**The Forgotten Amendment and Sanctity of Privacy**

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After the fledging United States of America realized that the Articles of Confederation were not sufficient to govern the country, the States gathered together for the 1787 Constitutional Convention, “The Grand Convention.”

This convention resulted in the Constitution of the United States that has so far stood the test of time as the law of the land. There is little debate that the ratification of this constitution would have been opposed by the Anti-Federalists if it was not for the pledge by the Federalists to also include a Bill of Rights as part of that constitution.

The Third Amendment to our constitution under this Bill of Rights states that, “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.”

This prohibition against the abuse of one’s home can be traced directly to one of the grievances specifically cited in the Declaration of Independence: “For quartering large bodies of armed troops among us.”

There has never been litigation in the Supreme Court based on the Third Amendment. So few are the judicial cites on the Third Amendment that Tom Bell writing for the “William & Mary Bill of Rights Journal” [declares,](https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1534&context=wmborj) “The Third Amendment has played the role of a nonspeaking extra on the judicial stage.” Tom Bell’s article extensively details the provisions of common law over the last millennium that provides for the belief that the home is the domain of the family and should not be invaded by the government. He also provides a comprehensive justification in American colonial history for the Third Amendment.

Justice Story, Justice of the Supreme Court in the early 1800’s, wrote in his Commentaries on the Constitution in 1833 that the Third Amendment was an embodiment of this common law that a man’s home is “privileged against all civil and military intrusion.”

Although decided on other facets of the Bill of Rights, Mr. Justice Douglas delivering the opinion for the court in Griswold v. Connecticut, 381 U.S. 479 (1965) affirms that the Third amendment is another “facet of privacy” that “in any house…creates zones of privacy.”

In Engblom v. Carey, one of the few cases based on the Third Amendment, the Court of Appeals for the Second Circuit found, “The Third Amendment was designed to assure a fundamental right to privacy” in one’s home.

For these reasons it is a wonder why there has not been more litigation initiated and more Supreme Court decisions based on the privacy of one’s home cited under the Third Amendment.

This can, and should be, used in more opinions to justify the sanctity of the privacy from civil or military intrusion afforded in one’s home among the unalienable rights endowed by our creator that the founding fathers envisioned and sheltered in the Declaration of Independence.

**The Forgotten Amendment and Sanctity of Privacy Questions**

1. What did the Federalist pledge to add to the Constitution if it was ratified?

2. What does the Third Amendment prohibit?

3. What document cited the “quartering of troops” as an issue?

4. *Critical Thinking*: Why would people have been opposed to soldiers coming into their homes?

5. *Critical Thinking*: Why do you think a case about the Third Amendment has never made it to the Supreme Court?

6. How was the Third Amendment used in the famous case of *Griswold v. Connecticut*?

7. *Critical Thinking*: What does it mean to have a right to privacy in your home?