

there, even though the noise results from carrying on a lawful occupation. Again, the common-law maxim that "every man's house is his castle" was interpreted in *Semayne's Case*, 5 Coke, 91, 1 Smith, Lead. Cas. 9th ed. 228, to mean not only for his defense against injury and violence, but "for his repose." The doctrine that eavesdroppers listening under walls or window, or the eaves of a house were a nuisance at common law and indictable, and might be required to give sureties for their good behaviour, is cited as a recognition of this right to the privacy of home. The same is said, though with less pertinency, as to the doctrine that a common scold could be indicted as a public nuisance. So the constitutional right to be secure against unreasonable searches and seizures, being also an ancient right antedating the constitutions, is declared to be an implied recognition of the existence of a right of privacy. While it is possible to base some, at least, of these doctrines of the common law on the theory that rights of property are thereby protected, it is clear that in some of them, at least, as in the case of eavesdroppers, the real right to be protected was a personal one, whether called a right of privacy or not. This right to be secure and undisturbed in one's home against process servers and searches by officers is also very clearly for the protection of the person, rather than the property. The Court reviews a series of cases in which what it regards as a right of privacy was actually protected, though nominally on other grounds, such as an alleged invasion of property rights. It is beyond question that the real right in many such cases was one of person, rather than of property. The property right involved in such cases is a fiction which the Courts have adopted to avoid the miscarriage of justice which would result from applying the ancient rule that would limit the jurisdiction of equity to the protection of property rights. How far the Courts have actually abandoned that rule in reality, though professedly adhering to it, is shewn in a note in 37 L.R.A. 783. But the personal rights involved in such cases, whether called right of privacy or otherwise, are usually rights which involve the protection of personal comfort, or of reputation and standing.

The actual decision in this Georgia case is much narrower than the range of the discussion. The justice of the decision is