and the reluctance of both to testify as to their actual investigations of SRA, leads the committee to the conclusion that in actual fact there was no relationship of employee or employer between them; that both were working under the same supervision and looked to the Governor's fund for eventual payment.

As to the whole matter of payment from these Governor's funds the question has never been determined as to whether or not such payments can be legally made. It is recommended that this matter be investigated by the office of the Attorney General on the basis of the testimony had before this committee and a determination made as to whether or not State funds can be used as these funds were.

Conclusion.

This committee concludes its report by stating that the Governor in the public press denied any knowledge of this entire affair.

His denial stands.

His statements condemning the reprehensible activity of his appointees are agreed to by all the people of California. It is to be observed, however, that permitting investigations unless called for under extraordinary circumstances will always have the inevitable conclusion that this one had unless they lead to worse things, such as character assassination or blackmail.

The committee trusts that in the future the Governor's funds will be reserved for the peculiar purpose for which they have been appropriated—that is, essentially State use for which specific statutory authorization exists; that the secret fund be confined to the purpose for which it has been enacted—that is, situations of great or unusual emergency.

From its investigation the committee recommends:

First—That further and additional restrictions be placed upon the secret service fund of the Governor's office or it should be eliminated from the budget entirely.

Second—That the Attorney General investigate and render his opinion upon the use of the secret service fund for purely investigating purpose, including investigations of members of the Legislature, particularly in an instance where there is no probable reason to believe that the member has been guilty of any offense.

Third—That the Attorney General of the State investigate the payment to Robert E. Voshell of money from the funds appropriated for the State Relief Administration, and determine whether or not money was paid to him on false vouchers, and if so to proceed with proper action.

Fourth—That the Fifty-fourth Session of the Legislature enact appropriate legislation abolishing the use of dictagraphs and sound equipment for the purpose of secretly recording conversations except

when approved by a court of competent jurisdiction on application of the Attorney General.

Respectfully submitted.

HARRISON W. CALL, Chairman.
SETH MILLINGTON.
CHESTER F. GANNON.
RAY WILLIAMSON.
C. DON FIELD.
HUGH M. BURNS.

Report of Minority Members of the Assembly Investigating Committee on Interference with the Legislature.

The minority members certainly do not condone the invasion of the privacy of any member of the Assembly and we join the majority members of the committee in condemning the activities of the private investigators responsible for this incident. We had therefore hoped that there would be no need of two reports and that all members of the committee could unite upon a factual presentation to the honorable members of the Assembly.

However, candor requires recognition that politics played a major role throughout the entire incident. While the original planting of the dictagraph in the hotel suite of Speaker Garland must be attributed to over-zealous work of detectives investigating corrupt lobbying, the eagerness with which this investigation was pursued, the publicity attendant thereto, and the vindictiveness of the majority report must be considered partisan anti-administration politics.

The charge that politics have figured prominently in this investigation is not made loosely. The majority report itself refers to "many rumors and reports that certain members of the Legislature" were on so-called "purge lists" and that "re-election campaigns were instituted against these members," among them being Speaker Gordon H. Garland and other anti-administration personalities. These references to "ugly rumors" of a political character, which have no place in a legislative committee report, the transcript of testimony itself, and the zeal with which the majority members of this committee have wandered outside of the four corners of the transcript and have resorted to surmises and conjectures to establish apparently pre-conceived conclusions are all politically significant.

In the second place, it is significant that at no time were all of the members of this committee consulted on the procedure or objectives to be adopted, the witnesses to be called, the strategy proposed in questioning witnesses. A small clique within the committee pursued the matter gathered whatever evidence it saw fit to present, subpoenaed all witnesses, made press releases, planned the complete agenda, and merely presented the committee membership with a *fait accompli*.

The majority report contains a section entitled "Obstruction of Committee." We know of no such obstruction and can under no circumstances consider the misgivings of prospective witnesses concerning the legality of the committee to be "obstruction." In fact, at least one member of the committee itself had doubts of its power to investigate an invasion of the personal privacy of a member of the Legislature, in the belief that such an investigation was one for law enforcement authorities and that a public body can not properly be concerned with

private or personal privacy. Although at least two witnesses indicated their doubts of the legality of the committee, it must be pointed out that after the Attorney General and the Legislative Counsel determined the validity of this committee's powers, the witnesses volunteered to appear and testify.

An analysis of the transcript of testimony indicates that Mr. Howard Philbrick, then Director of the Department of Motor Vehicles, employed a firm known as the Sound Laboratory, and owned by a Mr. Paul Rowe of Los Angeles, to continue the corrupt lobbying investigation formerly known as the Philbrick Investigation and which culminated in the "Philbrick Report." Mr. Rowe in turn employed a Mr. Robert Voshell, who supervised the planting of the dictagraph in the living room of Speaker Garland's suite in the Senator Hotel, frequented by lobbyists.

While Mr. Philbrick disclaimed any knowledge of the planting of a dictagraph in Mr. Garland's suite, he freely admitted that he had employed Mr. Rowe.

However, full credence must be given to the testimony of Mr. Philbrick that he did not know of the planting of this dictagraph, since he is thoroughly corroborated by the positive testimony under oath by Mr. Rowe and Mr. Voshell, and since not one statement of evidence was introduced by any witness to indicate any knowledge of it given to or received by Mr. Philbrick.

It was apparent on the day when the investigation was first authorized by legislative resolution that the goal of the small clique guiding the proceedings of the committee was to "get" Howard Philbrick. That the motive amounted almost to persecution is nowhere more clearly indicated than in House Resolution No. 104, introduced on May 23, 1940, by Mr. Call, chairman of this committee. Although Mr. Philbrick is now employed in private industry and has no connection whatsoever with State service, Mr. Call has introduced this resolution designed to investigate his present employment. When an individual is subjected to legislative investigation while engaged in business activities in no manner concerning this Legislature, we may look upon such investigation and investigators with suspicion of "gestapo prying," to use the very words of the majority members of this committee.

Aspersions are cast upon Colonel Charles F. Henderson, then military aide on the Governor's staff, because he purchased a recording machine from the Federal Laboratories through a Mr. George Cake, which, as he explained, was used for the purpose of recording the Governor's extemporaneous speeches. The evidence conclusively shows that the machine purchased by Colonel Henderson was not the dictagraph used by Mr. Voshell and seized by the police department of the city of Sacramento in Mr. Voshell's room. Colonel Henderson voluntarily produced his sound recorder in the Assembly hearing room in Los Angeles and it was contrasted with the Voshell machine introduced into evidence by police officers. Colonel Henderson testified that he had no knowledge of a dictagraph being placed in Mr. Garland's suite until so informed by Mr. Garland's public statement.

There is no justification for insinuations to the contrary in the fact that Colonel Henderson justifiably declined to testify concerning matters unrelated to this incident and beyond the scope of the committee's

inquiry, which was necessarily limited to this dictagraph episode. The committee had no legal or moral right to condemn or criticize any witness for properly refusing to testify to matters outside the scope of this investigation.

M. Stanley Mosk, Executive Secretary to the Governor, was called relative to a check cashed by Voshell in the Senator Hotel, Sacramento, on January 3, 1940. Since on January 3d the Legislature was not in session and did not meet until January 29th, and there is no evidence that Mr. Garland was in Sacramento at that time, full credence must be given to his uncontroverted testimony that the check given to Mr. Rowe's company was for extraneous services rendered in SRA investigations in the months of October, November and December of 1939, and had no connection whatsoever with the dictagraph incident. The majority report concedes it "is of the view that this witness testified truthfully."

The majority committee members seek to raise an issue in their asserted belief that secret service funds were used in this matter. Yet in their own quotation from the testimony of Mr. Paul Rowe, they cite his testimony:

Q. "Oh, you have received no pay whatever for it?"

A. "That's right."

The testimony of Secretary Mosk establishes that the fund was at the disposal of all department heads in the Executive Department, and that expenditures therefrom were made by him upon the request of department heads. Simple analysis corroborates this, for it would be ridiculous to assume that the Legislature appropriated \$15,000 to the Governor's office for the purpose of investigating the Governor's office; obviously the fund was created and the moneys appropriated for investigations to be conducted by and in the various executive departments, through individual department heads.

It must be realized that there is a force of twenty-five employees on the staff of the Governor, each with his individual responsibilities, duties and power to exercise reasonable discretion. There are also twenty-two department heads, each with his individual responsibilities and with even a wider latitude of discretion. To believe that each employee or even one of the members of his staff and each department head continually report their minute individual activities, extra-curricular political endeavors, and their efforts to promote public welfare, is to ignore reality. It is not difficult under our complicated governmental structure to believe that each acts upon his own initiative in countless routine and discretionary operations every day in the week.

The majority members of the committee infer that the Governor and his staff maintained a recalcitrant attitude toward this investigation and infer that the Governor's veto of Assembly Bill 64, which appropriated necessary funds, was the result of this attitude. This is obviously misrepresentation, for Assembly Bill 64 was vetoed by the Governor for entirely different reasons and his veto was signed prior to the introduction of the resolution creating this committee.

We adopt in our report the conclusion of the majority members that "this committee concludes its report by stating that the Governor in the public press denied any knowledge of this entire affair. His denial stands." No other conclusion would be possible by even the

most partisan anti-administration individual after reading the complete transcript of testimony taken.

We must refuse to join in the conclusions of the majority members of the committee, particularly in regard to its call for additional restrictions to be placed upon the secret service fund of the Governor's office. Nowhere in the transcript of testimony is there one line of evidence to indicate that any of the parties responsible for the dictagraph incident were paid out of the secret service funds. We can not, therefore, permit the hysteria created and politically fostered to be the basis for any far reaching legislative enactments. We have no quarrel, however, with the fourth conclusion, providing that such legislation will not hamper law enforcement authorities in their normal duties.

We feel that some good came from this investigation, and have every reason to doubt that there shall be any similar incident in the future wherein it could be interpreted as "interference with the Legislature" or not. On the other hand, our effect on lobbying interference with the Legislature, a scope scrupulously avoided by this committee, will doubtless be negligible.

Respectfully submitted.

F. RAY BENNETT.

Reply to Minority Report.

In view of the shocking inaccurate statements made in the Minority Report, incidentally signed by only one member out of seven, the majority submit this supplementary report. Politics played no part in this investigation. The committee of seven was as evenly divided as could be done without cutting a member in half. There were four Democrats and three Republicans, and everyone with the single exception of the dissenter signed the majority report.

The statement that rumors of purges had no part in the report, is a conclusion that is hardly justified after the Governor's repeated public statements that he will "purge every member of the Legislature who differs with him." As to the "objection of the committee," every effort was made by high officials of the administration to prevent the learning of the truth. Philbrick, Mosk and Henderson, who ultimately confessed, refused to testify until after Voshell had exposed them. The reference to the living room of Speaker Garland being frequented by lobbyists is a contemptible misstatement on the record, for Voshell, the man who spent two weeks snooping on the private conversations of the Speaker and his wife admitted that they drew a blank. The statement that the goal of a small clique was to get Howard Philbrick is a deliberate misstatement. In connection with this investigation no one had the slightest idea of the person or persons who were responsible for this outrage. So far as "getting Mr. Philbrick," he confessed his full responsibility. So far as Charles F. Henderson's statements are concerned, Mr. George Cake, a thoroughly disinterested person, would indicate Henderson's connection with this was thoroughly reprehensible. The statement that the Governor's veto of the bill to provide funds for this investigation was done prior to the introduction of the resolution creating this investigation, is a deliberate misstatement. That is proven untrue by the clock. The resolution was introduced at 11 o'clock in the morning, the Governor vetoed the bill at 4 o'clock in the afternoon.

We submit this correction of the misstatements briefly and in temperate language, being restricted from the use of the appropriate language by legislative courtesies, which the minority certainly has forfeited.

Mr. Bennett, also makes reference to a resolution introduced by the chairman concerning Philbrick's recent new appointment, and states that the introduction of the resolution was proven "persecution" of Philbrick, because it requested an investigation of Philbrick's appointment. This statement is equally false as most of the minority report. The record will show that the resolution referred to did not request an investigation; did not even criticise Philbrick's appointment, nor the motion picture industry for employing him. It merely condemned publicity incident to the appointment to the effect that the appointment was made because of meritorious services to the State.

H. W. CALL, Chairman.

SETH MILLINGTON.

RAY WILLIAMSON.

CHESTER F. GANNON.