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SPEECH BY U. S. SEN. DANIEL K. INOUYE BEFORE THE AMERICAN CIVIL LIBERTIES UNION OF HAWAII, JUNE 5, 1974, POLYNESIAN RESTAURANT, PARADISE PARK

JUNE 3, 1974

8 P.M., WEDNESDAY, JUNE 5, 1974

"The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated." So states the Fourth Amendment. As Judge Gerhard A. Gesell stated recently during the trial of those accused of violating the civil rights of Dr. Lewis Fielding, Daniel Ellsberg's psychiatrist, the Fourth Amendment's protection of the privacy of citizens "is not theoretical. It lies at the heart of our free society."

The Founding Fathers recognized the right of a homeowner to defend his house against unlawful entry by burglars or governmental agents. In the First Amendment, they recognized the sanctity of a person's individual thoughts and beliefs--for it is only by protecting this inner privacy that our freedoms of speech, religion, and assembly can be protected. The Third Amendment protects us against the quartering of troops in private homes. The Fifth Amendment guarantees that individuals accused of crimes retain the right to keep private, information that might place life and freedom in jeopardy.

The Courts have expanded individual privacy through the Ninth and the Fourteenth Amendments in the areas of family life, childrearing, marriage, procreation, contraception, abortion, etc. Since the first days as a free nation, we have recognized the right to privacy to be among the most basic of our civil liberties.

Yet, despite our historical commitment to the protection of individual privacy, never before have so many people felt less secure about the sanctity of their homes, offices, telephones, and their personal records. As technology has provided the means for private industry and government to accumulate hugh quantities of personal information on individuals, and as technology has provided the electronic means to penetrate the private recesses of our residences and places of work, the threat to constitutionally-guaranteed rights has grown apace.

considered potentially dangerous to the President, and the Secret Service computer contains hundreds of thousands of others. The National Drive Register of the National Highway Safety Bureau contains 3.3 million names. And, of course, income tax, social security, and census data exists for almost every American.

Because we have continually asked the government to assume increased responsibility for our health, safety, and economic well-being, the need for information by government policymakers has grown. Most Americans have willingly supplied this information in the interest of informed policy-making.

Private industry, too, has increased its appetite and abilities to collect and store information about the health, credit, and employment records of individuals. We turn over this information to these private agencies in order to secure their health, credit,or employment services.

Yet, each time we give up a bit of information about ourselves, we give up a bit of our freedom. Growing public concern over the ability of government and industry to automate and to share their information files on individuals has increased as instances of abuse of information and invasion of privacy have come to light. This concern is now reflected in Congressional efforts to control the growth and use of personal information on file in government and business data banks.

The dangers inherent in national data bank systems are many. Information which may be stored and used may be inaccurate, incomplete, unjustified, or improperly disseminated. Individuals may be unaware of the information that exists concerning them.

Senator Sam Ervin, who has been compared with the Founding Fathers for his understanding of the Constitution, his concern for the rights of the people, and for his ageless wisdom, is at the forefront of efforts to preserve individual privacy. I have joined together with Senator Ervin and several other colleagues to try to stem the growth of these data bank systems, and to insure that, where they exist, proper safeguards be provided to insure that individuals have the right to find out exactly what information on them exists and the right to have corrected any erroneous data.

Also, we are studying procedures for the dissemination of such information to insure that individuals' rights are protected.

John Dean, James McCord, Donald Segretti, "Fat Jack" Gleason, Tony Ulasewicz, and John Caulfield gave credence to the past paranoia of politicians in Washington, D. C.

Perhaps because of these revelations, campaign rules about the use of volunteer workers have changed. There was a time when the doors were open to everyone, and we could assume that volunteers arrived at campaign headquarters to help--not to spy or sabotage. Watergate will make it less easy for well-intentioned persons to gain acceptance and to get involved in politics. That is a major loss to our political process.

During testimony by John Ehrlichman before the Senate Watergate Committee, he and Senator Talmadge debated the right to privacy. Senator Talmadge asked Ehrlichman whether he remembered discussion in law school of the famous English principle of law that "no matter how humble a man's cottage is, that even the King of England cannot enter without his consent." To that, Ehrlichman replied, "I am afraid that has been considerably eroded over the years." Unfortunately, Mr. Ehrlichman is right about the recent trends away from untrammeled rights to privacy.

The Supreme Court's recent record on protecting citizens against government snooping into private affairs is less than perfect. The most recent wiretapping decision voiding the John Mitchell approach to granting tap warrants shows a wise concern for tightened procedures in this important area. However, the court's refusal to strike down military surveillance of civilian political activities in the Laird v. Tatum case underscores the fact that the Burger Court may not be religious in its adherence to the Fourth Amendment.

The American Civil Liberties Union has done yeoman's work to defend the civil liberties of all Americans. Yet, all of our efforts will come to naught unless we can awaken the consciousness and concern of our citizens about the potential dangers to our cherished liberties.

To quote the great jurist, Learned Hand, "Liberty lies in the hearts of men and women. When it dies there, no constitution, no law, no court can save it. When it lies there, it needs no constitution, no law, no court to save it."

The assault on privacy began in earnest soon after World War II ended; the early 1950's were an ugly period in American history. An ambitious demagogue was able to sow the seeds of suspicion and distrust throughout our government and society. Senator Joseph McCarthy, an ambitious lawyer without regard for the rules of evidence, a ruthless politician with no sense of decency, and a disturbed and disturbing man with no understanding of the damage he would cause to this country, rose to prominence and power by manipulating the fears of a nation. Those fears stemmed from our lack of experience as the most powerful country on earth: we were unsure in our power; we desired to avoid the pain of any further war; the force of Communism--an ideology alien to our comprehension--was not understood. Its spread across Asia and Eastern Europe threatened to envelope us again in global combat.

The McCarran Internal Security Act, which became law at the height of the anti-Communist scare period over the veto of President Truman, was managed on the floor of the Senate by Richard Nixon. Yet, among those who voted for it were Paul Douglas, Hubert Humphrey, and Warren Magnuson. The Act called for the registration of so-called subversive organizations with the attorney general and for the creation of potential concentration camps. On its face, it conflicted with the constitutional protections of the right to privacy and against self-incrimination, and in its application, it endangered the freedoms of speech, press, and assembly.

The fact that honorable men like Douglas, Humphrey, and Magnuson would support legislation that flew in the face of their civil libertarian traditions shows just how strong the anti-Communist tide flowed during those dark days.

The collection of government data on individuals has spread considerably since those first efforts at registering dissident groups. The central files of the Federal Bureau of Investigation include 70 million fingerprint cards representing 20 million people. Each day, 3,300 new cards are added. The Justice Department has one civil disturbance file with 22,000 names; a file in the organized crime section containing approximately 250,000 names; records on well over 450,000 persons in the FBI's National Crime Information Center; and more than 40 million names in the Immigration and Naturalization Service's master index. The Defense Department has in its industrial security files dossiers on 1.6 million persons. There are some 61,000 names in Secret Service files of persons

Perhaps the most disturbing of all aspects of government data collection is the use of surreptitious surveillance and intelligence operations to collect information on innocent citizens whose political views and activities are opposed to those of the Administration.

Anyone who has worked in Washington, D. C., over the past 10 years has seen daily evidence that many of our nation's elected leaders do not feel "secure" in their offices or homes. A sense of paranoia had begun to pervade our nation's capital even before the sordid revelations of Watergate were made public.

I have seen my Senate colleagues use pay phones rather than their office phones when making personal calls to avoid a possible wiretap. I have sat in on briefings in the United States Senate and watched while the briefing room was swept electronically before sensitive discussions could be conducted. I know that Senate aides often conduct political talks with each other while walking through corridors of the Senate office buildings rather than sitting in their offices because they fear that the opposition may have placed a listening device there. When an expected letter or parcel does not arrive on time, foul play instead of postal delay is often suspected. We are constantly on guard and constantly suspicious of all but those whom we know very well and those with whom we have worked for a long time.

In testimony before the Senate Subcommittee on Constitutional Rights in 1971, it was revealed that Army intelligence agents were using spies and electronic surveillance equipment to collect information on non-violent, pacifist organizations and religious groups whose memberships had committed no crimes. Detailed reports about the finances, sexual activities, personal beliefs, and associations of these people were compiled and filed. Even elected members of the Congress were subject to spying. These people were selected for surveillance because they used their constitutional rights to criticize governmental policies with which they disagreed.

The Senate Watergate Committee heard evidence about the wiretapping of press and political opponents, the burglarizing of a doctor's office, the interception of campaign documents, the placing of spies in campaign offices, the tailing of United States Senators by White House gumshoes, the secret investigations of politicians' private lives, and the use of confidential Internal Revenue Service data to harass political enemies.