The Right to Be Left Alone

"The makers of the Constitution conferred the most comprehensive of rights and the right most valued by all civilized men—the right to be let alone."

—JUSTICE LOUIS D. BRANDEIS

According to Thomas Jefferson and the Declaration of Independence, one of the “repeated injuries and usurpations” committed against the American people by the King of England was the erecting of “a multitude of New Offices, and . . . swarms of Officers to harass our people, and eat out their substance.”

Today, following the tragic events of September 11, 2001, the American people face another troublesome threat—swarms of security agents harassing us at airports, borders, buildings, and highways. Like many of you who travel frequently, my wife, Jo Ann, and I have been subjected to these often overzealous security guards who ask inane questions; force us to remove our shoes, jackets, and belt buckles; and meticulously go through our carry-on bags. I’ve had my fingernail clippers confiscated twice. Jo Ann was frisked three times in one day. Others have fared far worse. My friend and IOL fellow columnist Walter Williams was almost arrested in Jacksonville, Florida, after he refused to be patted down. A congressman was required to disrobe. After these security encounters, I always feel my privacy, indeed my dignity, has been violated.

President George W. Bush has urged citizens to return to normal life, but business and domestic affairs are never the same when a war is on, and this war on terrorism is no exception. Bush’s proposed federal budget jumped 9 percent from last year, pushing the United States into a deficit again. Private enterprise has been forced to spend billions on security measures, a real burden on a recessionary economy. (Imagine, intelligent employees spending the rest of their lives trying to catch some nut out there, representing 1/1000 of 1 percent of travelers.) Airport security has now become federalized. And we have become, in the words of Sheldon Richman, “tethered citizens.”

In revolutionary times, colonists were so incensed by the invasions of privacy and other personal abuses by British officers that Congress’s first act was to pass a Bill of Rights, including Amendment III, “No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law,” and Amendment IV, “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported
by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

The Fourth Amendment forms the basis of a “right to privacy,” the right to be left alone, as Justice Louis Brandeis put it. The enjoyment of financial and personal privacy is fundamental to a free and civil society. True liberty is to be able to walk down the street, cash a check, buy goods, talk on the telephone, or take a trip without being hassled, hounded, followed, or interrogated by government agents. People should be able to get away from the madding crowds without being followed or asked stupid questions. When I travel abroad, there is no better feeling than walking through the green customs door marked “Nothing to Declare.” When I return home and close the door, there is a feeling of security, knowing that the police aren’t going to break it down in the middle of the night for a “warrantless” search. It happened in Soviet Russia and Nazi Germany, but surely not in America!

Privacy Eroding

Yet the right to privacy so cherished by Americans of generations past is gradually eroding. New airport-security laws require all travelers to carry a “government-issued” ID, usually a driver’s license or passport. Thus we have come dangerously close to creating a national identity card for all Americans. The war on drugs has made it virtually impossible to deal legally in large amounts of cash, the most anonymous form of doing business. Some banks are requiring thumbprints for identification. Mandatory drug-testing of students and employees is becoming commonplace without any reference to the constitutional principle of “probable cause.” Since September 11, police routinely check automobiles and trucks coming into New York City without a warrant. Tampa and other big cities are videotaping citizens in “crime-prone” areas around the clock. California and other states are capturing all drivers on film and issuing tickets for alleged speeders.

I wrote the first book on financial privacy in the early 1980s. It was a huge underground hit, selling over 400,000 copies. Clearly, vulnerable Americans felt the need for protection against potential lawsuits, government surveillance, prying relatives, aggressive salesmen, and professional thieves. From time to time, I am asked to do an updated edition, but I have refused. Why? Because the law has changed and become so complex that it takes a full-time professional to stay up on all the dos and don’ts. However, I can recommend an excellent newsletter that focuses on privacy issues: The Financial Privacy Report, published and written by Michael Ketcher (to subscribe, call 1-866-429-6681; P.O. Box 1277, Burnsville, MN 55337).

Despite the recent intrusions into individual personal affairs, you can still maintain a certain degree of privacy. You can take a car, bus, or train, and go to most destinations without being noticed or tracked. In small transactions, you can still pay with cash instead of using credit cards or checks. You can buy a large number of gold and silver coins with cash and avoid reporting requirements. You can refuse to give your Social Security number to schools, hospitals, dentist and doctor offices, insurance companies, and most private organizations (but not banks, brokers, or the IRS). You can open a foreign bank account with less than $10,000 and not have to report it. You can use a post office box to keep direct mail promoters from contacting you. You can demand a search warrant before allowing the police to come into your house or business, or to search your automobile.

In short, by maintaining a low profile, you can usually avoid the scrutiny of overzealous bureaucrats, nosy neighbors, or jealous relatives.

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There are occasions, though, when he wants nothing more than to shut the entire world out, to focus on friends and family, and to enjoy the privacy of his home along with his god-given right to peace and quiet. Though the United States Constitution contains no mention of the individual’s explicit right to privacy, the Bill of Rights corrects that oversight. With the third, fourth and especially the ninth amendment, James Madison and his fellow drafters in the late 18th century made it abundantly clear that privacy was an essential ingredient of liberty. As the heading line proclaims, I walked into this, expecting it to be a diatribe on porn. Silly me. What I got was a top flight documentary about a man who stood for freedom of the press, as well as an advocate for free speech. Yep, you guessed it: Larry Flynt, the publisher of Hustler (the anti Playboy). Early on, the doc does explain Flynt’s early salad days as a club owner, who decided to start a news letter on the girls he hired in the club. The news letter turned into a magazine for adults, specializing in graphic photographs of unclad attractive women in provocative poses. As to be expected, the ‘zine did get both its pros, as well as just as many cons. Flynt went on to be the outspoken voice against censorship (despite an assassination attempt in 1978, which left him paralyzed from the waist down). The greatest right that any nation can afford its people is the right to be left alone and that’s what we got. We’ve got to start leaving people alone unless they’re violating the law. That’s very important, but the government seems to always want to be more intrusive into our private lives and the problem with that is that most people are so passive and ignorant that they stand still and allow this to happen. They think they don’t have a voice, they can’t make a difference. But you can make a difference and you need to create a revolving door in Washington and keep voting those politicians out until they get it, until they understand that they have to be more responsive to the people. In Their Own Words is recorded in Big Think’s studio. Pfizer. A fundamental right to privacy enshrined and protected in the Constitution, would mean that all persons have the right to be left alone by the state unless such intrusion is necessitated by a just, reasonable, and fair law. The reason: Patriarchy being the catalyst of the Indian society, adults does not necessarily exercise choices of their own free will. And thus, it is natural that the very concept of privacy seems incomprehensible. Right to privacy as per law: The Union government has argued that it does not think that the right to privacy is a fundamental right protected under the Constitution. While the right to privacy may be protected as a common law right or some element of it part of another fundamental right, by itself, it could not per se be guaranteed as a fundamental right.