

Freedom and Security

By JAMES RESTON

*"Here various news we tell, of love
and strife.*

*Of peace and war, health, sickness,
death and life . . .*

*Of turns of fortune, changes in the
State,*

*The falls of favorites, projects of the
great,*

*Of old mismanagements, taxations
new,*

*All neither wholly false, nor wholly
true."*

—New London. Conn., Bee,
March 26, 1800.

Great court cases are made by the clash of great principles, each formidable standing alone, but in conflict limited, "all neither wholly false nor wholly true."

The latest legal battle, "*The United States v. The New York Times*" is such a case: The Government's principle of privacy and the newspaper's principle of publishing without Government approval.

This is not essentially a fight between Attorney General Mitchell and Arthur Ochs Sulzberger, publisher of *The New York Times*. They are merely incidental figures in an ancient drama. This is the old cat-and-dog conflict between security and freedom.

It goes back to John Milton's pamphlet, *Areopagitica*, in the seventeenth century against Government censorship, or as he called it: "for the liberty of unlicenc'd printing." That is still the heart of it: the Government's claim to prevent, in effect to license, what is published ahead of publication, rather than merely to exercise its right to prosecute after publication.

Put another way, even the title of this case in the U.S. District Court is misleading, for the real issue is not *The New York Times* versus the United States, but whether publishing the Government's own analysis of the Vietnam tragedy or suppressing that story is a service to the Republic.

It is an awkward thing for a reporter to comment on the battles of his own newspaper, and the reader will make his own allowances for the reporter's bias, but after all allow-

ances are made, it is hard to believe that publishing these historical documents is a greater threat to the security of the United States than suppressing them, or, on the record, as the Government implies, that *The Times* is a frivolous or reckless paper.

The usual charge against *The New York Times*, not without some validity, is that it is a tedious bore, always saying on the one hand and the other, and defending, like *The Times* of London in the thirties, "the Government and commercial establishment."

During the last decade, it has been attacked vigorously for "playing the Government game." It refused to print a story that the Cuban freedom fighters were going to land at the Bay of Pigs "tomorrow morning." It agreed with President Kennedy during the Cuban missile crisis that reporting the Soviet missiles on that island while Kennedy was deploying the fleet to blockade the Russians was not in the national interest.

Beyond that, it was condemned for not printing what it knew about the U.S. U-2 flights over the Soviet Union, and paradoxically, for printing the Yalta Papers and the Dumbarton Oaks papers on the organization of the United Nations.

All of which suggests that there is no general principle which governs all specific cases, and that, in the world of newspapering, where men have to read almost two million words a day and select 100,000 to print, it comes down to human judgment where "all is neither wholly false nor wholly true."

So a judgment has to be made when the Government argues for security, even over historical documents, and *The Times* argues for freedom to publish. That is what is before the court today. It is not a black and white case—as it was in the Cuban missile crisis when the Soviet ships were approaching President Kennedy's blockade in the Caribbean.

It is a conflict between printing or suppressing, not military information affecting the lives of men on the battlefield, but historical documents about a tragic and controversial war; not between what is right and what is wrong, but between two honest but violently conflicting views about what best serves the national interest and the enduring principles of the First Amendment.