

By ARTHUR SCHLESINGER Jr.

In seeking to suppress the Vietnam documents, the United States Government asserted that their continued publication in The New York Times would "cause irreparable injury to the defense interests of the United States." If this assertion were true, then the case against publication would have been strong indeed. The protection of military security constitutes an entirely proper limitation on the freedom of the press and on the "people's right to know." When on Dec. 4, 1941, three days before Pearl Harbor, the Chicago Tribune published the secret Army war plans; when on June 7, 1942, during the battle of Midway, a Chicago Tribune story revealed that we had broken the Japanese naval codes, these were disclosures that might well have caused irreparable injury to the defense interests of the United States.

However, the Roosevelt Administration, though greatly tempted, took no legal action against The Tribune in the first instance and, in the second, finally abandoned legal action forced by the Navy on a reluctant Department of Justice. One reason for this restraint was the recognition that freedom of the press is an essential value in American society, at least as essential as military security, and that the presumption therefore lies against anything likely to weaken the Bill of Rights.

An administration must have an overwhelmingly strong case that defense interests are genuinely injured before (if it cares about the First Amendment) it proceeds against a newspaper. The Roosevelt Administration could have made quite a case against The Tribune thirty years ago but in the end declined to do so. The question is what sort of case the Nixon Administration, in these far less stringent and perilous days, can bring against The Times.

To make its case, the Administration must not just assert but demonstrate that "irreparable injury" has been done to the national security. Such demonstration is not achieved simply by showing that documents are stamped "top secret." If the stamp decided the issue, then any fool or knave in Government service could acquire immunity by classifying papers that display his stupidity or venality.

The Executive order defining top secret information is a good deal more precise. It speaks of "exceptionally grave damage to the nation," as when disclosure might cause an armed attack against the country or its allies, the breaking of diplomatic relations, or the compromise of military plans or intelligence operations or scientific

Schlesinger: Truth or Reputation?

or technological developments vital to the national defense. This is the standard the Nixon case against The Times must meet.

It is not easy to see how the documents thus far published have come close to doing any of these things—and the unpublished documents are apparently even more purely historical in their nature. The disclosures in The Times are hardly in the same class with the stories in the Tribune in 1941 and 1942. What the publication does jeopardize, of course, is not national security at all but rather the reputation of individuals and the credibility of states, and it is these apprehensions, one surmises, and especially the second, that the Nixon Administration now seeks to exploit, perhaps as part of a larger campaign of threat and calumny against the American press.

The fact that Nixon's Department of Justice has demanded action against newspapers, where Roosevelt's Department of Justice, under greater provocation and in more parlous times, resisted doing so indicates, at least, an ominous insensitivity to the First Amendment on the part of the present

Attorney General. John Mitchell, alas, is no Francis Biddle.

Surely the fundamental question is whether the publication of these documents adds to the truth. Here there can be no doubt. They do not, of course, provide the whole truth. This is a partial view, the view from the Pentagon, as commissioned by a remarkably courageous Secretary of Defense; we will have, I fear, no corresponding chronicle from the Depart-

ment of State or from the White House. It must be added that these documents require more careful reading than they have thus far generally received if we are to distinguish recommendations from decisions and contingency plans from operations.

Yet who will seriously contend that a democracy is not better off when it knows more of the truth about its leaders?

Some will object, I suppose, that

telling the truth so soon will encourage citizens to doubt the word of their Government or will, in that odious phrase, hurt the American "image" abroad. But surely this damage has already been done; and it has been done by the men who conceived these dreadful policies and then misled Congress and the people about what they were up to. We enter into a most dangerous game when we try to fiddle with history; nor is there ever a good time to publish inconvenient truths. Any government that subordinates truth to the preservation of reputation will end by losing not only truth but reputation as well.

Arthur Schlesinger Jr. served President Kennedy in the White House.

6-24-71 NYT