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THE RIGHT TO PRIVACY

Don Dunstan

BROADCAST FROM 5KA, 7.00 P.M., 18th FEBRUARY, 1969 **70**

I think all South Australians should be pleased with the news that the Attorney General, Mr Millhouse, has announced that the South Australian Government is considering legislation to control the use of eaves-dropping devices. It's not the first time they've had the matter before them of course - last August the Labour Party introduced a bill in the House of Assembly designed to defend the right of privacy for all in this area. The bill ^{were} was rejected by the Government for a variety of what ~~was~~ to my mind highly contentious and even dangerous reasons, and the good thing about the ~~was~~ introduction ~~was~~ ^{OF A NEW BILL} will be that this important matter will again receive public attention.

The point about listening and viewing devices is that they strike at the heart of what until recently has been considered your and my private lives. It has been always the tradition of English countries that a man's home is his castle and that there he is entitled to peace and quiet and the privacy which allows him to speak without fear of being overheard or ^{of} having his acts or speech publicised. Until today these rights were protected by the laws of trespass, but with the development of new technologies, the privacy which the law previously granted is no longer capable of protection by the law of trespass.

I think I will quote here from a speech recently made by a distinguished Australian lawyer, Professor Zelman Cowan. He said the following: "No place is safe from the electronic eaves-dropper - the bed chamber, the toilet, the telephone, even wafer-thin transmitters can be sewn into clothing and magnetic transmitters attached to the underneath of vehicles, enabling the whereabouts of the car to be tracked at all times.... The 'bugs' may be inches deep in walls, in mattresses, or in cars, and can remain in operation for as long as two years without repairing or servicing. An electronic device can be beamed on a window from the street outside, and conversations from inside the room picked up quite clearly ..." And so on. Professor Cowan also said that a developing horror comes with telemetry: radio pills swallowed unknowingly can turn the victim into a human transmitter and he can be tracked wherever he goes...

Clearly here is an area which needs urgent and continuing legislative attention in Australia. The Congress of the United States of America has passed an Act restricting the use or possession of aural surveillance devices. And the State of Victoria has passed its Listening Devices Act of 1969, which restricts the use of such devices. In the Labour Party we don't think either bill goes far enough. If listening and aural surveillance devices are readily available and their ~~possession~~ possession is widespread, there is little hope of controlling their use, since from their very nature the user avoids detection.

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The line between what are reasonable uses of new technologies and what are instruments designed for snooping is not easy to draw, but that does not mean that the attempt should not be made. What is needed is that a law should be introduced that prohibits the use of any listening or viewing device to record what should properly be private conversations, unless the parties are prepared to allow such devices to be used. Another thing that should be put in any law that has an eye to our personal and individual liberties is that ^{WHEN SUCH} ~~if~~ devices are used to record conversations, a record of the conversation should not be ~~published~~ published without the consent of both parties. The law should prohibit the possession of ^{ANY} listening and visual surveillance devices whose design renders ^{IT} ~~it~~ primarily useful for recording private acts or listening to private conversations. ^{OBVIOUSLY} ~~an~~ exception should be made for members of the police force ^{BUT THERE THEY SHOULD BE} authorised to possess such devices by the Attorney-General, ^{AND} ~~they~~ should only be able to use them ~~only~~ after they have seen a judge or a magistrate and had a warrant sworn out allowing the use in ^A particular circumstances. Finally, no evidence obtained by the unlawful use of such devices should be admissible in a court of law, and business corporations and their officers and private persons should all be liable for prosecution if they offend against this law.

Well, that's the ideal case. As I said before, the Government rejected such provisions and has now announced that it is considering introducing its own measures. But the trouble with Mr Millhouse's bill - if it is anything like the one he was arguing for some months ago in the original debate - is that it will be entirely in any Government's power to authorise both private and official bugging. There would be no kind of judicial control because what Mr Millhouse wants is for the Attorney General to have the whole private say in the matter. This amounts to a charter for 'Big Brother'. People in our community should be as free from bugging by a determined Government as they should be free from bugging by private citizens. But what the Government did in the amendments to the Labour Party's original bill was to turn it virtually into a "Right to Snooping Bill".

Now this is not good enough. As far as the Opposition is concerned, we applaud that Mr Millhouse has on ^{we} behalf of the government finally started thinking about this matter, but ~~will~~ fight every inch of the way to stop a bill being introduced that gives Attorneys ^{present or} General of any ^{present or} future Government the power to play Big Brother with the civil liberties of South Australians.