In a small town nestled in the Andalusian hills lies a closed order nunnery, one of the few in the world. One of its inhabitants has been there almost 60 years and has spoken to no one outside the Baroque tiled building in all that time. Recently she decided to feature in a documentary film which meant a camera crew was permitted to enter the building to observe her. It was the first time since her teenage years that she had interacted with anyone outside the order.

The nun, like others of closed order sects, has her own pact with society. She chooses not to participate and is able to keep her private world hidden from others. Most of us, however, trade up some part of our private thoughts and actions for the part we play in society, whether our links with family and friends and our community, or a role in public life. Since Locke, the notion of that exchange in society has underpinned the debates on where a line should be drawn between public and private life. The forays of the press enthusiastically push the line, questioning when a person in the public eye gives up some part of his or her life which would otherwise be considered private. Its role is to investigate fact, rumour and speculation and report its findings faithfully, responsibly and accurately. The press also enables those who wish to share private details to do so. Much of what is discussed in the media is essentially private, but is published with the consent of the individual. A confession about a life of adultery, a poignant description about recovering from cancer, or honest recollections of childhood, are all private tales. The questions become more complex when those in the public eye attempt to build barriers around themselves. The more prominent the role, the higher the expectations of propriety and the likelihood every step will be of interest to the press. Those who have earned or acquired a reputation have further to fall so are more likely to fiercely guard a secret, and to harness the power of the law (and the depths of their pockets) to do so.
The role that the press has taken in redefining the line between public and private information has often changed events through history. There was no pressing need in society to guard against the excesses of the tabloid press in the 1950s after the UK had signed up to the European Convention on Human Rights and Fundamental Freedoms. The Convention protected from state interference the right to respect for private and family life, home and correspondence. However, society was rapidly changing and with it the expectation of what could be considered private.

The Profumo affair in the early 1960s entailed constant snooping on behalf of the press into a short-lived affair between a ‘showgirl’, Christine Keeler, and the married Minister for War, David Profumo. Profumo, suspected of compromising state secrets, lied to Parliament over the affair and had to resign from his post. The scandal damaged the Macmillan Government and the Tories lost to Labour in the General Election a year later. While the story is remembered for being salacious and sordid in a time when bedroom doors were firmly closed, it is also an example of the press pursuing a sexual affair with no firm idea of where it would lead. It probably did so because it would not have been acceptable at that time for any Minister to be conducting an affair. Nowadays, whether this aspect of the personal life of a public figure would be fair game would raise more of a question. A public interest which goes beyond the affair, and possibly evidence of compromising state secrets, would have to be shown to justify publication.

In contrast to the approach of the British press, in France the secret second family of President François Mitterrand was kept under wraps until he was no longer in office. As a result, the lines of inquiry which some detail of his private life may have thrown up will forever remain a mystery. Mitterrand’s mistress and daughter were occasionally housed in apartments at the Presidential quarters, the Elysée, at the expense of taxpayers, but the French appear to prefer to protect their sexual mores rather than the taxpayers’ pocket.

Descriptions of the growth of privacy law in England often start with the image of actor Gordon Kaye lying injured in his hospital room while unruly photographers and journalists posing as hospital staff sneak to his bedside unhindered and without permission. Editors back in 1988 did not hesitate to publish the photographs, but the case became the prime example of all that was lacking in the laws protecting an individual’s privacy, and the Court of Appeal asked whether legislation should be the answer. Despite this, the narrative continues; the Calcutt Report\(^1\) decided not to enact a

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\(^1\) Cm 2135, 1993.