

James Reston: The Press -- Its Powers and Limits

"A cantankerous press, an obstinate press, a ubiquitous press must be suffered by those in authority in order to preserve the even greater values of freedom of expression" — U.S. District Judge D. J. Gurfein in U.S. vs. the New York Times.

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The press is still riding the tide of tradition in the courts against the rising power of the presidency but, even when it prevails in its conflicts with the White House, its power is limited.

It can expose but cannot correct error. It can oppose executive power and on great issues find the judiciary on the side of free dissent but, even when it wins in court, it is no substitute for the Congress as an effective instrument of investigation.

It is "suffered" but not followed. Accordingly, a very strong case has now been made for a thorough congressional investigation of the war, going far deeper and far beyond anything the press has been able to do.

The integrity of the government, the judgment and even the honor of many officials are at issue. The cost has been appalling and the confusion over how it all happened and where it is all leading remain. In short, the issues are too important to be evaded any longer, or to be left to the Department of Justice and the press.

FUSS

All the fuss over the unauthorized disclosure of the Pentagon papers and the security of the President's internal communications and diplomatic relations could have been avoided if the executive branch of the government had agreed to submit them to a private inquiry by the responsible committees of the Congress into the origins and development of the war.

It was only when Secretary of Defense Laird refused to decontaminate and declassify the documents for the Foreign Relations Committee that men who had worked on the papers and reporters who had heard about them set out to expose the blunders and the coverup.

SYMBOL

This conflict between the government and the press is only a symbol of a much larger and more serious problem. There has always been a certain amount of deception between the executive and legislative branches but it has been much worse

under Presidents Johnson and Nixon and suspicion grows on itself.

For years now, we have not had that feeling of honest differences openly faced and plainly discussed which is essential even in adversary proceedings.

Almost everybody in Washington is looking for the other motive or the dirty trick. We have had government by stealth and doubt, not only between the executive and Congress and between the White House and the reporters, but as the Pentagon papers show, by deception within the executive branch itself.

ROLE

The press cannot dispel this poisonous political atmosphere but it can expose it. Herb Klein, the President's top resident huckster, is quite wrong if he supposes that the Government's legal showdown with the Times will somehow stop the official leaks or intimidate the press.

This case has done more to revive the huckraker tradition of the American press than anything since the days of Lincoln Steffens.

The evidence already published demonstrates the capacity of the President to expand the war, deceive the public and intimidate even the most intelligent of men in the Civil Service, the Cabinet and the White House staff.

But, by disclosing the evidence, the press cannot cure the problem.

What it can do and has done in this case is to get the facts of the Pentagon Papers to the official representatives of the people, and they will have to take it from here.

They are better able than the press to discriminate between documents that may really do damage to the security or diplomatic relations of the Nation and documents that expose the blunders of officials or the errors in the decision-making process.

MUDDLE

This is the point the Government lawyers seem determined to muddle. They keep confusing "irreparable damage" to the Nation with damage to political reputations, which are already irreparably damaged.

All the documents in the Pentagon Papers are marked "top secret" — the documents that cover military maneuvers long ago, the documents that cover sensitive diplomatic problems that still exist, and the documents that expose the most calculated deception by the President and the most arrogant misjudgments by his staff.

The press cannot sort all this out. It is a blunt but limited instrument of democracy. For example, when the

Times got the Pentagon Papers, it could not do what it normally does — double-check its facts, go to the men mentioned in the papers for their side of the story. It could not do this in advance without inviting legal action and blocking the facts it was trying to disclose.

CONGRESS

But the Congress can deal with these important distinctions. It has the power of subpoena. It can bring in legally the men who wrote the Pentagon Papers, if they want to come, without subjecting them to criminal penalties. It can hear testimony in private about secret codes and sensitive diplomatic exchanges with other nations. That is to say, it can do all these useful things, which are part of its duty, if it has the facts and a decent and fair relationship with the White House and the Cabinet.

This, however, is precisely the problem. There is no such relationship today. The political game, as it is now played in Washington, is like a football game without boundaries, rules or officials.

REPORTING

All the men in the press box can do is report the shambles. Who elected the New York Times to get into the game? some people ask. The answer is nobody but the men who wrote the First Amendment to the Constitution. The founders thought they needed not a referee but an observer or cheeky kibitzer outside the Government. But such observers have a limited role.