ment.[629] Also, the Court has held that First Amendment itself affords some limitation upon governmental acquisition of information, although only where the exposure of such information would violate freedom of association or the like.[630]

Similarly, in *Fisher v. United States*,[631] the Court held that the Fifth Amendment's Self-incrimination Clause did not prevent the IRS from obtaining income tax records prepared by accountants and in the hands of either the taxpayer or his attorney, no matter how incriminating, because the Amendment only protects against compelled testimonial self-incrimination. The Court noted that it "has never suggested that every invasion of privacy violates the privilege. Within the limits imposed by the language of the Fifth Amendment, which we necessarily observe, the privilege truly serves privacy interests; but the Court has never on any ground, personal privacy included, applied the Fifth Amendment to prevent the otherwise proper acquisition or use of evidence that, in the Court's view, did not involve compelled testimonial self-incrimination of some sort."[632] Furthermore, it wrote, "[w]e cannot cut the Fifth Amendment completely loose from the moorings of its language, and make it serve as a general protector of privacy—a word not mentioned in its text and a concept directly addressed in the Fourth Amendment."[633]

So what remains of informational privacy? A cryptic opinion in *Whalen v. Roe*[634] may indicate the Court's continuing willingness to recognize privacy interests as independent constitutional rights. At issue was a state's pervasive regulation of prescription drugs with abuse potential, and a centralized computer record-keeping system through which prescriptions, including patient identification, could be stored. The scheme was attacked on the basis that it invaded privacy interests against disclosure and privacy interests involving autonomy of persons in choosing whether to have the medication. The Court appeared to agree that both interests are protected, but

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[629] The Bank Secrecy Act required the banks to retain cancelled checks. The Court held that the checks were business records of the bank in which the depositors had no expectation of privacy and therefore there was no Fourth Amendment standing to challenge government legal process directed to the bank, and this status was unchanged by the fact that the banks kept the records under government mandate in the first place.

[630] *See* Buckley v. Valeo, 424 U.S. 1, 60–82 (1976); Whalen v. Roe, 429 U.S. 589, 601 n.27, 604 n.32 (1977); United States v. Miller, 425 U.S. 435, 444 n.6 (1976). The Court continues to reserve the question of the "[s]pecial problems of privacy which might be presented by subpoena of a personal diary." Fisher v. United States, 425 U.S. 391, 401 n.7 (1976).

[631] 425 U.S. 391 (1976).

[632] 425 U.S. at 399.

[633] 425 U.S. at 401.

[634] 429 U.S. 589 (1977).