

The Right to Be Let Alone

Part 103/66
The trial now in progress in New Hampshire concerning the alleged "bugging" of a married couple's bedroom carries an impact of shock and horror. The couple are seeking damages of \$125,000 on grounds of invasion of their privacy; they charge that a former landlord planted a listening and recording device in the bedroom of the house he rented to them for the purpose of eavesdropping on their intimacies. The landlord denies any such purpose, asserting that the device was installed to monitor a water pump.

Eavesdropping is one of the oldest of common law crimes. In his *Commentaries*, Blackstone defined "Eaves-dropper" as "such as listen under walls or windows, or the eaves of a house, to hearken after discourse, and thereupon to frame slanderous and mischievous tales." The potentialities for mischief of this sort have been magnified, of course, by modern electronic invention. They chill the marrow of decent bones.

One plain public service that is rendered by the New Hampshire suit in our judgment is its illumination of the dangers entailed in eavesdropping for supposedly benevolent purposes of law enforcement. "Bugs" monitor every form of conversation and the words of every speaker within their range, whether related to a crime under investigation or not. We have not the slightest doubt whatever that a community which absolutely forbids such surveillance is a great deal more secure, within any real meaning of that term, than a community which permits policemen to invade privacy electronically when they deem it a help in enforcing the law.

Respect for privacy is an indispensable element of a free society. It is, perhaps, the element most dramatically distinguishing it from a police state. The sordid, shocking case in New Hampshire may help to make people understand this—may help to remind them that powers they give to the police may be used by the police and by others for sinister and disgusting aims. Eavesdropping constitutes a rape of intimacy.