

partment of Justice attorneys prosecute its cases. They present its evidence to the courts. And if we would refuse to present evidence based upon their investigative techniques, they couldn't make a case. They are not authorized to go into Federal district court.

Mr. EDWARDS. So what would you do——

Mr. CLARK. We have had no difficulty there.

Mr. EDWARDS. Will you refuse to submit evidence of an undercover agent or will you not?

Mr. CLARK. You didn't understand me, apparently. What I said was it will be just the same. We prosecute their cases today. We prosecuted them when the Harrison Act was put on the books. The U.S. attorney and his assistants are the lawyers in court who prosecute their cases.

If undercover agents have developed their cases, we prosecute them that way. When Danny Escobedo was prosecuted in Chicago last month, it was an assistant U.S. attorney that prosecuted that.

Mr. EDWARDS. How about wiretapping? If cases are made by the use of wiretapping in the Bureau of Narcotics?

Mr. CLARK. No case is going to be made by the use of wiretapping. You have to be concerned about violation of the Federal Communications Act.

The Federal Bureau of Narcotics is not using wiretapping. There has been a Federal prohibition since July of 1965.

Mr. EDWARDS. The Prettyman report recommended wiretapping to be used by agents to detect and prevent international smuggling of drugs. Do you subscribe to that recommendation?

Mr. CLARK. The Department of Justice is on record as opposing the use of wiretapping and electronic surveillance that involves, in the old sense, the trespass, except in cases directly involving the national security.

Mr. EDWARDS. Has the Supreme Court outlawed the use of wiretapping except in cases of national security?

Mr. CLARK. All the Supreme Court in its most recent decisions has indicated is that where judicial authority, analogous to the authority to grant a warrant to search, has been sought, where there is probable cause to believe a crime has been or is about to be committed, that under judicial authorization, a wiretapping can be placed on domestic crime for a very limited period of time.

Mr. EDWARDS. Does this put the Justice Department's philosophy then at odds with the Supreme Court decision?

In other words, are you tougher on this point than the Supreme Court?

Mr. CLARK. I would say we are tougher than the Supreme Court. But the mere fact that you can do something under the Constitution doesn't mean that as a matter of policy you do it. We have found that we have been very effective without its use. The conviction rate of the FBI today is 97 percent, the guilty plea rate is about 87 percent.

Mr. EDWARDS. What type of international organization does the Justice Department have? Do you have overseas agents?

Mr. CLARK. Yes, we have some. We don't have extensive offices. The Immigration and Naturalization Service, which has about 7,700 personnel, has offices in various parts of the world. The FBI has a few people outside of the country.