

obtain the same information and it could be admissible in a civil case?

DELEGATE BOTHE: I think the point of the amendment is exactly the opposite to what you state, and that is to make it impossible for a private citizen to do that which the State could not do.

THE CHAIRMAN: Your time has expired, Delegate Bothe.

Delegate Kiefer.

DELEGATE KIEFER: Mr. Chairman, I rise again, sorrowfully, to oppose this; but I must oppose it vigorously.

I realize that the Committee originally had adopted language similar to this, but I just have to tell you that it is another example of how a beautiful, sophisticated lady can twist a bunch of men around her finger. However, a few days later we came to our senses and realized that this went far further than we thought it ought to go in a Constitution.

When I think of all the things that this would do I think of the cartoon that I am sure you have seen of the high school girl sitting on the phone. She hears a click and says, "Mother, if that is you on the upstairs line, just remember wiretapping is an invasion of privacy inadmissible and illegal."

This amendment is fraught with great danger. It is a real raid on the treasury and goes far, far further than any court has ever decided, because it gets into civil and administrative matters. It would louse up the divorce actions, and goodness knows what else it would do.

I must say this to you. We are in a very complicated field of wiretapping and eavesdropping with electronic devices etc. We put in this constitution a very interesting and I think far-reaching statement when we said there shall be no unreasonable invasion of privacy, but we must leave to the courts and to the legislature the implementation of this concept. It is a concept that has existed for many years. It becomes increasingly important now. However, do not confuse that concept with this effort to avoid or eliminate evidence. This is a rule of evidence. This is a matter for the courts to determine. It has no place in the constitution.

Now, as I said, interceptions of communications and wiretapping, bugging and so forth, is a very complicated matter. This is a matter that the Supreme Court has ruled on in specific cases. It is not quite as

simple as Delegate Bothe would have you believe.

In the very recent case of *Berger v. New York*, Justice Black, in his dissent, pointed out that the Fourth Amendment does not prohibit the use of illegally obtained evidence. It has been admissible in common law for centuries, and as long as the evidence is material it can be introduced.

He did point out that he voted for the majority in *Mapp v. Ohio* because it involved a situation involving the Fifth Amendment, and he thought it was a situation where the evidence should be excluded.

This is a very, very complicated case. Remember, a woman never loses an argument. At best, she fails to make her point. I hope that she has failed to make her point and that you will reject this amendment.

THE CHAIRMAN: Is there any further discussion?

(There was no response.)

Are you ready for the question?

(Call for the question.)

The Clerk will ring the quorum bell.

Delegate Bennett.

DELEGATE BENNETT: Mr. Chairman, our distinguished Chairman has given us some beautiful generalities here this evening on women and various other things, but all this amendment says is: Do you mean what you say? Do you mean to disclose or to refuse? Do you mean to disclose?

If you mean to say that there are certain kinds of searches and seizures that should not be allowed and then to enforce that, you have got to provide that the evidence so obtained cannot be introduced. That is a simple, straight-forward question: Do you mean what you say?

Now, if you mean that interception of communications should not be allowed, then you vote in favor of this amendment. If you want to leave it in vague generalities with no enforcement provisions, then you vote against this amendment.

It is up to you to decide whether you are opposed to invasions of privacy. It is up to you to decide whether you are opposed to wiretapping.

If you are opposed to wiretapping and you want to see the wiretapping ban