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PAGE A14

Reactions to the Privacy Problem

What a world of difference there was between the responses given to Senator Sam Ervin's Constitutional Rights Subcommittee by the Department of Health, Education and Welfare on the one hand and by the Departments of Justice and Defense on the other. The subcommittee is grappling with a problem of the most vital concern to the American people—the impact on their privacy and their very sense of individual identity and security that grows out of the proliferation of snooping and surveillance by government agents and the indefinite storing of all the undigested and unverified information they garner in computerized memory banks.

From HEW there came before the subcommittee no less an official than Secretary Elliott L. Richardson himself. He came, apparently, without any purpose of evasion, concealment, buck-passing, pooh-poohing or proclamation of innocence but rather with a shared sense of the importance and relevance of the subcommittee's agenda. Right out loud in a crowded hearing room, the secretary said simply that the nation "must develop the means of controlling the potential for harm inherent" in the data banks with all their compilation of information and misinformation. "We may," he acknowledged, "need to consider affirmative regulation of this technology if present judicial processes prove inadequate in protecting our privacy."

This is the response of a man concerned not alone for maintenance of the power and prerogatives in his own satrapy but concerned also for the rights and welfare of the public he serves. His concern is an altogether proper one for the head of a department that embraces the Social Security system which has, in some respects, reduced every American to an integer. HEW, as Senator Ervin remarked, "probably maintains more personal

data on individuals than any other federal department." Never mind that its purposes are beneficent. Its potentialities have seeds of malignancy which it would be folly to ignore.

The Department of Justice—mind you, the department which above all others is supposed to protect the liberties and immunities of Americans—sent an Assistant Attorney General to the subcommittee last week and had him announce haughtily that Justice "will vigorously oppose any legislation" that "might impair the government's power to pry into the private lives of citizens. No audible or visible anxiety of any kind that such endeavors to promote national security might ruinously undermine the personal security that has been among the proudest boasts of Americans.

The Defense Department, for its part, has simply given the subcommittee the back of its hand. Its component Department of the Army, you will remember, started Senator Ervin's whole investigation by its arrogant assumption of authority to collect data on anyone suspected by any shavetail of harboring subversive tendencies—including even members of Congress. But now, on the pretext that it is investigating its own home-front intelligence operations, the Pentagon has asserted that it would be "inappropriate" for three Army intelligence generals summoned by the subcommittee to appear before it. Well, at least the Defense Department appears to be in favor of curbing congressional inquiry.

Fortunately, Sam Ervin is not a man likely to be easily snowed or overawed by legal brass in or out of uniform. He has a major problem to solve. Certainly government investigation and record-keeping have valuable uses. But they must be used, like other instrumentalities of law and order, to enlarge liberty, not consume it.