

On Presuming Innocence

By William Safire

WASHINGTON—"A man is innocent until proven guilty." Great words, the cornerstone of our legal system. Who said them?

Apparently nobody ever said them. Bartlett's Quotations offers no help, and the compilations of Bergen Evans and H. L. Mencken are silent on the phrase. Burton Stevenson's magnificent quote-finder cites a line written in 1772: "Where the guilt is doubtful, a presumption of innocence should in general be admitted."

The Englishman who wrote that about the time of American independence went by the pen name of "Junius." Unlike most pseudonymous authors, he took the secret of his identity to his grave; not even his publisher knew who "Junius" was.

We do know, from his writings, that the coiner of "presumption of innocence" hated King George III and his ministers. Paradoxically, Junius did not presume the targets of his poison-pen letters to be innocent; he presumed the men around the king to be corrupt and from his secret hiding place, he vilified the high and mighty.

Since Junius would have been silenced immediately had he been found out, his ability to remain anonymous served the public interest. But there are Juniuses with us today who abuse the screen of secrecy as they play upon the new inclination of many Americans to presume a man guilty until he proves himself innocent.

Take, for example, the attempt to assassinate the character of Nelson Rockefeller. A tipster who wanted to block former Governor Rockefeller's chances for the Vice-Presidency took advantage of the presumption of guilt that fills this city like an ignitable gas.

Responding to press queries about the tipster's bait, an unnamed "White House official," later identified as President Ford's press secretary, was quoted as saying that information had come to the White House implicating Mr. Rockefeller in "Watergate-type" campaign activities, and that the allegations had been sent to special prosecutor Jaworski's office for investigation.

As rumors flew, the press secretary issued a statement, based on the special prosecutor's report, that the information that was originally sent to the White House counsel, Philip Buchen, was "without foundation."

My first reaction to the story was to dismiss it as a smear, mishandled perhaps by a new press secretary who did not yet know the ropes. But I had been on battlements over the last year, denouncing "smears," while the

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wood of the battlements rotted beneath me; this time, the temptation was to sit back and watch the rumors spread.

Radio newscasts based on wire service flashes made the tip national news in its raw form; newspaper reporters on longer deadlines were forced to cover not only the story, but the story of the story. How would the suspicion of "Watergate-style" wrongdoing, even if unfounded, affect President Ford's consideration for Mr. Rockefeller as the next Vice President? Wasn't there a requirement that the next Vice President not only be clean, but appear clean as well?

As the story was being shot down, the worry was about all those people who might be saying "Where there's smoke, there's fire." In the recent past, there turned out to be fire raging beneath the smoke; it is hard to remind people now that where there is smoke, there is sometimes somebody with evil intent operating a smoke machine.

Because the communication of accusation is now on such a hair trigger, the presumption of innocence is the first line of defense against tyrannous prosecution of the accused and against abuse of the power of the press. How do we assert that presumption again, after a President and a Vice President have given it a bad name?

We rebuild our resistance to the men who seek to gain high place over the bodies of their fellows. We treat with suspicion those sniper shots from concealed positions, and object to attribution of charges from "sources" or "White House officials." We redirect our skepticism, which now surrounds denials, and aim it again at those who make the accusation.

The presumers of innocence are the gullibles, the people who are sometimes proven wrong with a vengeance. The presumers of guilt rarely look foolish, and for years will gleefully respond to any charge with the word "Watergate" in it, but it is they who weaken our system of justice as they debilitate our politics.