

Electronic Gadgets Invade

"Big Ear"

Editor's Note — The next time you take the olive out of the martini look at it closely — it may be bugged. Congressmen, jurists and civil libertarians are becoming increasingly concerned with what they consider the destruction of one of man's greatest treasures — his privacy. Here's why.

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"The most comprehensive of rights and the right most valued by civilized man," runs a celebrated dissent of the late Justice Louis D. Brandeis, is "the right to be let alone."

As if in mockery, an ever-multiplying horde of surreptitious snoopers is gnawing away at the privacy of citizens today with the eagerness of an army of cornborers turned loose in Iowa.

Areas of their lives most civilized men consider nobody else's business indeed have become the staple of a big business, which is getting bigger — while nearly all its victims remain blithely unsuspecting.

"The average urban citizen," says Bernard Fensterwald Jr., chief counsel for a Senate subcommittee investigating invasions of privacy, "can't go a single day without being spied

on, listened to, or peeped at."

If that grim picture seems overdrawn, consider some actual examples.

A New York department store has hidden tiny microphones on the counter to broadcast customers' conversations to a back room where the eavesdropping salesman can decide what pitch to make.

Other stores have two-way mirrors in the women's dressing

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Page 7

Your Privacy In All Areas

rooms — to prevent shoplifting, of course. Closed-circuit television cameras scan the aisles, loading docks and employees' lounges of supermarkets and stores in a growing number of cities, and any big company that doesn't keep a concealed camera to snap your picture when you cash a check just doesn't have enterprise.

"The frightening thing about it," says Rep. Cornelius Gall-

agher, D-N.J., "is that people are becoming conditioned to this sort of snooping as a normal part of their existence. We're getting dangerously close to Orwell's World of 1984."

That world, as the novelist portrayed it, was one in which "you had to live — did live, from habit that became instinct — in the assumption that every sound you made was overheard."

With today's modern gadgets, telephone tapping has become a game any number can play. Federal investigators have tapped the pay phones in lobbies of public buildings; and a survey showed that 1,617 of the 3,588 wiretaps the New York police placed in one year were on public phones. A congressional committee discovered not long ago that at least 5,000 telephones in Washington federal

offices were tapped — not by enemy agents, but fellow bureaucrats. A San Francisco telephone company executive has estimated that 10,000 business firms in Northern California secretly monitored the calls of their employees.

A minimum amount of restriction, ineffective at that, really is about all there is.

"In this whole area of invasion of privacy," says Sen. Long, "we are in both a legal desert and a legal jungle. Not only is there a paucity of law, but what law there is is confusing."

For instance, a few years ago three private detectives were caught bugging a lawyer's room at the Mayflower Hotel in Washington where meetings were being held involving a \$160-million gas distribution franchise. Two years later the detectives were convicted. Of what? Invasion of privacy? Trespassing? Nothing so logical as that. The

best the prosecution could get them on was broadcasting without a license over an aircraft wavelength.

Last month the Federal Communications Commission banned use of wireless transmitters and similar devices for recording private conversations by anyone except law enforcement officers, and set a penalty of \$500 for each day of violation. Only seven states have laws on the subject, and five of the seven, in conflict with the FCC rule, permit eavesdropping if the eavesdropper has the permission of just one of the persons overheard.

Prior to the new and as yet untested FCC ruling, the only legislation was a 32-year-old statute involving wiretapping which has been subject to various interpretations over the years and hasn't convinced a single law enforcement officer.

The key words of the law prohibit anyone, including policemen, from secretly intercepting AND divulging information gained by wiretap, and forbid any use of such information for his own or someone else's benefit.

Police frankly admit they use wiretap information—otherwise why wiretap?—and have interpreted the other clause to mean it's all right to intercept if you don't divulge.

Counsel Fensterwald feels the prohibition would be a good deal more plain if the "and" were simply changed to "or." Atty. Gen. Nicholas Katzenbach feels the statute ought to be rewritten altogether.

"Only by a clear revision of the present law, eliminating present ambiguities," Katzenbach says, "can we expect a clear-cut national policy."

What worries Fensterwald is the apparent unconcern of many Americans who take a "that's life" attitude toward invasions of privacy. "My real fear, and Sen. Long's fear," he says, "is that by the time the people finally become indignant enough to demand that something be done it will be too late."