

Handout D: Documents on Privacy

James Otis, *Against Writs of Assistance*, 1761

Now one of the most essential branches of English liberty is the freedom of one's house. A man's home is his castle, and whilst he is quiet, he is as well guarded as a prince in his castle.

1. Restate Otis's assertion in your own words.
2. What does this say about the status of the home in the American legal tradition?

Sections of the Bill of Rights, 1791

Amendment I: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

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.

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.

Amendment V: No person ...shall be compelled in any criminal case to be a witness against himself...

Amendment IX: The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

1. Underline the protections (if any) that may be based on a natural right to privacy.
2. In which amendment(s) do you find language similar to the language in Otis' *Against Writs of Assistance* (above)?

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Section of the Fourteenth Amendment, 1868

No state shall ... deprive any person of life, liberty, or property, without due process of law.

1. What is required in order for states to deprive people of their liberty?