The Right to Privacy

Using original and archival material, *The Right to Privacy* traces the origins and influence of the right to privacy as a social, cultural and legal idea. Richardson argues that the right had emerged as an important legal concept across a number of jurisdictions by the end of the nineteenth century, providing a basis for its recognition as a universal human right in later centuries. This book is a unique contribution to the history of the modern right to privacy. It covers the transition from Georgian to Victorian England, developments in Second Empire France, insights in the lead-up to the Bürgerliches Gesetzbuch (BGB) of 1896 and the experience of a rapidly modernising America around the turn of the twentieth century. It will appeal to an audience of academic and postgraduate researchers, as well as to the judiciary and legal practice.

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The Right to Privacy

*Origins and Influence of a Nineteenth-Century Idea*

Megan Richardson

*University of Melbourne*
Private, that is, in its positive senses, is a record of the legitimation of a bourgeois view of life: the ultimate generalized privilege, however abstract in practice, of seclusion and protection from others (the public); of lack of accountability to ‘them’; and of related gains in closeness and comfort of these general kinds. As such, and especially in the senses of the rights of the individual (to his private life or, from a quite different tradition, to his civil liberties) and of the valued intimacy of family and friends, it has been widely adopted outside the strict bourgeois viewpoint. This is the real reason for its current complexity.

Raymond Williams, Keywords: A Vocabulary of Culture and Society, 1976
## Contents

<table>
<thead>
<tr>
<th>List of Illustrations</th>
<th>Page viii</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preface</td>
<td>ix</td>
</tr>
<tr>
<td>Acknowledgements</td>
<td>xii</td>
</tr>
</tbody>
</table>

**Introduction**

1. Authorship, Secrecy, Privacy | 14
2. Creative Self-fashioning     | 38
3. Intimate Images              | 62
4. Resisting Spectacle          | 86
5. Make It New!                 | 112

**Appendix: Documentation**

1. Southey v Sherwood, *Bill, 1817* | 130
2. Gee v Pritchard, *Bill, 1818*    | 132
3. Wyatt v Wilson, *Bill and Answer, 1820* | 136
4. Prince Albert v Strange, *Bill, 1849* | 140
5. Félix c O’Connell, *Trib Civ de la Seine, 1858* | 145
6. Dumas c Liébert, *Cour de Paris, 1867* | 148
7. Bonnet c Société Olibet, *Trib comm Seine, 1882* | 150
8. Peltzer c Castan, *Cour d’Appel de Bruxelles, 1888* | 154
9. Reichsgericht vom 29 November 1898 | 159
10. Reichsgericht vom 28 Dezember 1899 | 162
11. ‘Property in One’s Own Person’, *New York Law Journal, 17 June 1890* | 165
12. ‘Post Mortem Publicity’, *New York Law Journal, 1 July 1891* | 167

**Index**

vii
Illustrations

1 Robert Southey, the *European Magazine*, 1814. Personal collection of author. page 16
2a King George III, Matthew Cotes Wyatt, published by Thomas Sotheran, 1817 (sheet trimmed to image). Royal Collection Trust © Her Majesty Queen Elizabeth II 2016. 30
3 ‘The Court of Chancery’, *Lady’s Newspaper and Pictorial Times*, 1849. British Library. 42
4 ‘The Queen’s First Baby’, 1841, *The Strand Magazine*, 1891. Special Collections, University of Melbourne. 47
5 Rachel Félix as Phèdre, Adolphe Braun, Paris, 1857. Personal collection of author. 66
6 Pears’ Soap (advertisement), *The Illustrated London News*, 1888. Special Collections, University of Melbourne. 78
7 ‘Bubbles’ (advertisement), *Harpers Weekly*, 1888. Personal collection of author. 80
8 Marion Manola, photographed onstage in tights, 1890. Personal collection of author. 91
10 ‘Oscar Wilde at Bow Street’, *Illustrated Police News*, 1895. British Library. 97
Preface

In July 2012, I found myself lecturing on profiling, tracing and the right to privacy at an international summer school hosted by René Cassin’s International Institute of Human Rights in Strasbourg. Talking about some current issues of privacy and data protection in the University of Strasbourg’s elderly wood-panelled lecture room, for an Institute established by one of the key figures in the drafting of the post-war Universal Declaration of Human Rights, and drawing on a rather nineteenth-century idea of a right to privacy, was a strange but exhilarating experience of mixing old and new. Throughout this project, I have found that thinking about the history of the right to privacy, those who helped shape it and the circumstances in which they did so has yielded some intriguing insights and kept alive my continuing interest in the question of how to make space for privacy in an intensely social world.

There are many inspiring events, groups and individuals who have contributed to the research and writing of this book. I especially thank Lionel Bently, Kim Hughes, Rebecca Roberts and two readers for Cambridge University Press for their helpful support for the project, as well as two referees for invaluable criticism and advice on the draft manuscript. Thanks also are due to many friends and colleagues, including Tanya Aplin, Graeme Austin, Katy Barnett, Jason Bosland, Graeme Dinwoodie, Kathy Bowrey, Susy Frankel, Jake Goldenfein, Andrew Kenyon, Jessica Lake, David Lindsay, Loy Wee Loon, Nicole Moreham, Jan Oster, Adrian Storrer, David Tan, Kinfe Yilme and Monika Zalnieriute, who contributed key insights, information and ideas, and to Michael Bryan for kindly reading and commenting on the final manuscript. The growing interest in the right to privacy is shown by the flurry of conferences, seminars and workshops I attended during the project and I found these extremely useful in informing and shaping my discussions. Looking beyond the law was a particular challenge, and I am grateful to Kate Burridge, Paul Edwards, Vivien Gaston, Beate Rössler, Philip Schofield, Julian
Preface

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Preface

much of my adult life in Australia has helped shape my cosmopolitan perspective.)

This book is dedicated to the memory of my father, Ivor Richardson, exemplary lawyer, judge and legal scholar. My obsession with this scholarly project is reflected in the fact that some of our last conversations were about it.
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