

Outrider

The court flubs one

By GARRY WILLS

I frequently have occasion to read *Lolita* by Vladimir Nabokov. I just read it again in connection with some religious research — for it is not only a stunningly beautiful novel, but a great religious masterpiece. It is a profound study of perversion, possession, and a kind of exorcism. The book could not have made its impact unless the perversion had been presented vividly. Few works of art have rendered so faithfully the real nature of sin.

Yet, back in the Fifties, Nabokov had great difficulty publishing his novel. Several American firms turned it down, and he was forced to publish it with Olympia Press, which specialized in sex-filled foreign works.

Even after publication, understanding of the book was for a long time clouded by public debate over the propriety of letting it appear. That was not so very long a time ago, and I would regret to see those standards make a comeback now. Yet the Supreme Court's recent judgment on pornography threatens us with just that prospect.

The majority's Justices deplored — and so do I — the cesspool atmosphere of Times Square in New York. And they tried to fight that by saying each community should be allowed to set its own standards, region by region,

almost neighborhood by neighborhood. But whose neighborhood is Times Square? What does "community" mean in a no-man's-land of transients? Times Square is better fitted to resist this kind of measure than almost any other place.

Yes, say defenders of the decision, but that is no reason the filth of Times Square should be tolerated in Topeka. True enough. Nor was it tolerated, even before the decision — not in kind, and not in degree. Certainly not where neighborhood still has some meaning.

Near my home, some drugstores do not carry even so mild a feature of the current scenery as "Playboy." The magazine would be sufficiently distasteful to regular customers, so this profit-making item is removed. Not far off, even supermarkets carry it, where traffic is drawn from many areas by car. The supermarket is not a neighborhood store, and cannot be controlled as such. It caters to transients.

Enforcement of a community norm of taste will be easiest where it is least needed. It will make it possible to ban *Lolita* and its equivalents from the local library branch. It will put undue power in the hands of those willing to spend their time purging supermarkets of "Playboy." It will mean the college campus must conform in its standards to the accident of its location. It will endanger the dubious marginal cases much more than the hardcore traffic of Times Square.

The truth is that "the community" is an elusive concept in our mobile commuting and transient era — as elusive as the definition of pornography itself, which it is now supposed to clarify. Liberals found that out when they tried to break the hold of networks by forcing local communities to come up with their own TV time. Most neighborhoods prefer the expensive network fare, as they are growing to prefer supermarkets over neighborhood stores. That may be regrettable; it is undeniable. There is often more real community among those of the same age, work, or background than by region, neighborhood, or the accidents of place.

The Court, by taking a geographical approach to the problem, will dilute some standardized fare; but it will not make for real choice by community. Times Square did not dictate to Topeka. But Main Street can, henceforth, dictate to Podunk High and the State University in its environs. *Lolita* can be taken off the shelves of the college as well as the high school and the branch library — contributing to divisions between real communities that are contiguous or interspersed within geographical areas. *Lolita* is more endangered by this decision than is Whipping Boy.

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On the right

The presidential tapes

By WILLIAM F. BUCKLEY, JR.

Concerning the presidential tapes, a few observations:

1) Should President Nixon have taped his conversations in the Oval Office? Some will say that is a point of purely academic interest at this juncture in the investigation of Watergate. Others will say it is more than that, that Nixon's having taped these conversations is one more ray of light into the dark neurons of the presidential mind, increasing the public understanding of the dragon who sits in the White House.

It being so much the habit of his detractors to assume that modern sin is Nixon's invention, it became of course interesting to inquire whether other Presidents had taped some of their conversations, and the word came in at disconcerting speed from several quarters that the answer is yes, other Presidents have taped their conversations. FDR, for instance, LBJ as one would expect, and — JFK. JFK?

"Arthur Schlesinger Jr.," the historian and a Kennedy aide, reports the *New York Times*, "described the idea of secret recordings during the Kennedy Administration as 'absolutely inconceivable.' 'It was not the sort of thing Kennedy would have done,' Dr. Schlesinger told United Press International. 'The kind of people in the White House then would not have thought of doing something like that.'"

One can only imagine how Professor Schlesinger would have dealt with, say, Professor Arthur Burns, back at Columbia after his services to the Nixon Administration, had he said that it was "absolutely inconceivable" that the men around Nixon could have plotted Watergate. The fact of the matter is that

there are 68 tapes in the Kennedy Library of presidential conversations, and when they are made public, I am going to line up and listen to what Arthur said to Jack during the Bay of Pigs.

2) Now this does not of course mean that Presidents should tape conversations secretly. It says merely that non-Nixons have done it, including the two Presidents who have inspired Professor Schlesinger since he was a child, for whom he continues his child-like reverence.

The pressing point, pending a consolidation of the ethical position on presidential taping, is whether Nixon should release the tapes to the Senate Committee, or if not to the Committee, to a panel of distinguished citizens who would report to the Committee on whether these tapes corroborated John Dean's story of

the implication of Nixon in the cover-up, or whether they corroborate Mr. Nixon's insistence on his innocence.

The *New York Times*' editorial on the subject is direct. "Why this evidence came to exist, the dubious legality or propriety of its collection, why its existence was not made known long ago — these are questions to be considered; but the essential point now is to have the evidence produced and made available to the public." This position is in refreshing contrast to the enthusiasm the *Times* editorial board has shown over the past decade for the decisions of the Warren Court, notoriously *Mapp vs. Ohio* (1961), which ruled that evidence improperly gathered against the accused cannot be used against him. In a masterstroke of irony, the question concerning the legality

of Mr. Nixon's tapes bears most directly on the question of the guilt or innocence not of someone else — but of Mr. Nixon himself.

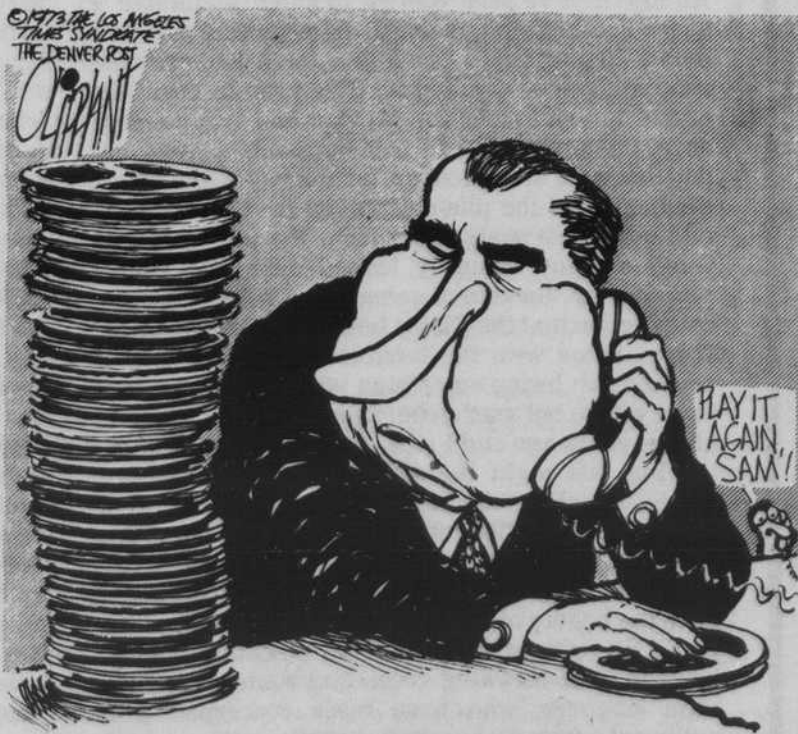
One supposes that if the tapes showed that John Dean was flatly lying, they could have Dean up on yet one more count, on top of the several dozen counts he has already in effect pleaded guilty to. But Mr. Nixon, though he has denounced the Mapp ruling, would hardly plead Mapp in behalf of himself. He pleads instead Executive Privilege. And more and more the question, as it shapes up in the public mind, is: Is there an Executive Privilege to survive any Congressional investigation into Executive behavior?

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Longer pieces will be considered for Commentary, but because of space limitations not all those submitted can be printed. Pieces will be selected by the editors on the basis of quality and relevance. The maximum length for commentary is 1500 words.



'SAM, THIS IS THE PRESIDENT . . . NO, REALLY
. . . SAM, I HAVE THOSE TAPES YOU WANTED
. . . HONEST . . . SAM . . . SAM? HELLO?'

