

The 'Irreparable Injury'

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IN THE NATION

The Government has alleged that The New York Times, in publishing the Defense Department's own record of the nation's involvement in Vietnam, "has prejudiced the interests of the United States and the publication of additional excerpts . . . would further prejudice the defense interests of the United States and result in irreparable injury to the United States." That is a travesty of fact and common sense.

Is it alleged by the Government that these appalling documents are not genuine? No.

Is it alleged by the Government that The Times is in any way distorting or manipulating this historical record to its own ends? No.

Is it alleged by the Government that these documents bear in any way on current or future military operations? No.

Is it alleged by the Government that these historical documents recount any of the confidential deliberations concerning Vietnam of the present Administration? No; the compilation of the record was completed in 1968, before President Nixon's election.

There remain two ways in which The Times might be charged with having damaged the nation's "defense interests" by publishing historical documents. One is by the mere act of publication, since the Pentagon study was "classified."

Aside from the fact that news papers publish and Government officials "leak" classified information every day—Presidents and Cabinet officers have been known to do it—the statute that The Times is alleged to have violated is one adopted to guard against espionage, not against a free press in pursuit of its duty to publish. Nor can a wartime emergency be invoked to justify suppression of information about public business, since the Government in its wisdom has never seen fit to declare war on North Vietnam or any other entity with which it may be at odds in Southeast Asia.

Since the documents in the Pentagon record go back to the Truman Administration, since they were collected in 1967 and 1968 expressly for historical purposes, and since they bear on present diplomatic and military operations only in a historical sense, for any newspaper or scholar to concede that they can properly be "classified" and kept from the public would be to concede that history itself can be classified and suppressed.

content—because the documents themselves form an almost incredible record of subterfuge, deception, shortsightedness, mistakes, wrong assumptions and arrogant disregard of truth. Moreover, these are not the creation of that devil-press Vice President Agnew likes to denounce; nor are they the fantasies of "peaceniks." This is the factual record of what happened, compiled within the Pentagon itself, often by men who bore the responsibility for much of that record.

But no statute exists that says Government officials must be protected from the exposure of their follies or misdeeds. Indeed, the great lesson of the Pentagon record is that the ability to operate in secrecy breeds contempt for that very public in whose name and interest officials claim to act. It often is argued that government cannot function if its officers cannot deal with one another in confidence; but seldom if ever has it been so graphically demonstrated that when men are relieved of the burden of public scrutiny, uncomfortable as it may be, no other form of accountability can effectively take its place.

Although it may be long past the point when the tragedy might have been averted, and although it may now be too late to hold anyone effectively accountable for the blunders and deceptions of the past, one thing is apparent: reading this sad record can teach every American something about the nation, the world, the past—and therefore about the future. Can anyone maintain that the public will be less enlightened and the future of the nation more endangered if these documents are made available for study and reflection? On the other hand, can anyone conceivably suggest that the people of the United States would be better off and the interests of the nation further advanced if this dark chapter of its history were locked away in the vaults of the Pentagon?

To advance the latter argument would be to assert that truth has less value than deception, and that in a democracy the people ought not to know. Yet that is essentially what the Government is asking the courts to rule; and in the legal ground upon which it tries to base its case, it is also asking that the self-serving security classifications of the Defense Department take precedence over the First Amendment to the Constitution.

That is the only "irreparable injury" that can be done, in this painful matter, to the real interests of the United States, and it is not The New York Times that can perpetrate it.

It must be, therefore, that the Government believes further publication would "result in irreparable injury to the United States" because of the