

Part 10/2/73
Mr. Agnew's California Speech

There are no atheists in foxholes and, as it seems, there are no anti-civil libertarians under criminal investigation. We listened to the Vice President's eloquent assertion of the rights of the accused the other day, just as we have listened to various administration Watergate defendants' assertions of the importance of their constitutional rights, and only wished that these men had been as eloquent on the subject when the rights of others were at stake. How good—and how important—it would have been to hear Mr. Agnew's disquisition, say, in the wake of the Mayday troubles or on the eve of the Panther trial in New Haven. Saturday, the Vice President told a nationwide TV audience that he did not believe he could get a "fair hearing" before a grand jury or a petit jury in Baltimore because the "well has been most successfully poisoned." Three years ago when President Kingman Brewster of Yale suggested that black revolutionaries could not get a fair hearing under our judicial system, Vice President Agnew recommended that he be fired.

Let us be clear about this: so far as his new found commitment to certain constitutional protections of the individual is concerned, Vice President Agnew is on sound ground. What makes his California speech so troubling is the fact that he now seems determined to exploit and cheapen these very serious concerns with the same kind of reckless, self-serving political rhetoric that marked his earlier forays into national political life—a technique, incidentally, which he disavowed in the 1972 campaign as having been foisted upon him. It was one thing for Mr. Agnew a short while back to complain about those leaks and indiscretions which were bringing supposedly secret investigatory material to public attention. It is quite another for him to mount a personal attack on the head of the Justice Department's Criminal Division, Mr. Henry Petersen, suggesting that Mr. Petersen is pursuing this investigation only for base reasons of self-interest. When the Vice President contends that the prosecutors in his case are corrupt and that the witnesses against him are self-serving perjurers—adding, in passing, that Mr. Petersen is an incompetent loser of cases—he can hardly be said to be striking a blow for orderly process or the dignity of the system of justice or the rights of the accused. He can only be said to be trying to manipulate public opinion in his favor at the expense of anything in his way.

Surely Mr. Agnew must realize that opinion in this country is very mixed and uncertain on the subject of his present dilemma. People who do not count themselves among his natural constituency or his usual admirers, are troubled by the manner in which the case against him seemed so suddenly to materialize and by its relationship to the President's own troubles and by the clearly Byzantine atmosphere within the administration surrounding Mr. Agnew's plight. And they are troubled by those erosions of his rights as the object of a criminal inquiry.

On this score, the Vice President has every right to be "powerfully annoyed," as we put it some weeks ago at the start of this affair, if those in charge of the investigation have acted carelessly or unprofessionally. But two wrongs will not set this matter right. If Mr. Agnew wishes to demonstrate his own seriousness, responsibility and good faith, and to take advantage of the reservoir of genuine concern that exists, he will not do so by indulging the kind of cynical, contemptuous and defiant nonsense that he made use of in his Saturday speech. If he is genuinely concerned about undocumented allegations made against him by nameless accusers or by anonymous second-hand sources, he does little credit to his argument by replying in kind. It is one thing for him to claim—and rightly so—the rights and presumptions accorded the ordinary citizen. It is quite another for him to exploit his high office by means not available to ordinary citizens in an effort to fire up a partisan constituency in his behalf. There is more than one way, in short, to generate prejudicial pre-trial publicity.

What is urgently needed now, in our view, is less talk about unfairness—for there has been unfairness on both sides of this case—and the speediest possible resolution of the matter in the courts of law. It is only by way of orderly safeguarded processes of justice that Mr. Agnew can get his due: a fair and conclusive determination of the merit of any charges made against him. The Vice President has complained that those processes are being undermined by the behavior of the prosecution. Precisely the same can be said of his own attempt to avoid the jurisdiction of the courts to take refuge behind the claims of constitutional immunities allegedly inherent in his office, and to cast doubt on the integrity and the motives of attorneys and prospective witnesses.