

## WATERGATE, AND THE ARGUMENT FROM KNOWLEDGE

For decades, our Presidents (and their apologists) have told us that they *know*, and know far more about the important matters than us humble and hapless citizens. Richard Nixon has been one of the most vocal of these proclaimers. And since they know so much more than the rest of us, we must leave the important decisions up to them. The seeming disasters of foreign policy, of economic programs, of internal security, these were not really blunders because the President and his staff were privy to the vital information that the rest of us did not have. The immediate answer: "well then, *give us the information*", seemed far too *gauche* for the weighty and delicate matters at stake.

This **Argument from Superior Knowledge** rested, however, on a naive and fallacious model of bureaucracy. The *theory* is that the rank-and-file funnel key information up to their superiors in the hierarchy, with each in turn filtering out the wheat from the chaff and passing the knowledge further up, *until*, at the top of the pyramid sits the head—in this case the President—knowing all the vital stuff possible. We should have remembered the ancient adage that the lower bureaucrats tend to pass upward only that information which their bosses *want* to hear. Unwelcome information that might tell the boss that he is in error will often jeopardize a subordinate's job. Or even worse: as in the ancient custom of the King executing any messenger that brings him bad news. The result was that precious few people would bring him any such news. The bureaucratic theory for the U.S. *should have* been shaken by the Pentagon Papers, where we saw that unwelcome CIA estimates on how the Vietnam war was faring were deliberately kept from the President and his top aides.

### REVERSE TWIST

Now Watergate provides us with a fascinating new look on knowledge *vis a vis* the President and the White House. Note, for example, the Mitchell-Moore-Kalmbach picture of life in the White House. *If* we can believe their story, we see this picture of these our august rulers: not a single one *asks* anyone (especially the President) anything, no one *tells* anyone (especially the President) anything, and, especially in the case of the nitwit Moore,

no one seems to know *who* is working in the next office. Everyone sits in his cubicle passively, awaiting developments, hearing-seeing-and speaking no evil, and displaying no curiosity whatsoever on the burning political issues of the time. Apart from a loyalty to and worship of Mr. President hardly exceeded by the court of the Chinese Emperors, no one of these gentlemen knows, asks, tells, or seemingly *does* anything. Particularly intriguing was the political philosophy expressed by former Attorney-General John Mitchell: that it is vital, *for the sake* of enabling the President to make the proper decisions, *not* to tell him what is going on! Here is a reverse twist to the Argument from Knowledge for letting the President make our decisions. For in order for him to make the great decisions properly he must sometimes be kept ignorant, he must be freed from knowledge that might prove awkward! In the history of political philosophy, never has a more idiotic proposition been put forward, and with the high seriousness that only a Nixon aide can muster.

But though our rulers seem to know virtually nothing, they have all displayed a remarkable zeal and curiosity for knowing what *everyone*, almost literally, has been saying at any time. It started in 1970, with the plan of leading young conservative Tom Charles Huston to bug, spy, and burgle potentially dangerous radicals and dissenters. But the burning zeal for knowing everyone else's business hardly stopped with radicals. The "**enemies**" list, to be royally "**screwed**" by the White House, had scarcely a radical on it, featuring instead highly conservative Democrats, from the Meanyite labor leader Alexander Barkan to the desiccated old moderate Max Lerner. But pretty soon our rulers began to bug not only extremists and moderates, but their very own aides ("for their own protection", intoned Henry Kissinger) and finally each other. And, now, to top it off, we find Mr. Nixon automatically bugging everyone he has come into contact with, including himself: ostensibly for the sake of future historians! We can imagine some poor doctoral candidate a few decades from now, dutifully spending six years of his life doing nothing but listening to Nixon's interminable tapes. If Sartre had written *NO EXIT* now, he could have included that scene in his definition of Hell.

### WHITE HOUSE SPONTANEITY

All this conjures up what must have been—



and still is—the delightfully spontaneous spirit within the White House, as its various denizens meet to reason together, to learn about problems, discuss policies, etc. Everyone, including the President is secretly taping everyone else; nobody asks or tells anyone anything—and our future historian can delightfully listen to an endless litany of evasive and meaningless jargon about "time frames", "inoperative memos" and "unviable options." And when the pressure gets too great, they can always confide in good old Grandpa "Dick" Moore, who at 59 looks 89 (and who is *still*, ye gods! one of our rulers) secure in the knowledge that Dick can scarcely remember where his office is in the morning. (So long, of course, as kindly old Dick doesn't have a tape secreted on his person.) And secure in the knowledge, too, of the kind of advice that Dick is likely to give: "Heh, heh, young feller, go thou and sin no more." All this topped by our new image of Mr. President, his every grunt preserved for posterity and/or detailed re-examination. Only a Terry Southern-style movie can do justice to the *bizarrie* of the whole scene; we are reminded of the seemingly wild fantasy of *THE PRESIDENT'S ANALYST*, where the President turns out to be a literal robot with wires leading out of his head. Who's getting *those* tapes?

Query to our "limited government" friends: after Watergate, do you *still* revere our rulers? Can you *still* hold that they have superior knowledge or wisdom to make any decisions whatever? Wouldn't we all be better off if the White House became an empty monument to a grisly past, and our Nixonian rulers were turned loose to seek honest employment—provided they can stay out of jail? ■

Dr. Rothbard's viewpoint appears in this column every third month, alternating with the viewpoints of Tibor Machan and David Brudnoy.

## THE NEW CENSORSHIP

A hundred years from now the people of the 21st century will look back with bewilderment at the Supreme Court's 1973 decision on obscenity. How a nation of "civilized," "sophisticated," "freedom-loving" people could sit back calmly and accept—and in some cases welcome—this exercise in verbal gymnastics will appear beyond belief.

There are several levels on which the Court's decision can be criticized. The obvious moral objection is that the State has no business telling people what they may or may not read or see. The ostensible legal implementation of this principle is the First Amendment's guarantee of free speech and press. The First Amendment is quite explicit on this point; it says that Congress *shall make no law* abridging the freedom of speech or of the press. Justice Douglas has affirmed repeatedly that when the Constitution says "no law," it means no law, not "no laws except those prohibiting pornographic printing."

But it is not just this moral/legal aspect of the subject that our descendants will marvel at. What will most amuse and dismay the civilized and humane citizens of 2073 will be the seriousness with which scholars, lawyers, and commentators treated the concept of "obscenity." One might think that our modern, secular society would no more widely accept such a patently religious concept than it would accept the idea of witches, or the devil. Yet even the sophisticates among us appear to nod knowingly when a work is called "obscene," as if, like Barry Goldwater and Earl Warren, they "can't define it but know it when they see it."

Yet is there really a general, objective concept of obscenity? WEBSTER'S COLLEGIATE DICTIONARY (admittedly no authority, but sufficiently representative of current usage) defines "obscene" to mean "abhorrent to morality or virtue, specifically: designed to incite to lust or depravity." (But whose morality are we legislating and with what claim to universality?) The same source defines "lust" as "intense sexual desire," or as lasciviousness, a further exploration of which leads to such terms as unchaste, licentious, salacious, and lecherous. The only reality underlying all of this verbiage is sexual desire or sexual activity, sometimes modi-

fied by such terms as "inordinate" (by whose measure?) or "in disregard of legal or moral restraints" (whose restraints?). Depravity, the other aspect of "obscene," is defined in terms of perversion—"aberrant" sexual practice. In other words, judging at least by the dictionary's reflection of current American usage, "obscenity" is material designed to incite sexual desire, which desire runs counter to a particular puritanical moral code.

This interpretation is fully supported by Chief Justice Warren Burger's pronouncements in *Miller v. California*, one of the 1973 obscenity cases. In limiting the scope of acceptable state censorship laws, Burger said they "must be carefully limited" to prohibiting only the depiction of sexual conduct that is "patently offensive." What, pray tell, is patently offensive to the good Justice Burger? According to the decision, the material which meets this test is any depiction of "ultimate sexual acts, normal or perverted"! Just why the depiction of love-making, in all its various forms, should offend Mr. Burger is difficult to fathom, unless he holds to a personal religious view that sex is evil and therefore to be hidden.

Yet the defenders of the Court's decision, such as conservative columnist James Jackson Kilpatrick, ignore this religious aspect altogether, acting for all the world as if Burger's view of what is "patently offensive" were patently obvious and universal. Kilpatrick thinks that "the movie *DEEP THROAT* is patently offensive in a way that *THE LAST PICTURE SHOW* is not." But on the face of it, why should scenes of fellatio, the main attraction of *DEEP THROAT*, be any more offensive than scenes of kissing in *AS THE WORLD TURNS*? Again, unless Kilpatrick's own religious morality considers fellatio shameful or evil.

Thus, with scarcely a second thought, Americans are accepting the imposition of religious censorship, all the while believing that something universal called "obscenity" really exists. (This is not to deny that there can be a valid use of such a concept as "obscene." Something that is "abhorrent to morality or virtue" could properly be called obscene relative to that particular moral code; the objection here is to the current attempt to parade one particular version of the con-

cept as a universal, without even identifying the moral code it refers to.)

It would be bad enough if the Supreme Court's version of censorship were an isolated instance. But in the last few months the communications media have suffered two significant attacks on freedom of the press. This spring FCC Chairman Dean Burch threatened radio stations with loss of their licenses for broadcasting talk shows in which the participants candidly discussed sexual problems. Due to the FCC's life-and-death power over station ownership, many stations dropped these programs, including the original of the genre, the Los Angeles-based "Feminine Forum" on KGBS. The stations offered a few weak protests, mostly undercut by admissions of guilt over the programs' content.

The crackdown on "topless radio" was only the latest instance of FCC censorship of radio and television. More commonly, the FCC's censorship is implemented by means of the "Fairness Doctrine" under which stations are forced to provide opponents of broadcast material with equal time. Until this July, only radio and television were subjected to this kind of harassment, in direct violation of the First Amendment's guarantee of press freedom. Now the newspapers' turn appears to have come. In July the Florida Supreme Court ruled that *THE MIAMI HERALD* must provide equal space for a rebuttal to political candidates whom the paper had opposed editorially. Thankfully, the *HERALD* is appealing the case to the Supreme Court, but the fact that a state's highest court could rule so boldly against the First Amendment shows how far we've come.

Many years ago Ayn Rand was asked at what point she would advise people to cease cooperating with the system and go on strike, as did the heroes of *ATLAS SHRUGGED*. She replied to the effect that despite economic regulations, political outrages, and assorted forms of government coercion, as long as freedom of speech and of the press remained inviolate, one should continue to work within the system. By that criterion, it's beginning to look as if the day of decision is close at hand.

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