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The Protection
of Privacy

Raymond Wacks



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THE PROTECTION OF
PRIVACY

by

RAYMOND WACKS

B.A., LL.B., LL.M., M.LITT., DIP. LAW

Principal Lecturer in Law

Oxford Polytechnic

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THE PROTECTION OF PRIVACY

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PREFACE

To the civil libertarian the idea of privacy has an almost irresistible appeal. As a fundamental social or political ideal it is readily justified either in itself or instrumentally. At its heart seems to lie the need for seclusion, and control over who knows what about us, and, at this level of phenomenological abstraction, the value of privacy is axiomatic, its protection important in a society which prizes human dignity. Yet, despite an immense body of literature, especially in the United States privacy remains a conceptual chimera.

This presents an immediate problem to one who sets out to describe the law of privacy and, in particular, the adventitious protection accorded to it by the English law. If, for example, I were to define privacy (as many do) as the "right to be let alone," do I then omit from discussion the question of the misuse of computer data? On the other hand, does the fact that, say, the American law views as a privacy issue the right to an abortion, require a book on privacy to examine this subject? My difficulty is even further compounded by the fact that my disenchantment with the very formulation of several problems in terms of the ineffably abused notion of privacy, leads me to suggest that we ought in England to resist the temptation to admit privacy to our jurisprudence altogether!

The purpose and size of this book have, in many ways, afforded a solution. I have sought to give the reader a general account of the protection of privacy obtaining in various legal systems, while questioning the wisdom of crowding under a single umbrella manifold and disparate problems. And I have reserved for more detailed analysis those matters which seem to me to be of particular importance for a number of reasons, not least of which is that they are absent from the textbooks or, at best, relegated to the footnote league. As a corollary, where the textbooks provide the appropriate information I have refrained from competing with them.

In the latter part of Chapter 1 I have drawn on my article "The Poverty of Privacy" which appeared in (1980) 96 L.Q.R. 73. I am grateful for permission to use it here.

*Oxford
June 1980*

RAYMOND WACKS

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