

Post 9/6/76 'Secure Probes and Security Taps'

The recent editorial which appeared in The Washington Post entitled, "Secure Probes and Security Taps" focused on the subcommittee's efforts to obtain information from the American Telephone and Telegraph Company concerning its role in instituting warrantless government wiretaps. The subcommittee's subpoena for these documents was blocked by an injunction granted by U.S. District Court Judge Oliver Gasch at the behest of lawyers for President Ford.

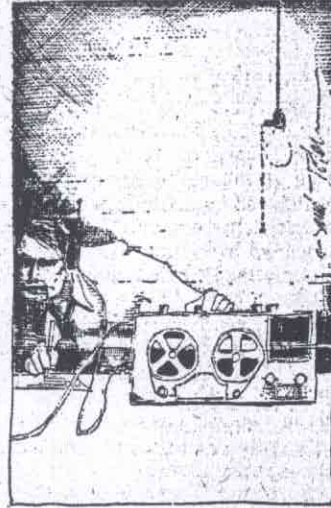
Mr. Ford asserted executive privilege, reasoning that when AT&T employees place wiretaps at his request, they become agents of the President.

The Post should be commended for criticizing "the dangerous doctrine that the Executive Branch may unilaterally decide what information Congress may receive." The editorial, however, was in error in several respects.

The subcommittee's jurisdiction over this matter is not "peripheral" as The Post contends. Rule X of the Rules of the House of Representatives gives the most direct authority to this committee for "regulation of interstate and foreign communications." The House Commerce Committee in 1934 approved the controlling statute that insures the privacy of phone conversations, the Federal Communications Act, and has reviewed its effectiveness continuously since. Because of this responsibility, the subcommittee needs to learn what procedures are being used, if any, to safeguard the privacy of phone lines and to determine whether new law is needed restricting wiretapping without a court order.

The value of the information sought by the subcommittee is not "limited" as The Post contends. The records specify the places or phones to be tapped. They will indicate whether the subjects include news reporters and other private citizens, as some have alleged, or foreign embassies or aliens.

After five weeks of intense effort by representatives of this subcommittee and the Department of Justice, a draft agreement was reached that provided for (1) security arrangements acceptable to the President's negotiators; (2) review of edited wiretap memoranda by appropriately cleared staff; and (3) re-



By Sand Toier for The Washington Post

view of unedited materials by three members of the subcommittee staff having the highest security clearances. Hours before this agreement was to be signed, President Ford—apparently at the urging of the CIA—repudiated the agreement negotiated by his own team.

The President sought to limit review by the subcommittee to only two of the seven years covered by our subpoena and completely rejected access to any unedited materials. The President also demanded that the subcommittee cancel its subpoena. Moreover, disagreements over the expurgation of any memoranda would be referred to the Attorney General—hardly a disinterested party—and ultimately would be resolved by the President himself. When this offer was rejected, the President directed his lawyers to go to court. The evening before the return date of the subpoena, the President obtained a temporary restraining order blocking AT&T from turning over the subpoenaed documents to the subcommittee.

The expansion of executive privilege from protecting oval office conversations claimed by President Nixon to shielding documents in the possession of private parties is an unprecedented threat to our system of government

and freedom. If the President will withdraw his ultimatum regarding the subcommittee's subpoena and agree to the subcommittee staff verification of an unexpurgated sample of the memoranda, then I am sure negotiations will resume.

JOHN E. MOSS,  
Chairman, House Oversight  
and Investigations Subcommittee.

Washington