

Lying In State:

II

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Ron Nessen, the President's press secretary, complained recently that the White House press was not treating his word with due respect. Some reporters had even accused him of lying. President Ford had been in office for ten months, he said, and it was time for an end to "this blind, mindless, irrational cynicism and distrust."

If Mr. Nessen sincerely wants, as they say, to know the reasons for cynicism and mistrust of what he says, he might consider a single episode. That was the disclosure last April that President Nixon had made secret commitments in writing to Saigon at the time the Vietnam peace agreement was signed in 1973.

A one-time assistant to President Thieu of South Vietnam disclosed a number of letters from Nixon to Thieu. In one, dated Jan. 5, 1973, Mr. Nixon wrote: "You have my assurance . . . that we will respond with full force should the settlement be violated by North Vietnam."

Now what did Mr. Nessen have to say about that startling disclosure of a secret commitment to military intervention? He said it was old stuff; it did not go beyond what had been

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said publicly at the time. Was it really possible that we had forgotten such a thing? No, it was not. When checked, the 1973 public statements turned out to have been vague generalities of support for our noble ally.

Anyone who dealt as Mr. Nessen did with that episode has forfeited the right to have his word taken seriously. To tell us that when direct American involvement in the Vietnam war ended in 1973 we all knew of a solemn pledge to re-enter it, insulted the public intelligence. One must be a fool or a knave to say such things. Or a hireling, carrying out orders from above.

The last is really the point about Ron Nessen. He did not invent that particular feeble evasion of the truth. President Ford said about the same thing when he was asked about the secret Nixon commitment. And the original falsifier in this case, as in so many others over the last six years, was Secretary of State Kissinger.

In March, 1974, Mr. Kissinger was asked by Senator Edward Kennedy to state American commitments to South Vietnam. He replied by letter of March 25: "The U.S. has no bilateral written commitment to the Government of the Republic of Vietnam." When he wrote that, he of course knew all about the Nixon promise to Thieu; Mr. Kissinger had probably drafted it.

The example of the Nixon letter makes clear that official concealment and deception do damage to more than moral sensibilities or an abstract concern for truth. They profoundly injure the premises of democracy. The Constitution made Congress an equal partner in the Federal Government, but how can it be effective if the basic facts of policy are withheld from it or covered over with lies? And our system assumes not only an effective legislature but an informed public.

Official falsehood has become so serious a problem, so corrupting of our constitutional process, that there are now numerous proposals for corrective legislation. An interesting one is set out in a recent paper by Peter D. W. Heberling, a law student at Columbia University and researcher at the Center for Policy Research in New York, and Amitai Etzioni, professor of sociology at Columbia and director of the Center.

This proposal is for a statute making it a felony for any employe of the executive branch to make "a materially false statement" to Congress or one of its committees. The law would also apply to an employe who orders another to falsify. And the plea that one was told by a superior to testify falsely would not be a defense.

The Heberling-Etzioni draft, like others, would give a permanent Special Prosecutor responsibility for enforcing the law. He would be chosen by Congress.

Clarifying the difficult existing statutes on perjury and false statements in a law focused squarely on Government officials is an idea worth exploring. The principle that obeying superior orders is no excuse for official crimes was followed in the Watergate trials but could usefully be re-emphasized in a statute. Congress may need a new mechanism to help enforce its right to truthful information, whether or not it is a Special Prosecutor.

The criminal law, when it is enforced, is a powerful engine for making respectable people comply with a society's standards. If just one high-ranking official of the many who have lied to Congress in recent years was prosecuted and convicted, attitudes in the executive branch would be very different.

But we need not wait for reform of the law to begin rebuilding public faith in the word of Government. A Congressional committee that expressed its outrage at a deceptive witness and forced his resignation would do wonders. And of course we might also have a President who detested official untruth and made his outrage felt.