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Half-Light on Wiretaps

Attorney General Mitchell's speech the other day calling attention to the Justice Department's wiretapping activities may have strengthened the Nixon Administration's crime-fighting image in this highly political season, but it was something less than a satisfactory discussion of a complex issue.

Prior to passage of the Crime Control Act of 1968, Federal agents frequently listened in on telephone conversations but the evidence could not be used in Federal Courts. In its last months, the Johnson Administration refused to use the authority conferred by the new law. Attorney General Ramsey Clark believed with good reason that widespread Government wiretapping would create a climate of fear that the Government was poking into personal or political rather than criminal activities.

Attorney General Mitchell is quite wrong to dismiss these fears as meaningless "bogeys." Civil liberties are never so secure in this country that vigilance against Government snooping is unwarranted — and the present Administration has certainly done nothing to alleviate apprehension on this score.

Wiretapping can be a marginally useful tool in gathering evidence of conspiratorial crime; and in fact this newspaper has in the past supported use by the police of wiretaps pursuant to a court order, though on a much narrower range of crimes than those included in the loosley drawn 1968 law.

The real issue today, however, is not a technical question of efficiency in crime control but rather a question of values. Is the apprehension of additional criminals worth the risk to privacy and personal freedom inherent in the virtually unlimited wiretapping that now prevails?

Mr. Mitchell blandly assured the public that his department is not engaged in "fishing expeditions." But some state judges authorizing wiretaps under state laws—and Mr. Mitchell in his speech urged more states to pass such laws—may be free and easy in granting their approval. Despite Mr. Mitchell's statistics and assurances, the potential for serious abuse is real.

The Attorney General was silent on all the other kinds of electronic surveillance, popularly known as "bugging," in which his department and other Federal and state agencies engage. The 1968 law provided for the appointment in 1974 of a fifteen-member commission to review the first six years of experience with court-authorized wiretapping and electronic surveillance. Only an independent inquiry which goes behind the statistics can provide full light on this difficult issue of crime control vs. the right to privacy.