

ONE THING EDWARD SNOWDEN IS NOT A FUCKING IDIOT ABOUT

Gizmodo's Matt Novak is outraged that fucking idiot Edward Snowden told a conference some stupid things. I agree that this was a pretty stupid comment.

Snowden also addressed his tweet from October 21st in which he said that, "There may never be a safer election in which to vote for a third option." Snowden told us that he more or less stands by his tweet and that anything else "freezes us into a dynamic of 'you must always choose between two bad options'" which is a "fundamentally un-American idea."

The thing that really outraged Novak, however, is that Snowden said technical means are more important than policy as a way to protect liberty.

What got me so riled up about Snowden's talk? He firmly believes that technology is more important than policy as a way to protect our liberties. Snowden contends that he held this belief when Obama was in office and he still believes this today, as Donald Trump is just two months away from entering the White House. But it doesn't make him right, no matter who's in office.

"If you want to build a better future, you're going to have to do it yourself. Politics will take us only so far. And if history is any guide, they are the least effective means of seeing change we want to see," Snowden said on stage in Oakland from Russia, completely oblivious to how history might actually be used as a guide.

Snowden spoke about how important it is for individuals to act in the name of liberty. He continually downplayed the role of policy in enacting change and trotted out some libertarian garbage about laws being far less important than the encryption of electronic devices for the protection of freedoms around the world.

“Law is simply letters on a page,” Snowden said. It’s a phrase that’s still ringing in my ears, as a shockingly obtuse rejection of civilized society and how real change happens in the world.

How do we advance the cause of liberty around the world? Encrypt your devices, according to Snowden. Okay, now what? Well, Snowden’s tapped out of ideas if you get beyond “use Signal.”

Novak went on to recite big legislation – notably, the Civil Rights and Voting Rights Acts – that has been critical to advancing the cause of liberty with the boundaries of the US. I agree that they have.

That said, I’m all but certain I spend more time working on surveillance *policy* than Novak. I’m no shrug in the work to improve surveillance policy.

But there are several things about surveillance that *are* different. First (as Snowden pointed out), “Technology knows no jurisdiction.” One aspect of the government’s dragnet is that it spies on Americans with data collected overseas under EO 12333. And Congress has been very reluctant to – and frankly pretty ineffective at – legislating surveillance that takes place outside the relatively narrow (geographic and legal) boundaries of FISA. Without at least reinterpretation of Supreme Court precedent, it’s not clear how much Congress *can* legislate the spying currently conducted under EO 12333.

Either we need to come up with a way to leverage other jurisdictions so as to limit surveillance overseas (which will require technology in any case, because the NSA is better at spying than any other jurisdiction out there), or we need to find some way to make it harder for the government to spy on us by doing it overseas. The latter approach involves leveraging technology.

And all that assumes the Trump Administration won't use the very same approach the Bush Administration did: to simply blow off the clear letter of the law and conduct the spying domestically anyway. At least now, it would be somewhat harder to do because Google has adopted end-to-end encryption and Signal exists (we're still fighting policy battles over terms under which Google can be coerced into turning over our data, but Signal has limited the amount to which it can be coerced in the same way because of its technological choices).

The other important point is, especially going forward, it will be difficult to work on policy without using those technological tools. "Use Signal" may not be sufficient to protecting liberties. But it is increasingly necessary to it.

It may be that Novak is aware of all that. Nothing in his article, however, reflects any such awareness.

Edward Snowden may be a fucking idiot about some things. But anyone who imagines we can protect liberties by focusing exclusively on policy is definitely a fucking idiot.