

The Passy Press[®]

Letters to the Editor

From: John MacMurray <jcmacmurray@undisclosed.com>
To: Nick Gardiner <enpg@thepassypress.com>
Sent: 12 November 2018 at 13:10:27 CET
Subject: Cyber Essay, November 2018

Dear Sir,

The Existential Threat of Cyber: From Hibernation to Cybernation, as a wake up call to the likes of myself, is superb.

We (pretending to nothing more than an everyman) stand idly by as data breaches of retailers and other businesses expose the personal information of millions, as opportunists and con men gain access to personal files and extort thousands from tens of thousands, as social internet platforms are gamed for political maneuvers, as hate attacks and terrorist logistics operate on the internet as a matter of course, all the time assuming that we, individually, are somehow statistically invulnerable.

But this is cyber crime. The article is focused on cyber war.

There, most of us, I would think, are conscious of the sinister threats that cyber weapons make to national security----exposure of classified information, the mucking up of the electric grid, energy pipelines, banking and financial system, air traffic system, railroad system, police functions and the neutering of military operations themselves--from missiles to airplanes, to ships and submarines, to tanks, to any and all computerized functions, right down to soldiers' kit. And this list doesn't even scratch the surface. But, therein is also an opportunity.

I would think that a well financed U.S. military, under the direction of a supportive President, would have the drop on hostile countries and aggressor terrorists, and most probably has developed an arsenal of offensive cyber weapons second to none: China included. Moreover, I don't see that our democracy hinders this, any more than it does the present day management of our conventional and nuclear military capacity, financing aside. The financing element, always in play, is basically determined by political will. But, I don't read the author as advocating shifting the will of the people (preferring cars to guns) to the power of an enhanced executive, to better mimic the dictatorial systems.

As for cyber crime, we do have our Federal system, and the 50 States will vary in the scope and enforcement of their respective anti-cyber crime legislation. But, witness New York; the laws are coming fast and furiously. Nor is the Federal Government asleep. The laissez faire culture of the internet is fast becoming the target of regulation (initially, let's hope, for the better). There, the more distressing aspect for me would be the man-handling of First Amendment rights, rather than the inability of legislatures to sort out what is right and wrong in cyber behavior. But, we do still have judicial review.

The case of state sponsored cyber crime (e.g. China and the Chinese menace of stealing

intellectual property), is trickier at the sponsor level (as the author points out), where interest in national economics disguise aggressive, war-like ambitions. At the perpetrator level, cyber crime across the board is given a pass to the extent that international judicial forums are involved as enforcement arms, with their limited ability to enforce judgment or sanctions. However, I don't think that our three branch system of democracy is a handicap in dealing with the problem, given that the primarily responsibility rests with the executive branch.

The bottom line on crime is self defense. That no doubt will pit Silicon Valley, big business and all computer users who have commercial interests to protect, against the perpetual attack of criminals. Maybe the democracies are more exposed there, but liberty cannot be traded cheaply.

I congratulate the anonymous author on his/her very good and interesting article, and say that my comments above are friendly (and possibly picky) criticisms.

Sincerely,

John MacMurray

John MacMurray is a retired lawyer, and a graduate of Princeton University and Columbia Law School. He has worked as a teacher, served on supervising boards of several schools and is a member of the advisory board of Legal Outreach, New York, NY. He resides in East Chatham, NY.