

*Sunday June 9, 2013*

## **Say it, and lose it**

Whose words are they, anyway? The question is prompted by an article originally published on Salon magazine's website, then picked up by several news services.

Curtis Morrison, the author, admits that he secretly recorded comments by Mitch McConnell, a Kentucky senator, earlier this year. McConnell apparently told a select audience how he was using government staff to dig up dirt on his opponent.

That's illegal. But supposedly off the record.

Morrison also admits that he was not one of McConnell's invited guests. But there were no restrictions to the building or the floor where McConnell was speaking.

McConnell has called the recording "illegal and illicit." A U.S. attorney has contacted Morrison's lawyer about facing charges before a grand jury.

Kentucky and Canada have similar laws about recording what people say. As long as one of the parties involved knows they're being recorded, it's legal. Presumably, then, McConnell need not be asked for permission to record his words.

The situation parallels the video, taken by bartender Scott Prouty, of Mitt Romney dismissing 47 per cent of Americans as freeloading welfare bums. Prouty's video, Morrison claims, "changed the trajectory of the entire 2012 election." It destroyed Romney's image as effectively Richard Nixon's five-o'clock shadow did in his televised debates with John Kennedy.

## **No recall provisions for words**

I cannot anticipate what a jury might rule, if McConnell's charges against Morrison go to court. Laws and juries do not always make common sense.

But the case raises two fundamental questions: Who owns words? And what constitutes private communication?

An oft-told parable describes a chronic gossip who sought absolution from his priest for spreading malicious rumours. The priest prescribed penance in two steps. First, he should slit open a down pillow, and scatter the feathers in a strong wind.

The gossip returned to the priest for part two of his penance.

"Now," said the priest, "gather up those all feathers and stuff them back into the pillow."

"Impossible," objected the gossip.

"So is recalling your words," replied the priest.

It's a fundamental truth -- words, once uttered, cannot be recalled. Words are only private as long as they remain unspoken, thoughts pinballing around our minds.

## **More than the medium**

Once uttered, words become public. Anyone who hears those words now possesses a personal copy of those words. McConnell's chosen audience recorded them in memory; Morrison recorded them digitally.

The real question becomes, what will hearers do with their record of those words.

Will they connive in an illegal enterprise, like McConnell's cronies?

Will they turn them over to Mother Jones news, as Morrison did?

We, in our modern age, tend to equate words with the medium that carries them – paper, tape, broadcast, or digital drives.

But words – the intellectual content – exist independently of the medium. Words, for example, are not the paper they're printed on.

Suppose I write you a personal letter. You own the paper that I sent you. But I still own the words on it. The paper is real property; the words are intellectual property.

You can destroy the paper. Or give it to someone. You can sell that sheet of paper to the highest bidder, the way art collectors buy and sell original paintings. But you cannot make multiple copies, and make them public. You cannot re-publish my words without my permission.

## Everything's public

A personal letter is private. A whisper in an ear is private. It's not intended to be divulged more widely. If the receiver of that information chooses to violate that trust, to shout it from the rooftops, he risks damaging a relationship.

Words uttered in public, however, become common property. Anyone can quote from a speech by John Kennedy, Winston Churchill, or Abraham Lincoln. The legal requirement now becomes the obligation to acknowledge the original source.

Which, of course, is exactly why Mitch McConnell and Mitt Romney dislike unauthorized videos.

I contend that any communication beyond a personal letter or a whisper in an ear is public. These days, surveillance cameras monitor every move. The FBI can eavesdrop on internet traffic. Cell phone cameras catch police officers kicking and beating suspects. They can even – assuming the video really does exist – capture Toronto's Mayor Rob Ford indulging in an illegal substance at a private party.

Certainly, I would say, anything that involves "public address" technology – microphones, speakers, projectors – makes that a public event, even if delivered to a restricted audience. McConnell apparently used a podium, with a microphone, even a PowerPoint presentation.

Orators in London's Hyde Park are public, even if no one listens. A church sermon is public, even if only the faithful attend. A rant on Facebook or Twitter is public, even if sent only to "friends."

A supposedly private e-mail sent by CBC reporter Terry Milewski during the 1998 APEC Conference in Vancouver led to his suspension and re-assignment.

Perhaps there's no such thing as "private" anymore. Especially for politicians.

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## YOUR TURN

I thought last week's column, about polling results, census forms, and statistics, might be a little esoteric. To my surprise, John Cameron actually wrote the regional weekend newspaper about that column, commending them for using me as a columnist.

Jack Dreidger noted that more and more polls are conducted electronically, on-line: "Any predictions about what would happen if people could vote by electronic means such as computers, cell phones, etc., assuming we could make sure it is not possible for people to vote more than once and only the eligible could vote?"

Obviously, people have different reasons for liking columns. Christa Bedwin wrote, “Any column with catfish and fried possum is a good one.”

Steve Roney disagreed with my terminology. I had called Alberta’s Wildrose Alliance “far-right” and B.C.’s NDP “left-leaning.”

“Something wrong here, Jim... For parity, it has to be either ‘right-leaning Wildrose Party,’ or ‘far-left NDP.’ There’s no other way to define right and left. After all, policies that, in the US, would be considered on the left, like Obama’s universal health care, or the abolition of capital punishment, are universally endorsed on the right in Canada.”

Steve also challenged my logic, when I argued that self-selecting polls do not reflect the opinions of the whole population: “Voting is also self-selection. So a [census] form that is voluntary ought, in theory, to correspond better to actual voting behavior than one that is compulsory.”

Isabel Gibson admits “to being baffled by the Conservatives’ changes to the census: the onerous-ness of the requirement to respond hardly seems like a core issue for their base, yet the loss of comparable data seems incalculable. Not a win/win, then, but a neutral/lose. What the heck was the point?

“I’d argue, however, with your characterization of the Prime Minister as preferring ideology to research. I see no sign that he has any ideology - I’d sort of prefer it if he did. As John Robson has argued, quite credibly, partisanship isn’t always bad -- it provides a set of ideas/values (other than power for its own sake) against which to assess any proposed action. The absence of partisanship is, in his view, also the absence of any principled debate.”

Dr. Richard and Laurina Tallman shared their dislike for Stephen Harper’s cancellation of the mandatory long-form census: “Tragic, indeed. A census tells us who we are as people and as peoples. If we don’t have a census we don’t know who we are, socially, economically, religiously, and in many other ways. We cannot assert a Canadian identity. If you don’t have the data, you don’t have to face the problems that need to be dealt with through funding. You can use the available tax money with no sound basis for explaining how and why it has been distributed.

“In the days of mandatory long census returns about 5% of those distributed were not returned, a reliable constant for researchers to take into consideration. It is estimated that 30% of the voluntary long census forms were not returned. Why? No one knows. Thus, even the voluntary sample is further skewed....

“For pollsters... the absence of a reliable census is deplorable. What about the scholars who conduct the most important types of research that are relied on globally by other researchers? Geographers and sociologists are livid with the quandary forced upon them: do they use the 2006 data in perpetuity or do they use the latest census data that are unreliable with a footnote that cautions the reader of their invalidity? Researchers in the social sciences no longer have essential data for their studies... I think that is the primary reason Harper terminated the flow of data: the universities in Canada are the only more-or-less objective bodies with the means of analyzing and interpreting data, which gave them intellectual clout for revealing the social effects of particular political positions. The books in economics, sociology, psychology, ecology, aboriginal studies, and other disciplines that we have edited for leading Canadian publishers for three decades drew on census data that allowed them to make viable statements about living conditions throughout Canada, including comparisons between provinces, territories, and regions and across ethnicities, genders, definitions of families, and so on. And across nations worldwide. Those comparisons could be made over time, which also means over the years of influence of specific politicians and their political parties...Canadian researchers’ abilities to write intelligently about important issues that affect everyone have been drastically curtailed ...

“We are many steps closer to intellectual anarchy where anyone can make any claim however absurd with no one having the data by which to positively refute such a claim. Demagoguery can and does flourish. As Stephen Harper so tellingly proclaimed recently, this is not a time for ‘committing sociology.’”

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#### TECHNICAL STUFF

This column comes to you using the electronic facilities of Woodlakebooks.com.

If you want to comment on something, send a message directly to me, at [jimt@quixotic.ca](mailto:jimt@quixotic.ca).

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You can access several years of archived columns at <http://edges.Canadahomepage.net>.

I write a second column each Wednesday, called Soft Edges, which deals somewhat more gently with issues of life and faith. To sign up for Soft Edges, write to me directly, at the address above, or send a note to [softedges-subscribe@quixotic.ca](mailto:softedges-subscribe@quixotic.ca)

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#### PROMOTION STUFF...

If you know someone else who might like to receive this column regularly via e-mail, send a request to [jimt@quixotic.ca](mailto:jimt@quixotic.ca). Or, if you wish, forward them a copy of this column. But please put your name on it, so they don't think I'm sending out spam.

For other sources worth pursuing, try

- Ralph Milton's HymnSight webpage, <http://www.hymnsight.ca>, with a vast gallery of photos you can use to enhance the appearance of the visual images you project for liturgical use (prayers, responses, hymn verses, etc.)
- David Keating's "SeemslkeGod" page, [www.seemslkegod.org](http://www.seemslkegod.org);
- Alan Reynold's weekly musings, punningly titled "Reynolds Rap" -- [reynoldsrap@shaw.ca](mailto:reynoldsrap@shaw.ca)
- Isobel Gibson's thoughtful and well-written blog, [www.traditionaliconoclast.com](http://www.traditionaliconoclast.com)
- Wayne Irwin's "Churchweb Canada," an inexpensive service for any congregation wanting to develop a web presence, with free consultation. <http://www.churchwebcanada.ca>
- Alva Wood's satiric stories about incompetent bureaucrats and prejudiced attitudes in a small town are not particularly religious, but they are fun; write [alvawood@gmail.com](mailto:alvawood@gmail.com) to get onto her mailing list.

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