

MORANDUM

THE WHITE HOUSE
WASHINGTON

HIGH PRIORITY

July 3, 1971

MEMORANDUM FOR: RAY PRICE

FROM: CHARLES COLSON

The President this morning gave me the following points which he would like to have drafted into a statement which he may want to use in Kansas City. In any event, if he decides not to use it, it is a thesis that he would like to see developed as a major Administration statement.

The points went as follows:

1. A former Government official or officials in clear violation of the Espionage Act delivered stolen, top secret papers to the press. (The statement about "in clear violation of the Espionage Act" should be double checked -- will have to be modified to the correct legal phraseology.)
2. This Administration sought to enjoin the publication of those documents. There was no reason we should do this -- certainly from a political standpoint in view of the fact that these were records involving prior Administrations.
3. But there were higher issues involved than any political consideration. I took an oath to enforce the law of this land. The law clearly says that no one -- editor or President, for that matter -- can put himself above the law. The law in this instance imposed a very clear obligation upon this Government.
4. The court has now ruled that the newspapers do have the right to print these documents. I will not question that decision (the characterization of what the Court did rule should be made quite clear because they did not hold that under no circumstance could the Government seek and make stick an injunction).
5. The real question, however, is: Should a newspaper in the great tradition of our free press exercise that right in an unrestricted way.

6. The President would then like to cite the exchange with Bickel pointing out that Counsel for the Times believes that even if there were a risk that the publication could contribute to a delay in the return of POWs "that is a risk that the 1st Amendment signifies that this society is willing to take." (We must be very careful to be sure that Bickel's response is fully in context. You will note that he says that it would be unlikely to be the only cause of delay, it might be one of many causes and that under those circumstances the risk should be taken.) He does acknowledge, however, that the principle of the 1st Amendment overrides the risk of delaying the return of POWs. As President, I do not share that view. That may be the standard of one newspaper, it can never be my standard. That can never be the standard of the President of the United States.
7. I am negotiating on many fronts for peace. Many of these negotiations could not succeed unless they were conducted in secret and vital information is protected. I will keep my oath to enforce the law; moreover my primary obligation is the protection of American lives and the return of POWs. If secret negotiations are necessary to this end then I will do everything in my power to protect the security of those negotiations.
8. I can well understand that newspapers must seek stories and scoops both to inform the public and obviously because they are in a very competitive commercial enterprise. They must seek to inform the public and increase their circulation but if I have a choice between the life of one American and a newspaper's understandable desire to obtain information, I will put one man's life above this. No story, even if it would sell a million more newspapers, is worth the life of one American.
9. As far as the record of this Administration is concerned, I have nothing to hide. I deeply believe in the people's right to know but my first obligation is to the future and to keeping the peace for the future.
10. President Eisenhower once told me the story of his relationships with the press during the very trying days of World War II. Newsmen were often given secret invasion plans in advance but no reporter ever broke security. I believe that the American press understands the very deep responsibility which they have and which they have exercised many times before.

11. The President then added a couple of additional points which probably belong back in the text somewhere: I understand the obligation of editors to seek the truth, particularly when it might appear that the classified information has been protected largely for political purposes.

He then also added: The newspapers may have a legal right to publish top secret documents but the real question is: Should the newspapers exercise this right?