

# Harvard Professor Jailed In Pentagon Papers Case

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BOSTON, Nov. 21—A Federal judge today ordered Prof. Samuel L. Popkin of Harvard to begin serving a sentence for contempt of a Federal grand jury. The judge said that

there is no immunity for either scholars or newsmen in testifying before a grand jury.

Mr. Popkin, who is believed to be the first American scholar to be jailed for protecting sources of information, was cited for contempt on March 21, 1971, for refusing to answer certain questions put to him by a Federal grand jury investigating the distribution of the Pentagon papers.

He was imprisoned at the Dedham County Jail, south of here, late this afternoon after Federal District Judge W. Arthur Garrity denied the last of a series of motions attempting to overturn the civil contempt citation. Mr. Popkin's sentence is to last until the life of the grand jury expires Jan. 12, 1973.

In an unusual move, Harvard's president, Derek Bok, a lawyer who is a former dean of the Harvard Law School, received permission from the court to argue the motions on behalf of Mr. Popkin.

Both Mr. Bok and Daniel Klubock, the defense attorney, pointed out that Mr. Popkin had answered a number of the grand jury's questions and had

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refused only when he would have been required to give the names of people who had given him information on a confidential basis during his research.

Mr. Popkin, a professor of government, is a specialist in Asian affairs and is considered an expert on Vietnamese village life.

Mr. Popkin's defense has relied on his responsibilities as a scholar and the right to conduct research without Government interference.

That right was specifically rejected in arguments by Assistant United States Attorney Richard Bachman and by Judge Garrity, who said that he understood recent Supreme Court decisions to deny such rights to newsmen and, by extension, to others, including scholars, seeking to disseminate information to the public.

## Final Conference

After the hearing, which lasted an hour and a half, Mr. Popkin was led to the United States Marshal's office for a final conference with his attorney.

Mr. Popkin's wife, Susan Shirk, who uses her maiden name, sat by his side through the hearing. She burst into tears when he emerged from the conference in shackles.

She regained her composure to read before television cameras a statement in which her husband said:

"My grand jury testimony made clear that I have no knowledge about the distribution and publication of the Pentagon Papers. I have refused to answer questions which require me to name confidential research sources and which have no bearing on the stated purpose of the grand jury. For me to answer these questions would betray my personal and scholarly ethics.

"Beyond that, for me to answer these questions would create a dangerous precedent. If scholars are to be questioned without restriction about their sources, grand juries will become the Government's instrument to limit the free flow of information about government to the public. This is intolerable in a democracy, and I could not justify any part I might take in setting this precedent."

Mr. Popkin was cited for contempt last year. The case was appealed through the Federal court system until last Nov. 9, when the Supreme Court refused to hear his appeal. Today's hearing revolved around the narrow question of whether or not Mr. Popkin would agree to answer three specific questions.

In each of the three questions, Mr. Popkin was asked

for the names of persons he had interviewed who knew of the Defense Department study that later became known as the Pentagon papers and specifically if he had ever discussed the contents of the papers with Daniel Ellsberg. Dr. Ellsberg, a former professor at the Massachusetts Institute of Technology, has admitted making public the study, which he helped write, and is facing criminal charges in Federal court in California.

The Government's purpose in pressing for Mr. Popkin's testimony is uncertain. He has denied under oath knowing anything about the unauthorized dissemination of the study.

Mr. Popkin said today that he was ready to answer any of the questions as they pertained to other scholars, including Dr. Ellsberg, but that he could not answer questions that would

require to give the names of nonscholars who had given him information on a confidential basis.

Mr. Bachman flatly rejected this compromise and told the court that "only by purging himself completely of his contempt and agreeing to answer questions without any qualification" would the Government drop its insistence that he be sent to jail.

At one point in today's hearing, it appeared the entire matter had been resolved in Washington.

Obviously catching Government attorneys off guard, Mr. Bok announced that he had been authorized by the chief of the Internal Security Division of the Department of Justice "to tell this court that the Government has no present intention to call Mr. Popkin back before the grand jury."