

difficult to stretch them out, but don't we have before this subcommittee instances in which there really isn't any gray zone?

The thing that I am concerned about is the matter of use of these electronic devices to snoop on people that are entitled to privacy, and I am assuming that we have a right of privacy and I am starting from that premise.

Now, the use of these snooping devices to hear what is going on in a man's private home, certainly it seems to me, is outside that gray zone. Is there any justification for that, in your judgment?

Mr. BEANEY. The justification, which is commonly cited in support of the new York State system, where by use of court orders there can be a tapping, is that if there is reasonable ground for believing that someone is engaged in criminal activity, or conspiracy, and is using the telephone as a means of implementing his criminal act, then with a judicial order there can be tapping. Personally——

Mr. HORTON. There you are in an area where there is a criminal nature involved. I am talking about the use of these snooping devices by persons that have no apparent reason other than just to find out about what a person is doing, what his private life is like.

Mr. BEANEY. It is against the law in many States. It is unlawful activity and is a frightening—I can see no justification.

Mr. HORTON. Do you think there should be a Federal law in connection with this, and if so, do you think it would be possible to draft such a law?

Mr. BEANEY. It would be an awfully difficult law to enforce; this is the problem. No matter how commendable the purpose——

Mr. HORTON. The chairman has suggested something by way of control over manufacture, distribution, and sale of electronic devices.

Mr. BEANEY. The difficulty is children in my block make these things. They are very clever today. They can buy components——

Mr. HORTON. Do we just hold up our hands and say we can't solve it? Do you have any suggestions, from your background on constitutional law?

Mr. BEANEY. One suggestion I have is that where it is made a criminal act, usually a misdemeanor and not with a very heavy fine, either, to engage in these practices, one wonders if the police, with the assistance of telephone people, could not do a better job of policing than they now do. But since the police themselves engage in so much tapping, it is a bit difficult to envisage the police running around tracking down these illegal tappers when, in so many instances, they are illegally tapping themselves. It is asking too much, it seems to me, to assume that the police are going to do this. But the advertisements appear in the yellow pages in every city in this country. Surveillance equipment and agents are available—of course, lawyers use them in marital and other cases, and we don't know, I don't know all of the different uses that are made, but it is not something that is hidden. It is very open.

I would like to see State laws and it might be possible to devise a Federal law——

Mr. HORTON. You haven't, apparently, given any thought to that?

Mr. BEANEY. No; because we always bog down on this problem of the way these things are put together, that if a man is skilled, as I understand it, if a man has any skill at all in electronics, that he can