

Rehnquist Stays On Gravel Case

WASHINGTON — (UPI) — With Justice William Rehnquist participating, the Supreme Court refused today to re-examine the Pentagon Papers case involving the appearance of Sen. Mike Gravel and an aide before a Boston grand jury.

The court acted in a brief order, without comment, except that Rehnquist refused to disqualify himself as requested.

A Justice Department official at the time the case originated, Rehnquist was on the majority side of a 5-4 decision handed down June 29, 1972, which established a guideline for senatorial immunity from questioning by courts and grand juries.

Asked Reconsideration

The Alaska senator, who arranged for publication of some of the once - secret Pentagon Papers by Beacon Press of Boston, asked the court to reconsider.

He said Rehnquist's participation was "entirely unseemly and improper" since he was actively involved in various phases of Pentagon Papers matters when he was assistant Attorney General.

Gravel cited the 1948 federal law on disqualification of federal judges and the canons of judicial ethics of the American Bar Association.

Except for a similar com-

plaint by the American Civil Liberties Union in connection with another June 29 decision on Army surveillance of civilians, the only other reported instance where a party to a Supreme Court case raised such an issue was in 1945, before the present law was enacted. It involved participation by the late Justice Hugo Black in a case argued by a former law partner.

What Law Says

The law says:

"Any justice or judge of the United States shall disqualify himself in any case in which he has a substantial interest, has been of counsel, is or has been a material witness, or is so related to or connected with any party or his attorney as to render it improper, in his opinion, for him to sit on the trial, appeal or other proceeding therein."

Gravel also contended that the court decided "an issue of momentous importance" which was never argued at all: that a senator has no constitutional right to avoid grand jury questions as to how he came into possession of "obviously highly classified documents."

Gravel said neither a senator nor his aides should be questioned about how information was acquired, because such immunity is necessary to help him track down improper activities in the Executive branch.