

assemble these things for rather small amounts of money, and from components which in themselves are perfectly innocent.

That is, you could get at the manufacturer and the shipment of an actual auditory device or insist on registration or something of the kind, but my guess is that then it would merely cause one additional step for any would-be tapper, and that is that he would have some electronic fellow, a technician, make him up one.

Mr. HORTON. What you are saying in essence is that, because these things are so common and so easy to assemble, the right of privacy has almost gone by the boards?

Mr. BEANEY. Yes; except to the degree that, as I say, if we could induce our police, induce our State legislatures to take this as a very serious problem—

Mr. HORTON. Do you think it is a serious problem?

Mr. BEANEY. To check more closely on the people who conduct these businesses—

Mr. HORTON. Do you think it is a serious problem, and if you think it is a serious problem, do you think it is serious enough to have congressional action?

Mr. BEANEY. I think action is required. The form of action, I am not prepared to recommend at this point. That is, I think there is a great deal that can be done through State legislation immediately. I have more difficulty envisaging effective, effective congressional legislation.

Now if you make it a Federal offense to do interstate tapping and that sort of thing, this might help. That is, one thing about all legislation, this is a truism, you can't measure the value of it only in terms of the number of actual prosecutions that will take place. That is, when you put a law of this kind on the book, it does place a stamp of immorality on the action.

I think law is important, as an educative device. And so one might conclude that as part of an overall attempt to stress the seriousness of invasions of this kind, that one might try to have a Federal and State legislation, even recognizing that enforcement and conviction might be very difficult in the case of Federal law.

Mr. GALLAGHER. Doctor, would you prefer to finish an opening statement before we get to questions?

Mr. BEANEY. Just one other point, Mr. Chairman, I think that though much I have written on this deals with the constitutional aspects, that it would be very unfortunate if we were all to become overly preoccupied in spelling out the precise nature of the constitutional right with the possibility that because the courts might not agree with our theory of what the Constitution means, that therefore another 25 or 50 years would have to go by before there would be legal protection, that is, everything that is constitutional is not necessarily good policy.

I would think that, as Mr. Horton's comment and questions suggested, that legislation may be seriously needed to deal with several of these problems without any reference to the question of whether we are, by so doing, protecting a constitutional right which has now been spelled out in the reported decisions of the courts. That is, if it is good policy, it would seem to me that is the important thing, if it helps create the kind of society that we want, that is the important thing. If it is a practice that is controllable by the Congress, if it