

For such improper and illegal violations of the rights and freedoms of Americans, our government has established "fronts". Plaintiff, whose belief ~~and~~ interest and hopes do not call for scandalous treatment of such serious topics as the assassination of a President and study of it and its official investigation, has eschewed scandal and, although he is a writer, has ~~never~~ ^{not} exploited this ready-made scandal delivered to him. But plaintiff does have not electrostatic but actual carbon copies of those reports made to the federal government, records of communication between the front established by the government, ~~paid~~ ^{funded} and maintained by it, records of communication between this front and subcontractor, ~~the~~ envelopes in which payments to the subcontractor ~~was~~ ^{were} made and even copies of ~~the~~ checks made in payment for such nefarious and improper services.

There have been more such untoward things. There have been intrusions into plaintiff's use of the mails, with both his letters and manuscripts intercepted, in one case certainly and in another possibly preventing publication of plaintiff's manuscripts. And of this also plaintiff has proof in his possession.

There have been shadowings, agents planted in audiences. And ~~of~~ ^{to} this plaintiff has credible witnesses *to support his own observations.*

There is substantial reason to believe there ^{also} has been ^{electronic} ~~telephone~~ eavesdropping. *must 3A*

So, this, what seems like a simple case in which bureaucracy just arbitrarily denies plaintiff that public information which without doubt is both public information and the right of plaintiff, is much more than that.

Nor is it a simple matter of bureaucratic arbitrariness, or of ~~mere~~ official, personal dislike of plaintiff, vented in this improper manner.

What we have here is a symptom of a dangerous national illness, ^{of} an officially-
~~A~~uffered malignancy that presents a great hazard to our society. It is, in plaintiff's believe, a ~~great~~ subversion of any free society.

The Congress passed a law to assure all Americans certain rights. Ours is the kind of society ⁱⁿ which precisely these rights are essential, the kind of society that cannot survive in this form without the full enjoyment of just these rights.

There is no ~~wealth~~ or power than can match that of the federal government, if that

government is determined to prevail, to have its way. How much less, then, is it possible for a lone man, with neither means nor ~~connection of~~ influence, to enjoy his rights, faced with the determination of government to deny them?

And if any one man is denied ~~his~~ his rights, who can depend upon the enjoyment of his own?

Is there then freedom? Is there then a government of laws?

The Congress enacted a law, the one plaintiff invokes, to guarantee and assure public access to public information. Congress had to enact this seemingly superfluous ~~law~~ ^{Government} because the power and abuse of ~~bureaucracy~~ power had grown to the point where the public was regularly and systematically denied access to public information.

That same bureaucracy now has ~~seized~~ ^{seized} upon this law as a mean of subverting it to

further deny the public that public information the law requires be made freely

available (under careful safeguards to protect the rights of individuals ^{who} that might otherwise be hurt) ^{and now argues that Congress ~~passed~~ "created a right without a remedy" in the words of the brief of appellants in American Mail Lines v. Gullett.}

^{This is that case} The case, and the foregoing record, ^{are samples} ~~is a sample~~ of the ends to which that

bureaucracy is willing to go and does go to suppress public information. In this case it is information that is not congenial to official postures.

Here we have a bureaucracy that first exhausts a private citizen with one ^{harassment act} device of suppression after another, literally runs him ragged in the hope that his determination will weaken and die, to the end that public information be suppressed.

In order to accomplish this illicit ~~purpose~~ purpose when that determination persists, the same bureaucracy is willing to and does impose upon the trust of a Court, in effect lying to that Court, distorting and adding false emphasis to quotation of the law, regulations and relevant other records. It eliminates what is germane from the consideration of the court and represents as true to that Court that which it knows to be false.

So, what we have here is an extension of the truly subversive, an attempt to convert the Courts into an instrument of suppression.

If justice and legal rights have become no more than a game to be practised between adversaries, with anything either adversary thinks he can get away with or in fact does get away with, no matter how dishonest, how knowingly unfaithful to the law and applicable regulations, can with impunity misinform or underinform a court, and can do this deliberately, and all this can be done in an effort to deny another his rights, ~~is~~ what has the law become, what does justice come to mean, how can it be dispensed by judges, and is there any meaning to laws ^{creating} ~~bestowing~~ and sanctifying people's rights?

In this case we deal with what should be close to sacred in a country such as ours: the assassination of a beloved President; the government's investigation and account of that ^{awful} ~~serious~~ crime; and the availability, really meaning the suppression, of public information about both the crime and its official investigation. Here the suppression is by the investigator, the ^{executive} ~~same~~ branch of government.

We also deal with a first-amendment right, for by subterfuge, various demeaning and delaying tricks, and violation of law and regulations, that same government makes a writer's first-amendment rights meaningless. There is and can be no genuine freedom of speech and of the press without ^{unimpeded} ~~access~~ to public information.

And now the same powerful forces ^{this} ~~twist~~ the law to perpetuate ~~the~~ suppression and ~~the~~ denial of rights under the law.

Motive may be no more sinister than the predictable desire of bureaucracy to protect itself. But more than that is at stake. And free society cannot survive the hiding of some bureaucratic errors, certainly not those that vitiate basic rights.

Even more than the foregoing is inherent in this simple case, made complicated only by the obfuscations undertaken by the government and the requirement imposed upon the plaintiff that he respond to them in an effort to obtain what he regards as his rights and to prevent the making and preservation of a false record on subjects of such contemporaneous and historical import.

There are the reputations of those eminent men called upon to undertake so unpleasant a task as that of this Presidential Commission. Most, if not all, have

~~indications~~ said they did so reluctantly. Several have said they refused the appointment. One of these has explained his reasons to plaintiff. None ~~derived~~ with expectation or possibility of personal gain. Because of the magnitude of the investigation and all the things that had to be covered, to which a considerable volume of the utterly irrelevant was added by the Department of Justice but had to be considered by the staff, if not the members, of the Commission; and because ^I almost without exception the members of the Commission were already over-committed to the public service and already carried responsibilities too great for the average man, most of the work necessarily fell to the staff. Yet the responsibility was that of the members. One cannot read the transcripts of the executive sessions of the Members ^{ing} without realize^{ing} that from the first it was impossible for them to keep up with what was happened^{ing} and that they were acutely ~~was~~ aware of this and deeply troubled by it.

Despite the wealth and power of the government, this Commission and its members were severely limited. They were limited by pressing political considerations, which is not exceptional in our society. They were limited by the information ^{and by what did not,} that reached them, ^{helped upon them} by the volume of the irrelevant and by the lack of the relevant. They were further limited by the expert interpretations and opinions that were made for them - and here plaintiff repeats that almost all were made by the Department of Justice, which is defendants' counsel in this instant case and is saddled with a conflict because it was the source of the expert opinions and interpretations of precisely what the House Report properly termed the "critical" and "vital" evidence.

Under the best and normal conditions, men err. Even Jesus trusted Judas. Those men and institutions we have come to regard as ~~the~~ capable of rendering good and faithful judgements, the judges and the courts, we assume can and will err, and our system of justice has built into it the mechanism for the correction of errors by the most eminent, trusted and respected.

Under what certainly were less than the best conditions, surely abnormal conditions, beyond question ~~great~~ great pressures, the possibility of error by a body such as this President's Commission were greater than average.

When we consider that the Supreme Court has reversed itself, we know that when men in high ^{set} place ~~do~~ err, the world does not shake, our ^{govt} government is not cast into crisis, the populace does not take to the streets with forebrands. We expect error, recognize it as a natural, human flaw. But we also expect the possibility of its rectification. We have come to assume this. It is a basis of our social and political structure and ^{and of} faith.

To consider the possibility that such eminent men as those who were the members of this Commission could have made a mistake is to consider them no more and no less than human beings. It is no secret some of them had the most serious doubts about ~~the~~ ~~conclusi~~ conclusions they signed. They did not write their Report. Some expressed the most troubled disagreement with it. One member has shared some of this with the plaintiff.

To consider that they could have made a mistake is not to consider, as some of those who posed ~~as~~ defenders, men who had access to the public media and were able to reach the largest audiences, have said in what is anything but a defense ~~that~~ to consider that the conclusions and Report of this Commission were in any way wrong is to say there was a conspiracy extending downward from the Attorney General to the lowliest charmaid in the Department of Justice. Such comment was not defense but indictment, and when it is recalled who was then the Attorney/General (and the line taken by his successors in this present case inherently is a parallel if not an identical one), the motive of such "defenders" becomes suspect.

If there was error, that should be known. If there was no error, that, too, should be known, Neither can be established without free access by everyone interested, especially those in the best position to understand and evaluate, ^{to} every scintilla of evidence that remains. ("Remains" is not a figure ~~of~~ of speech; some does not.)

Public confidence in either the Commission or the Government is not fostered by needless suppression, no matter how it is dignified by calling it "withholding". Making what is now denied available to the public 70 years hence does no good today. (Assuming that more ^{does} of it ~~has~~ not disappeared or become tainted.)

This is not to say ^{of} that what can injure the innocent should be publicly available. It should not be. Where it has been and plaintiff has been provided with it, as has happened often, plaintiff has applied strictures not applied by government and has removed the defamations from his writing. While the government ~~is now~~ has refused copies of official evidence to the plaintiff and has gone to court to continue to deny it to him - evidence as completely innocent as still pictures of clothing - it simultaneously ~~is~~ ^{has made} making available hundreds of pages of material that can be seriously injurious to the innocent. Simultaneously, while refusing plaintiff certain identified items of public information and claiming providing it is precluded by the law under which this action is brought, it ^{it was sought and} ~~made~~ ^{independently outside the law} made it available to him. (Now it cannot be both ways at one and the same time. Here plaintiff means also literally one and the same time. Plaintiff's official application for certain data was rejected by the Department of Justice. His appeal was likewise rejected by the Attorney General. The Attorney General holds, in writing, that while the exemptions of the law are not mandatory and he can find they need not be applied, in this case he did not waive them several months ago, when plaintiff appealed. But while plaintiff's application was rejected and his appeal turned down, at that very time the same Department of Justice declassified a large percentage of this identical material, and plaintiff now has it. Surely this is not action under the law, serious judgements, anything better than what, on signing the law, ~~the~~ President & President Johnson said should never be controlling, the whim of some official. If these papers could not be released to plaintiff on his proper and formal request, ^{under the law,} they ^{not made} could not have been, as they at that time were, declassified, but ~~made~~ ^{not made} available to plaintiff months later (and then, deceptively, only in part, hiding the fact that ^{or} others also were declassified and available -at least as much ^{or} more in volume)).

Such toying with the law does not build public confidence in the law or in governance government. But these are only a few of the contemporaneous examples of precisely this and under this law, by this government. Another is the release of several hundreds of pages of documents that had been classified and withheld at the National Archives by order of the Department of Justice. These many withheld pages, ordered withheld by the

Department of Justice, had already been published by the Commission! More than seven years earlier and prior to their being ordered withheld! If the Court doubts this for one moment, ~~the~~ the Archivist, if he knows what goes on in his agency, can enlighten the Court. If the Archivist has no personal knowledge, the men in immediate charge of this particular archive can be reached by phone at 943-6982. And, should it interest the Court, if they do not so inform the Court, plaintiff will deliver copies of the printed pages, printed by the Warren Commission, and copies of what, at about the time the motion to which this responds was filed, was released by the Archives.

What this ^{also} addresses is the dependability of the government's word when it says that certain evidence must be withheld. What is withheld too often is not withheld because law and regulation require it and is withheld to suppress, ~~and~~ contrary to law and regulation, as in this instant case. And what is released, again too often, is what should not be, under any circumstances. /

Plaintiff is not suggesting for a minute that those who have released that which should not be are unaware that it should not be. Rather does he believe that they have selected a variety of ^{notables} nobles and the ill, people without influence or power, to make what can hurt them freely available, hoping thereby to create a demand for further suppression of that genuine and meaningful evidence still withheld and desired to be withheld by the government. But it is not those who, like plaintiff, regard this subject matter with utmost seriousness, who have any interest in or any intention of using such freely-available defamatory material.

Such whimsical application of law and regulation is not in the interest of the family of the assassinated President. It is not in the interest of and certainly does not tend to defend or price protect the reputations of the eminent men who were the ^m members of this Commission. It is, in fact, in plaintiff's view, ^{a great tragedy} that one of the members of this Commission died harboring the most serious doubts about the most basic ~~con~~clusions of the Commission on which he served. That member shared these doubts with plaintiff. Better by far, especially for the members of the Commission, that if ^{if} their work was in any way or manner flawed, it be known while they live, that they

may, if they desire, say whatever they may feel they should and so that, if they are so disposed, they may do whatever they might feel impelled to do to rectify any such error. It certainly is no kindness to the now-dead member for his defense ^{and justification} ~~in the history~~ ~~of the country~~ to have to be vested in so weak and uninfluential a defender as the plaintiff in this instant action.

Only th trust is ever a defense of any action or decision. Only th trust can rectify error. Truth can be established only by fact, in this case public information. It can be first understood and then presented only by those with the requisite knowledge. On this question, that can come with only an unbelievable amount of time and work, none of it agreeable or in any manner remunerative. There can be no profit in it.

Unless, of course, the applicant is a rich and ^{powerful} ~~powerful~~ ~~television~~ television network ^{primary} whose dedication is to interests other than unalloyed truth. For such an applicant there is one interpretation of law, regulation and contract. For those without means and influence, for those who do not blindly agree with the ordained truth, these same laws, regulations and contracts have different applications and meanings.

No ~~interest~~ ~~is~~ ~~xxx~~ genuine, honest, public interest is served by suppressing any information on these subjects save ~~those~~ that which is, without possibility of reasonable doubt, clearly covered by the proper and specific exemptions provided by the law. The interests and reputations of the members of the Commission are neither served nor defended by suppression. Suppression, in fact, is exactly opposite the expressed will of the former Chief Justice who headed the Commission. ^{and of the then attorney general since and assassination.} ~~He~~ ^{Both we} ~~was~~ consulted and ^{b+D} ~~he~~ said that everything that could possibly be made available to the public should be. But the government fostered no headlines on this. Instead, ^{it} ~~they~~ arranged for the widest possible attention to what made it appear that the family of the victim was responsible for the suppression of evidence. ^{first} This was arranged by denying plaintiff access to the same public information and ^{later} ~~making~~ ^{it} available to one who could be depended upon to look for sensation and not to have the knowledge required for correct analysis and understanding of what he was given, the contract in this case. ^{para 9 notes 44-48 and} ^{Complaint Exhibit F}

not since ~~the~~ were

The reasons given plaintiff for refusing his request in that case were spurious, for if true they were not subject to change. But over and above that, they were legally invalid under the American Mail Lines v Gulick decision.

Still again, there is the question of the seriousness with which law and regulation are regarded and obeyed by the government, including defendants in this instant case and their counsel above all.

A proper and reasonable standard was given by the President upon his signing of the law under which this action is brought:

I have always believed that freedom of information is so vital that only the national security, not the desire of public officials or private citizens, should determine when it must be restricted.

Surely there is no question of national security in pictures of official evidence, pictures of garments!

Most reprehensible of all is the effort, elsewhere ~~in~~ and in the motion to which this responds, to make it appear that the suppression is the doing of those who have already suffered irreparably and most of all, the survivors of the victim. That is despicable beyond adequate description because it is contrary to their interest and to the conditions of their ~~in~~ donation to the National Archives. It is a particularly insidious and evil trickery because under IV ~~(1)~~ (2) of that contract the person upon whom this can be blamed is one prominent in ~~the~~ political life. He is not of the party now in control of the executive branch and he is widely and popularly regarded as one who may at some day present a challenge to the present administration.

11A-C here

So, while the narrow question before this Court is simple, except for the extensive efforts of defendants, meaning, really, the executive branch of the government, to complicate them, and there is no genuine issue as to any material fact, the overtones are broad and serious. They include the reputations of prominent men, living and dead, the right of powerful government to abuse the powerless individual and deny him his rights by assorted improprieties, ranging from delaying tactics through distortions of law and regulations, to flagrant ~~an~~ imposition upon the trust of the Courts and violations of the law and regulations, it is the duty and obligation of the government to uphold.

Saying that the suppression of this evidence was caused by the family of the late President is implicit and ~~explicit~~ in "III. Argument", sections B and C. In these sections, the thrust of defendants' argument is that suppression is required by the terms of the GSA-family contract. ^(Complaint Exhibits A and F) ~~This~~ ^{in quotation} argument is furthered by the addition of false and misleading emphasis ^{always} (~~in some cases~~, the adding of emphasis is not indicated). As examination of this argument and of the specific and relevant provisions of the contract ^{in other addenda will} ~~itself will~~ show, exactly the opposite is the case. Furthermore, as ~~Complaint~~ Exhibit C shows, the representative of the executors of the estate has written plaintiff expressing no objection ^{to} ~~of~~ the providing of photographs to plaintiff. These letters were entirely without influence upon defendants or their counsel.

So contrary is this representation of that contract to its actual provisions that the contract does not even permit the Government to decide what a researcher's needs are, ^{if} ~~provided that~~, as is not and cannot be challenged in this instant case, the researcher is ^{accredited} ~~authorized~~ as a "serious scholar or investigator of matters relating to the death of the late President". The same provision (I. (1)(b)) ^{goes} much further and limits the right and power of the Administrator "to deny requests for access" ~~only~~ exclusively "in order to prevent undignified or sensational reproduction". ⁹¹ This (which happens to be the only use thus far permitted by the Government, undenied in response to plaintiff's challenges). (Emphasis added)

To this misrepresentation of the contract by counsel for defendants, the Department of Justice, ^{making} ~~to make~~ it appear that the family is the cause of the suppression, other facts ought to added for understanding of the strange situation that is thus brought about:

This clothing was first ~~conveyed to the~~ covered in a certain "Memorandum of Transfer" of April, 1965. By different subterfuges, that ~~was~~ ^{Later} ~~been~~ denied plaintiff by the National Archives. When the Secret Service, which executed this said memorandum, gave a copy thereof to the National Archives, ~~the National~~ to be given to plaintiff, the National Archives first "neglected" to so inform plaintiff, then delayed a long time