

Secrecy and Freedom

By Anthony Lewis

Three years ago this week The New York Times began printing the record of official arrogance, deception and blundering that came to be called the Pentagon Papers. The Nixon Administration went to court to try to stop it. Two weeks later, after much frantic legal activity, the Supreme Court ruled out an injunction.

It was a famous victory for freedom of the press. Or was it? Have we—the courts, Congress, the press, the public—really learned the lesson of that case?

Looking back, one thing we can see clearly is the emptiness of the claims that publication would gravely harm the national security. Those arguments were on the same level of hysteria as the more recent one that the Presidency would end if Richard Nixon had to comply with a subpoena. Three years on, it is certainly hard to think of any security damage from publication of the Pentagon Papers.

It was not the security of the country that was at stake, we know now; it was the security of the holders of power. President Nixon and Henry Kissinger felt themselves threatened. They responded with wiretaps, prosecutions, vengeance: paranoia rampant.

In the years since the Pentagon Papers broke upon our consciousness we should also have learned a good deal about the dangers of secrecy. It is not only Watergate. We have discovered among many other things that the United States secretly bombed a neutral country, Cambodia, and secretly used artificial rain-making as a technique of war. Such surreptitious practices required lying and deception to be woven into the pattern of official life.

Have we learned anything from this depressing record? Certainly there is no sign that the executive branch has, not under this President.

Right after the Pentagon Papers case, the Government proceeded with an outrageous attempt to impose on this country the equivalent of Britain's confining Official Secrets Act, prohibiting the disclosure of any Government information without official approval. That was the intent of the failed prosecution of Daniel Ellsberg for leaking the papers.

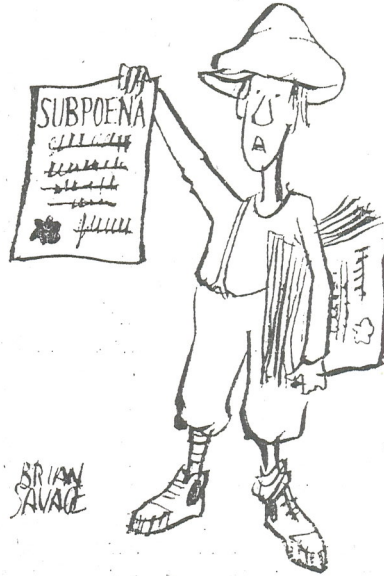
Just the other day veto threats were raised against a modest improvement of the Freedom of Information Act now making its way through Congress. It hardly needs mention that this President has broken all records in claiming executive privilege.

In the courts, the attitude of deference toward security claims is hard to dislodge. In the Pentagon Papers case itself, a majority of the Supreme Court was moved by the Government's security arguments. It was not only the

ABROAD AT HOME

dissenters—such as Justice Blackmun—warning that publication of “the critical documents” might mean “the death of soldiers, the destruction of alliances. . . .” Justices White and Stewart were convinced that disclosure would “do substantial damage to public interests” but said with seeming reluctance that the Government had not shown enough to justify an injunction.

Congress? It remains mostly a feeble opponent of executive secrecy and abuse of power. Perhaps the most pathetic example was the willingness of the Senate Foreign Relations Com-



mittee to roll over and have its tummy scratched by Mr. Kissinger in his confirmation hearings as Secretary of State. Members accepted from him what they well knew were lies about his role in wiretapping and other security measures.

Crime is contagious, Justice Brandeis said. So is secrecy. Give officials a whiff of its ego-distorting fumes, and they are hooked. In 1968, before Mr. Kissinger went into the Government, Daniel Ellsberg warned him that secrecy was “a magic potion that turns ordinary human beings into arrogant, contemptuous menaces to democracy.” If Mr. Kissinger was listening, he soon forgot.

Secrecy has temptations even for those not allowed to know. In a new book on the Ellsberg trial, “Test of Loyalty,” Peter Schrag shrewdly argues that most of us are just as happy to think that the dirty work of the state goes on beyond our knowledge—beyond our responsibility.

Freedom is uncomfortable, but it is necessary. That is the theory of our Constitution. We need to be reminded of it often, as we were in the case of the Pentagon Papers.