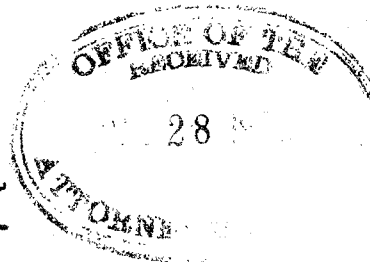


e

Department of Justice
Washington

July 27, 1942

Handwritten: Highway



MEMORANDUM FOR THE ATTORNEY GENERAL

I have examined the report of William D. Mitchell on the Chicago Tribune case.

It is my recommendation that no prosecution be instituted. I think that Mr. Mitchell's analysis demonstrates that it is quite improbable that a conviction could be obtained, and I think that this is a case which we can not afford to bring unless there is a reasonable certainty of winning.

Moreover, in addition to the factors pointed out in Mr. Mitchell's memorandum, I do not think that this is a case that the public would ever understand. Technical explanation is necessary to spell out the violation, consequently the whole case would become engulfed in questions of freedom of the press, censorship, etc. I do not think we could succeed in making our position clearly enough understood to accomplish any real public benefit.

I thoroughly agree with Mr. Mitchell that the conduct of Maloney and Johnston was despicable, but I think that the legal grounds for prosecution are too tenuous and the chances of public misunderstanding too great to undertake prosecution. It would probably be best to follow Mr. Mitchell's suggestion to submit the question to the Navy and invite its judgment but, in any event, I would advise against prosecution.

Respectfully submitted,

Handwritten signature: Wendell Berge

WENDELL BERGE
Assistant Attorney General

E

RECORD

146-7-23-25	
NOV 30	45 A.M.
DIVISION OF RECORDS	
<i>file</i>	



National Security Archive,
Suite 701, Gelman Library, The George Washington University,
2130 H Street, NW, Washington, D.C., 20037,
Phone: 202/994-7000, Fax: 202/994-7005, nsarchiv@gwu.edu