

Privacy: A Matter of Definition

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NOW THAT the protection of privacy is becoming a more popular cause, there is a danger that the issues involved will be blurred. A good example is President Nixon's recent radio speech on the subject. While using much of the standard rhetoric about protecting individual rights, Mr. Nixon defined the threats to privacy almost entirely in technological terms, and addressed only the problems raised by computerized data banks. In contrast, Sen. Philip A. Hart (D-Mich.), responding for the Democrats, framed the matter more comprehensively. While not discounting the impact of computers, Senator Hart emphasized that the basic issue is not machines but men. "With or without sophisticated technology," he said, "unprincipled men can find ways to invade our privacy. A crow bar, after all, is a rather simple machine."

Senator Hart is right. The central flaw in Mr. Nixon's definition of privacy is all that is left out. The President did not acknowledge, much less discuss, the entire question of political surveillance. He did not mention military spying on civilians, infiltration and harassment of dissident groups, the use of *agents provocateurs*, official searches of telephone records and bank accounts without court warrant, or the use of illegal techniques such as breaking and entering under the guise of "national security." Nor did Mr. Nixon linger on the subject of wiretapping and bugging; that, he said, is in the purview of a national commission which is due to make its final report in 1978.

This is not to say that Mr. Nixon's approach is entirely frivolous. For the first time, a President has addressed at some length the whole realm of privacy issues raised

or aggravated by computers. The Justice Department has already produced an important proposal to regulate the collection, storage and use of criminal records, and subcommittees chaired by Sen. Sam J. Ervin (D-N.C.) and Rep. Don Edwards (D-Calif.) have begun hearings on that bill and more stringent alternatives. A Cabinet-level committee chaired by Vice President Ford has been set up to review the broader spectrum of privacy problems posed by the \$20-billion data-gathering business and the 7,000 or so government computers which hold information on citizens' private lives. This effort might seem redundant, since so many public and private studies of data banks have already been made. But if it is indeed an "action" group, as Mr. Nixon pledged, it should have no trouble at all issuing some concrete recommendations with the President's deadline of four months.

The crucial factors are, as always, perception and emphasis: how broadly one defines the right of privacy, how keenly one perceives threats to that right, and how much weight one places on individual liberty as against competing interests such as efficiency in business or government, law enforcement, or the insidious forces of partisanship and nosiness. In his radio speech, Mr. Nixon quoted Justice Louis Brandeis' dictum that the right of privacy is the "right most valued by civilized men." But the rest of that Brandeis quote is that "the right to be let alone" is "the most comprehensive right" of free men. Mr. Nixon has yet to demonstrate a broad understanding of the claims of privacy, much less a real desire to prevent the intrusions by government which are most real and threatening to many citizens today.