
By Mr. Sontag of Boston, petition of Leo Sontag for legislation restricting the authority of the Attorney General and district attorneys to authorize wire tapping. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Six.

AN ACT RESTRICTING THE AUTHORITY OF THE ATTORNEY GENERAL AND DISTRICT ATTORNEYS TO AUTHORIZE WIRE TAPPING.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 272 of the General Laws is
2 hereby amended by striking out section 99, as appearing
3 in the Tercentenary Edition, and inserting in place
4 thereof the following section: —

5 *Section 99.* Whoever, except when authorized by
6 written permission of the attorney general of the com-
7 monwealth, or of the district attorney for the district,
8 pursuant to an order issued under section ninety-nine A,
9 secretly overhears, or attempts secretly to overhear, or
10 to have any other person secretly overhear, any spoken
11 words in any building by using a device commonly
12 known as a dictagraph or dictaphone, or however other-
13 wise described, or any similar device or arrangement, or
14 by tapping any wire, with intent to procure information
15 concerning any official matter or to injure another,
16 shall be guilty of the crime of eavesdropping and shall
17 be punished by imprisonment for not more than two
18 years or by a fine of not more than one thousand dollars,
19 or both.

1 SECTION 2. Said chapter 272 is hereby further
2 amended by inserting after section 99 the following
3 section:—

4 *Section 99A.* An order for the interception of tele-
5 graphic or telephonic communications may be issued by
6 any justice of the superior court upon oath or affirmation
7 of the attorney general of the commonwealth or of the
8 district attorney for the district that there is reasonable
9 ground to believe that evidence of crime may be thus
10 obtained and identifying the particular telephone line
11 or means of communications and particularly describing
12 the person or persons whose communications are to be
13 intercepted and the purpose thereof. In connection with
14 the issuance of such an order, the justice may examine
15 on oath the applicant and any other witness he may
16 produce for the purpose of satisfying himself of the
17 existence of reasonable grounds for the granting of such
18 application. Any such order shall be effective for the
19 time specified therein, but not for a period of more than
20 three months, unless extended or renewed by the justice
21 who signed and issued the original order, upon satisfying
22 himself that such extension or renewal is in the public
23 interest. Any such order, together with the papers upon
24 which the application was based, shall be delivered to and
25 retained by the applicant as authority for intercepting
26 or directing the interception of the telegraphic or tele-
27 phonic communications transmitted over the instrument
28 or instruments described. A copy of such order shall be
29 impounded by the justice issuing the same. In case of
30 emergency and when no such justice is available, the
31 attorney general or the district attorney for the district
32 may issue such order, but on the next court day the said
33 attorney general or district attorney upon oath or affir-
34 mation setting forth all the facts, shall apply to a justice
35 of the superior court for a court order to issue validating
36 the act of said attorney general or district attorney.
37 If the court refuses, after hearing to validate such prior
38 order of the attorney general or district attorney, said

39 prior order shall cease to be effective, and no further
40 action thereunder may be taken. In such case the
41 court may, if justice so requires, order the transcription
42 and records already made of the interception surrendered
43 to the court for destruction.

