

Freedom of the Press in the United States

By Herbert G. Klein

The media is at a time when it has a great number of crises and it needs public support. I think it deserves it.

I think that doesn't preclude a continual self-examination by the media, self-examination of thought process by the American public, because—like the adversary relationship between government and the press, which, I think, is healthy and necessary—so certainly is an adversary relationship in some ways between the public and the press.

Certainly in this whole process, it would be a major mistake for us to forget that we need a vital, vigorous and free press with a minimum of regulation.

We have some dangers in many ways in the profession of journalism. I happen to be one who does not believe reporters should be advocates. I think that their job is to report, to interpret the background.

More serious questions are those of the confidentiality of source of the reporter. We've had one reporter go to prison in New Jersey recently, another in California, one who may go to prison in Tennessee on the basis of trying to present the principle of the confidentiality of source.

Sometimes the reaction in journalism is to say, "All right, let's rush in and have a Federal law and change all this." Perhaps at some time one will be needed. I don't know. But I think that anytime you go to changing the law, there is a possible danger: a proposal might be made in a very good

manner by a joint media committee, then you have the danger of amendment, of defeat, of setting a precedent which could lead to a less free press ahead.

So in these particular cases where men have been imprisoned (we're talking really about state laws) and I think unjustly in the two cases I'm aware of, were under laws which perhaps were inadequate.

In the matter of foreign policy, one of the questions is, Should the Government exist in kind of a goldfish bowl? On the other side is whether we ought to go back to where you have secret agreements. It's my belief that you can't go to either extreme and run a government which is successful in foreign policy, and you can't go to either extreme and really best serve the public knowledge.

Sometimes when I read the stories of secret negotiations, such as SALT or on Vietnam, I almost come to the conclusion that those who know the most say the least, and those who know the least say the most.

Certainly the right to know is basic to a society such as ours, and basic to our Constitution. It's basic to a free government. It's basic to the principles of America. And yet I think it would be a mistake to look at this as absolute, because it's not been done by the courts, it's not been done in our tradition and we've always recognized the need for certain qualifications: qualification based on national security, qualification on our communications with other countries, qualifications as to agents we may have in intelligence and other means.

And I think that again it's essential that we strive and we work to preserve the First Amendment, and I think it ought to apply more to broadcasters as well as to the print. We should strive to work to preserve that in a way which yet will allow us to preserve a certain amount of confidentiality essential to the foreign policy of this country.

By Arthur Schlesinger Jr.

The question we are considering today is the record of our present government in balancing rival claims of secrecy and disclosure. No one can doubt the sedulous concern with which the Administration has striven to preserve secrecy. The issue is whether it has fulfilled the correlative obligation to assure the flow of information essential to democratic decision. I do not think it has fulfilled, or even understood, this obligation.

In 1968 Mr. Nixon, as the Republican candidate, promised an "open government." He has brought about what nearly all Washington reporters would agree is the most closed government within memory. Franklin Roosevelt used to hold press conferences twice a week; President Nixon holds them hardly at all and has virtually succeeded in destroying them as a regular means of public information.

Even on matters of the highest significance the President declines to expose himself to questioning by the press. Consider, for example, the

Indochina peace negotiation. Does anyone suppose that, if this had taken place in the previous Administration, President Johnson would have trotted out Walt Rostow to discuss it with the media?

Not only does the President ignore his personal responsibility to keep the people informed but he has encouraged, or at least indulged, his Administration in acts of misleading and deceiving the people. We have forgotten too quickly the incident during the India-Pakistan war when the Administration publicly proclaimed its neutrality while the President privately instructed the government to "tilt" American power in favor of Pakistan. We learned about this only through the resourcefulness of Jack Anderson.

The harder Government works to dry up the information flow, the harder the media should work to keep information flowing. The Nixon administration, perhaps aware of this, has taken quite unprecedented steps to discourage the media from doing their job. Again one is regrettably compelled to trace a lot of this back to the President's own attitude. As he recently put it, "The average American is just like the child in the family."

Given our President's frankly paternalistic theory of democracy, it is hardly surprising that his Administration has been so upset and outraged by insubordination in the media. And the Nixon Administration has responded by becoming the first in American history to seek to impose prior restraint on the publication of news, a policy wholly contrary to the American tradition and to the First Amendment.

The Nixon Administration has used subpoena power to force reporters to turn over their raw notes. President Nixon's Supreme Court appointees have ruled that newspapermen must disclose their sources to grand juries or go to jail—a doctrine which, as Governor Rockefeller has well said, could mean the death of serious investigative reporting in this country. The Administration has opposed H.R. 16527, the shield statute proposed by representatives of press and television to safeguard the confidentiality of sources.

The Vice President has waged an all too successful war against discussion in the mass media—the war about which a member of the President's family commented with commendable candor, "You can't underestimate the power of fear. They're afraid if they don't shape up." Patrick Buchanan of the White House has even proposed antitrust action against the networks in order to redress what he regards as anti-Administration tendencies; and, while Mr. Klein has disclaimed this idea, he himself once observed darkly to the press, "If you look at the problems you have today and you fail to continue to examine them, you do invite the government to come in."

This article is adapted from speeches at a recent luncheon meeting of the Foreign Policy Association by Herbert G. Klein, communications director at the White House, and Arthur Schlesinger Jr., former aide to President Kennedy and holder of the Albert Schweitzer Chair in Humanities at City University of New York.