

**SENATOR
SAM ERVIN
★ SAYS ★**



One of the provisions of the Omnibus Crime Control and Safe Streets Act permits wiretapping and the use of electronic devices. The provision came about in part because of the recent U. S. Supreme Court decision, *Berger v. N. Y.*, which laid down the Court's views on eavesdropping and the use of electronic devices in court prosecutions.

A divided Court reversed *Berger's* conviction upon the constitutional ground that the New York statute permitting the use of testimony gained under a court authorized "bugging" was too broad and violated the protections of the Fourth Amendment.

The Senate bill deals in broad fashion with the problems raised by the *Berger* case by establishing statutory standards in this emotionally clouded area of the law. Principally, the Senate-passed measure seeks to clarify how wiretapping and

electronic devices can be used to control and eradicate crime.

The depth of the problem can be seen in fact that today it is not illegal to wiretap if one does not divulge the contents of what is learned from listening to a private conversation. Although Congress in 1934 outlawed the interception and divulgence of the communications wiretaps, the Justice Department has interpreted this section to impose a double Federal standard thereby permitting listening if no disclosure is made. Under State law the problem is more confused. Some states permit the use of electronic "bugging" devices and others do not. Many feel that our surveillance laws leave much to be desired.

Many Americans regard snooping as "dirty business". There is no doubt that wiretapping does invade one's right of privacy. On the other hand, the Fourth Amendment ban is against unreasonable searches and seizures. The law has always recognized that some invasions of one's home, one's effects, or one's papers are necessary for the enforcement of the law. Under stringent safeguards, the law permits law enforcement officers to use other evidence-gathering tactics such as search warrants. Wiretaps do not invade privacy any more

than do other lawful procedures.

In essence the Senate bill seeks to spell out standards and bring some uniformity into the field of wiretapping and electronic surveillance. Although the bill governs Federal officers primarily in their use of court approved eavesdropping, it also authorizes state legislatures to pass laws authorizing "bugging" under similar standards. The bill goes further and makes surveillance unlawful except in restricted cases where law enforcement officers apply to a court and obtain court authority to eavesdrop. The authorization covers major Federal crimes and most serious State crimes.

Whatever one's views are about the need for privacy, there is a growing realization that eavesdropping under court order is a two-edged tool. Sometimes it is the only means available to law enforcement officers to protect society.

Justice Black, in the *Berger* Case, put the matter in perspective in his dissenting opinion: "No man's privacy, property, liberty, or life is secure, if organized or even unorganized criminals can go their way unmolested, ever and ever further in their unbounded lawlessness. However, obnoxious eavesdroppers may be they are assuredly not engaged in a more 'ignoble' or 'dirty business' than are bribers, thieves, burglars, robbers, rapists, kidnappers, and murderers, not to speak of others . . . And it cannot be denied that to deal with such specimens of our society, eavesdroppers are not merely useful, they are frequently a necessity".

This seems to be the essence of the matter.

Attitudes & Platitudes

Jerry Marcus



The Travelers Safety Service

Driving after drinking is a major cause of highway accidents.

**PERSONAL PARAGRAPHS
(Continued from page 2)**

that the nation is the keeper of all its indolent, criminal and destructive forces. And this same kind of affluent guilt complex extends the American generosity to indolent, indifferent so-called nations whose only excuse for being is the misguided political missionary zeal of Americans who fervently believe that every tribal fiefdom is quite capable of administering a republican representative form of government that is in dire straits even in our own enlightened(?) land.

But poverty is where the money is these days. Either get a job helping the poor at home or abroad, and although the pay scale is not the highest the expense accounts are open-ended, and the accounting system is non-existent. The only real result of this generosity is that the poor get poorer and the people helping to make the poor people less poor are getting wealthier.

Stokeley Carmichael buys himself a \$40,000 home in Washington, D. C. Rap Brown has no difficulty putting up a \$10,000 cash bond when he is jailed for his efforts to impoverish the entire nation by burning it all down so that everybody will start on "even ground", even if it is a trifle charred.

And so it goes all through the poverty apparatus; at home and abroad. The shiniest new car drivers, the fanciest turtle-necked bead wearers are all "gitting their grits" at the poverty shop; what few are not short-circuiting the official apparatus and getting their color TVs and reversible wigs with a brick tossed through a window.

It is a long, long political road, indeed, that has no turning. And this is the year of national political turning. Not until November can it be known how sick, or how happy the average badgered taxpayer really is about all that goes on around him. One thing that is very certain is that in every township across the land there are poverty workers in schools, jails, hospitals and local Molotov Cocktail shops who never had it so good and they can surely not be expected to vote to kill Santa Claus. The real November issue is: How is Santa Claus going to vote?

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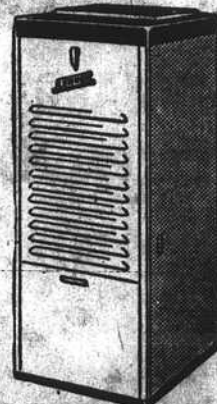
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