

Wiretapping Issue Is Placed Before Congress by Kennedy

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United Press International

Washington—U-P-I—Is wiretapping by police a "dirty business" that should be banned? Or is it a necessary tool in the war against communist subversion and big-time racketeers?

This explosive issue has been placed before Congress by Atty. Gen. Robert F. Kennedy. It seems certain to cause new controversy over courtroom use of evidence acquired by eavesdropping on telephone conversations.

No one questions that wiretapping is widespread even though intercepting and divulging conversations theoretically violate the 1934 Federal Communications Act.

Virtually No Control
FBI Director J. Edgar Hoover says frankly that his agents are listening in on about 90 phones as a counter-espionage measure. Other police forces and private detectives also use wire taps with virtually no federal control over their activities.

Kennedy told Congress a federal law is needed to outlaw private wiretapping but to permit use of listening devices by state and federal authorities under new restrictions.

The proposal would not affect so-called electronic eavesdropping which some experts say could be a gaping loophole in any anti-tapping law. Modern microphones or "bugs" can be used to overhear a conversation from hundreds of yards away without any connection wires.

Gathering Evidence
Aside from these technical advances, the telephone tap still is regarded as a key to gathering of evidence in major criminal cases.

One of the leading opponents of wiretapping is the American Civil Liberties Union (ACLU). It contends legislation would be a step toward a "police state" would invade privacy and violate constitutional guarantees.

On the pro side, Sen. Thomas Dodd, D-Conn., has introduced a bill that would give states just about unlimited rights to tap phones if they obtained court orders. He declared it is needed to strengthen law enforcement.

The attorney general is hoping that Congress might find his middle-ground measure the best solution. Under his bill, state police could listen in on telephones only in investigations of murder, kidnapping, extortion, or bribery.

Obtain Court Order

But they would have to obtain a state court order permitting a tap and demonstrate the designated telephone was being or was about to be used in commission of a crime and there was "no other means" to get the evidence. The order would be valid for 45 days, with provisions for 20-day extensions.

On the federal level, the attorney general would be authorized on his own finding to allow taps to discover evidence of espionage, treason, sabotage or subversion. The

Justice Department could seek federal court approval of wiretaps for the same crimes, plus murder, kidnapping, extortion or narcotics offenses, gambling or racketeering. The same standards would have to be met as those prescribed for state courts.

The U.S. Supreme court has ruled that the communication act now prevents admission of wiretapped evidence in federal criminal trials but does not bar states from using this type of evidence in state trials.

Reverts to Decision
Any discussion of the subject usually reverts to a 1928 Supreme Court decision involving a bootlegging ring in Seattle, Wash. After six months of listening to tapped phones, state officials arrested 91 persons and estimated the ring did a \$2 million a year business in illicit liquor.

Defense attorneys claimed the tap violated the 4th and 5th Amendments barring "unreasonable search and seizure" and self-incrimination, respectively. They asked that the convictions be reversed.

Although the high tribunal rejected the appeal 5 to 4, the dissents became more widely quoted than the majority opinion written by the late Chief Justice William Howard Taft.

Justice Oliver Wendell Holmes declared it was a lesser evil to allow some criminals to escape than to permit the government to play an ignominious role.

Used Ever Since
"If the existing code does not prevent district attorneys to have a hand in such dirty business, it does not permit the judge to allow such iniquities to succeed," Holmes said. The "dirty business" phrase has been used ever since by wiretapping opponents.

Justice Louis Brandeis said it was far worse to tap the telephone than to tamper with the mails because the former could involve innocent persons who call the party under suspicion.

"The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding," Brandeis said. In presenting his proposal to Congress, Kennedy made the point that existing law has proven powerless to prevent "indiscriminate wiretapping which seriously threatens individual privacy." He said his bill would reduce taps and still permit police to combat underworld use of the nation's vast communications network.

Since 1940 every attorney general has authorized FBI taps in national security cases, Kennedy said, but federal court rules barring evidence obtained in this way have weakened enforcement of anti-subversion laws.

The collapse of the government's 1950 case against Judith Coplon, accused of conspiring to commit espionage, is perhaps the most com-



HOLDS MICROPHONE—Private Investigator Lloyd B. Furr holds in left hand a microphone which he discovered in 1958 under a door which led to a room in a hotel in Washington, D.C., occupied by Baron I. Shacklette, investigator for the house influence investigating subcommittee. Leaning over Furr's shoulder is Roger Robb, attorney for Boston industrialist Bernard Goldfine. The explosive issue of whether wiretapping by police is a "dirty business" that should be banned or is a necessary tool in the war against Communist subversion and big-time racketeers has been placed before Congress by U.S. Attorney General Robert F. Kennedy. (UPI)

mon illustration of this theory. A federal court in New York held that evidence obtained by wiretaps in the Coplon case was inadmissible even though they were authorized by the attorney general.

Unauthorized tapping would be punishable by two years in prison and a \$10,000 fine if Kennedy's proposal passes congressional hurdles and becomes law.

Meantime, there have been indications that the Supreme Court takes a dim view of some new electronic devices for gathering evidence.

The court held last year that a "spike mike"—a pencil-thin metal spike driven into the wall of a building to overhear conversations inside—was unconstitutional. Washington, D.C., police used the device to collect evidence on a suspected gambling ring. The justices ruled unanimously that it violated the ban on unreasonable searches.

Chickens Recognize Seniorities on Job

Manhattan, Kan. — (UPI) — Chickens recognize job seniority, according to a Kansas State university scientist.

A. M. Guhl, professor of zoology, said the seniority rights of hens was demonstrated in a biological experiment in which a new bird was added to a flock every two days and the longest resident was removed at the end of two weeks.

During the first two days, he said, the new bird usually was at the bottom of the "pecking order." But as time passed and its superiors were removed while newcomers were added, the bird usually achieved top rank by its last day.

Sergeant in 'Box' Will Get New Trial

San Francisco — (UPI) — A Marine sergeant who claimed he was imprisoned in a five-by-seven-foot "box" for 43 days while awaiting trial in Okinawa was on his way back to the Pacific outpost today for a new trial.

Sgt. Stoba C. West, 32, left San Francisco Wednesday by plane. He was flown to Treasure Island Naval Base here Tuesday from the Navy and Marine disciplinary command in Portsmouth, N.H.

He was convicted of a series of crimes including black marketing, absence without leave, escape, larceny, and aggravated assault.

The U.S. Court of Military Appeals ruled that the pre-trial solitary confinement and

other treatment West received nullified his conviction. His attorney, Robert Hanon, said the second trial might start within two weeks and added that he planned to defend him in person if possible.

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Hatfield Urges GOP Band Together

Portland — (UPI) — Gov. Mark Hatfield urged Republicans Wednesday to band together, saying it would be possible "to make a list of many groups" competing within the party.

He addressed the Metropolitan club of the State Federation of Republican Women.

Hatfield said that in a day when the GOP was a minority party "we cannot afford a diffusion of strength, of strength, of energy, of money. We need all this concentrated within the structure of the Republican party."

He said there are "dangerous groups and thinking in our ranks," and added, "If America is to remain strong in the battle against godless communism, America must take counsel with its faith and not with its fears."

The governor said he believed in fighting for his ideals within the Republican party. "We must realize that the party has room for many differences — for conservatives, liberals and middle-of-the-roads."

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