

Supreme Court Decision On Vietnam Study Awaited

Ruling Due on the Government's Effort to Prevent Further Publication of Pentagon's Papers on the War

By CHRISTOPHER LYDON JUN 28 1971

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WASHINGTON, June 27—The New York Times and The Washington Post waited today for a Supreme Court decision on the Government's effort to prevent further publication of the Pentagon's secret history of American involvement in Vietnam.

The court, which heard a two-hour argument of the case in an unusual session on Saturday, holds its last scheduled meeting of the current term tomorrow. It could then dispose entirely of the case, release only a decision and supply opinions later, or it could extend its session.

Four justices—Hugo L. Black, William O. Douglas, William J. Brennan Jr., and Thurgood Marshall—voted last week to permit publication of the Pentagon papers without a hearing.

Ellsberg to Surrender

Chief Justice Warren E. Burger and Justices John M. Harlan and Harry E. Blackmun voted with Justices Byron R. White and Potter Stewart to hold the Saturday hearing, but they lost a 6 to 3 vote to consider some of the security arguments in closed session, as the Government had requested.

The Federal Bureau of Investigation was reportedly

pressing its search for Dr. Daniel Ellsberg despite a statement by his lawyers that he would give himself up in Boston tomorrow. Dr. Ellsberg, a senior research associate at the Massachusetts Institute of Technology, has been named in some reports as the source of the Pentagon study on which The New York Times based its articles. The Times has refused to discuss the source of its material.

McGovern's Opinion

Elsewhere, there were new reactions to the issues raised by the Pentagon documents, which The Times began publishing on June 13.

In Columbus, Ohio, Senator George S. McGovern, a South Dakota Democrat and the only declared candidate in the 1972 Presidential campaign, said the papers revealed crimes of deception by Government officials far more serious than any violation of security classification involved in their release.

The Episcopal dean of Washington Cathedral, the Very Rev. Francis B. Sayre Jr., said he had known Vietnam policy makers as friends and par-

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ishioners but had not realized "the extent of the infection by which my friends were led to think of themselves almost as God, and therefore could excuse themselves the callous disposition of other people's lives, the cynical bamboozling of the body politic, scorn of law and lawmakers alike, and the abuse of truth."

According to Newsweek magazine, a survey by the Gallup organization revealed that a majority of American opinion disapproved of the government effort at suppression. Weighing national security and freedom of the press, respondents gave higher priority to security by a margin of 47 per cent to 34 per cent.

A majority also felt that the Government kept too much information secret. Respondents were said to have disapproved of the specific action against publication of the Pentagon papers by a margin of 48 per cent to 33 per cent.

George W. Ball, Under Secretary of State in the period when the Johnson Administration was escalating the American effort in Vietnam, said today that the Pentagon papers ought to be published but cautioned against the search for villains or heroes in them.

Appearing on the "Face the Nation" program of the Columbia Broadcasting System television network, Mr. Ball, now a lawyer in international practice, seemed to agree with Ellsberg's warning last week that the Nixon Administration now stands at another critical turning point of Vietnam policy.

Same Problems Seen

"I think the Administration is facing many of the same problems that we faced in 1964," Mr. Ball said, "and the impression that is being given is not very far different from the impression that was given by the actions of the Johnson Administration in 1964.

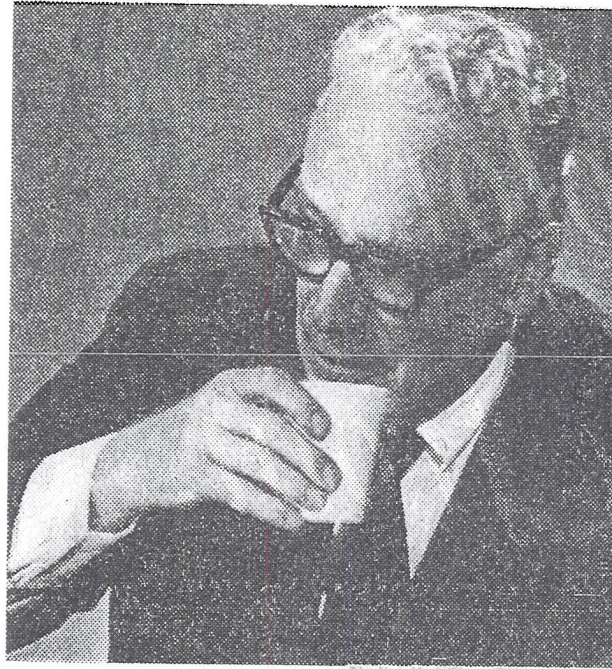
"I would hope that the result of this whole very unhappy exercise is that there will be more candor on the part of the Nixon Administration."

Later he said, "they haven't got a great deal more time to get American troops out of this situation without a real blow-up in the United States."

Mr. Ball said that there had been no deliberate deception by the Johnson Administration and that President Johnson had been entirely honest in campaigning as a peace candidate in 1964.

"When he said he didn't want a wider war, he meant it, I'm convinced of this," Mr. Ball said.

At the same time, Mr. Ball justified his own public advocacy of the official view of the war in 1966, contrary to his private opposition to expan-



The New York Times/Patrick A. Burns

George W. Ball during his televised interview yesterday

sion of the hostilities that he was presenting in the Government's inner councils.

He said this was "exactly what any Government official must necessarily do if there is to be orderly government and not pure anarchy."

He did not think the papers presented a security issue.

"I haven't seen them all, of course, but I would think they present very little danger to the United States," Mr. Ball said. "On the whole I would suppose it was healthy to begin to get this story out so that the American public can really know what went on during this period."

Time magazine reports in the issue that will reach newsstands tomorrow that former Secretary of State Dean Rusk warned President John F. Kennedy in 1961 not to send 8,000 American troops into Vietnam as Gen. Maxwell D. Taylor was advocating at the time.

The United States "could still walk away from Vietnam," Mr. Rusk told Mr. Kennedy in a cablegram, adding that if Gen-

eral Taylor's recommendation were followed, Washington "would be forced to see its commitments through."

According to Time, Mr. Rusk suggested that if the court approved publication of the Pentagon papers, the main lesson for Government officials would be not to write things down.

"My habit was that I did not go around writing a lot of memoranda," he recalled. "I've been in Government long enough to know it is not a good idea to spread papers all over the landscape."

A Correction

A typographical error was made in yesterday's transcript of the oral argument before the United States Supreme Court in The New York Times and The Washington Post cases. Solicitor General Erwin N. Griswold, describing a Government proposal to study the declassification of the Pentagon documents on Vietnam, actually said a minimum of 45 days was suggested for completion of such a study, not 15 days.