

# The Seattle Times

THE SEATTLE TIMES **OPINION** WEDNESDAY, SEPTEMBER 22, 1999

## Internet 'security' proposal strips away liberty, privacy

BY RICHARD W. RAHN  
*Special to The Times*

**T**HE Justice Department has recently revealed that it is planning to ask Congress for new authority to secretly break into individuals' home or office computers in order to collect private information, including e-mail.

Specifically, the Clinton administration is proposing "The Cyberspace Electronic Security Act of 1999" (CESA). The Justice Department claims that it needs this act, which would violate basic constitutional rights of Americans, in order to combat drug trafficking, terrorism, white-collar crime and child pornography.

The administration's arguments show contempt for the U.S. Constitution. The Fourth Amendment in the Bill of Rights says if the government wants to search our homes or offices, then an authorized government official must obtain a court order, issued by a judge. This court order must be based on a finding of probable cause that a crime is being committed, and the party whose property is to be searched must be notified and shown the court order. In addition, if any property is seized, he or she must be given an inventory of the items seized. He or she also has the right to observe what the government agents are doing to make sure they do not exceed what is authorized by the court order.

Currently, there are very few circum-



D.B. JOHNSON / OP ART

stances that would allow a warrant to be issued for a search and seizure without the knowledge of the person whose belongings and premises would be searched. Typically, these extraordinary warrants would be granted only in cases involving espionage or similarly high state security threats. CESA would take this uncommon type of warrant and make it commonplace, thereby thwarting the very essence of the protections in the Fourth Amendment.

Further, if Congress were to pass this legislation, the government would be able to obtain a great deal of information that people believe to be protected and private. It may even prove useful in prosecuting some guilty individuals. But any criminals who might be caught would necessarily be the small fish because those engaged in serious crime may use any number of techniques to

warn them that their computers' security had been breached. They could then foil the government's data-collection plans.

While the proposed legislation states the Justice Department's well-meaning intentions, it is important to remember that those who will be involved in the everyday execution of the searches may be the same officials who were sworn to protect the FBI files that ended up in the White House political office. Or perhaps they may be those at the IRS who were sworn to protect our income-tax returns. The fact is that government, like all sectors of society, has its share of bad apples. Power is often abused, and the potential for abuse with CESA is huge.

CESA eliminates the multiplicity of protections the citizen now has by relying solely on the honesty and competence of the judge who authorizes the search. If the citizens are unaware of the secret search, they cannot protect themselves. It is easy to imagine that a judge, whether incompetent or corrupt, could allow searches that would be used for inappropriate purposes.

Justice Louis D. Brandeis warned us when he wrote, "Experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficent . . . the greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding."



*Richard W. Rahn is chairman of Novecon Financial Ltd., a senior fellow at the Discovery Institute and author of "The End of Money and the Struggle for Financial Privacy."*