

A discussion of this judgment in *Case and Comment* will be of interest. It commences with the following extract from the judgment of the Court:

"The right of privacy has its foundation in the instincts of nature. It is recognized intuitively, consciousness being the witness that can be called to establish its existence. Any person whose intellect is in a normal condition recognizes at once that, as to each individual member of society, there are matters private, and there are matters public, so far as the individual is concerned. Each individual as instinctively resents any encroachment by the public upon his rights which are of a private nature as he does the withdrawal of those of his rights which are of a public nature. A right of privacy in matters purely private is therefore derived from natural law."

"The *injuria* of the Roman law, sometimes translated 'injury' and at other times 'outrage,' and which," says the Court, "is generally understood at this time to convey the idea of legal wrong, . . . was committed, not only by striking with the fists or with the club or lash, but also by shouting until the crowd gathered around me, and it was an outrage or legal wrong to merely follow an honest woman or young boy or girl; and it was declared in unequivocal terms that these illustrations were not exhaustive, but that an injury or legal wrong was committed 'by numberless other acts.' Sandar, Just. Hammond's ed. 499; Poste, Inst. of Gaius, 3rd ed. 449. The punishment of one who had not committed any assault upon another, or impeded in any way his right of locomotion, but who merely attracted public attention to the other as he was passing along a public highway or standing upon his private grounds, evidences the fact that the ancient law recognized that a person had a legal right 'to be let alone,' so long as he was not interfering with the rights of other individuals or of the public."

At common law the Court finds instances of the protection of this right of privacy. The right of liberty is said to include a right to seclusion at one's option when his presence in public is not demanded by any rule of law. So the law of private nuisances is said to recognize the right of a person to quiet in his home as against noise which interferes with his enjoyment