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Prof. Samuel L. Popkin with his wife in Boston after he was freed yesterday

Popkin Freed in a Surprise As U.S. Jury Is Dismissed

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BOSTON, Nov. 28—Prof. Samuel L. Popkin of Harvard was released from jail today after the Federal Government, in a surprise move, dismissed the grand jury investigating the distribution of the Pentagon papers.

Mr. Popkin was jailed for contempt last Tuesday for refusing to answer certain questions put to him by that grand jury. His sentence was designed to expire with the grand jury. The United States Attorney's office said last week that the jury would continue to Jan. 12.

Today the office said that the jury, which has been sitting since July 12, 1971, had been dismissed to avoid any conflict with the prosecution of criminal charges against Daniel Ellsberg.

The trial of Mr. Ellsberg is scheduled to begin soon in California in connection with the public distribution of the once-secret Defense Department analysis of Vietnam policy.

Bok Joins Defense

The decision to dismiss the jury came from Washington. Last Friday, Daniel Steiner, general counsel to Harvard University, met in Washington with A. William Olson, head of the Internal Security Division of the Department of Justice and urged that some way be found to release Mr. Popkin from jail as soon as possible.

Harvard had shown its interest in the case last week when, in an unusual move, the university's president, Derek C. Bok, joined the case to argue defense motions in an effort to head off the contempt conviction.

Mr. Steiner, reached at his Harvard office today, declined comment on the meeting with Mr. Olson and would only say

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that university officials "are very pleased with this decision the Government has reached."

While the dismissal of the grand jury resulted in the release of Mr. Popkin, it does not automatically end the Government's interest in his testimony or the investigation. Federal attorneys here had no comment on plans, but another grand jury could be asked to pick up the investigation. If the jury so desired it could subpoena Mr. Popkin again and ask him the same questions he refused to answer before.

That thought was clearly on the mind of the 30-year-old Asian scholar at a news conference following his release from the Norfolk County House of Detention at Dedham this morning.

"Beyond all else," Mr. Popkin said, "I hope my case has brought concern to bear on the need to look at grand juries more carefully—at the coercive powers vested in grand juries. There is an incredible bag of tricks that go with grand juries. It is a hidden corner of American law. I would expect to give information to a grand jury, but without any information about the grand jury or what it is after, how can you

decide if a legitimate function is being served."

Mr. Popkin, believed to be the first American scholar to be jailed for refusing to identify a source, did not refuse to answer all questions put to him by this grand jury. Beginning last October, when he was first subpoenaed, he spent more than 10 hours answering questions. He refused only when the questions would have required him to give the names of Government officials and others who had talked confidentially with him during his own research on Vietnam.

"I'm not trying to protect any privilege," he said. "I'm protecting the public's right to a free flow of information—it's the First Amendment right that I'm concerned about. It is in the interest of scholars and journalists alike to see to the free flow of information. Lawyers have an immunity from testifying because lawyers write the laws—journalists and scholars do not."

Disclaiming any sense of martyrdom, Mr. Popkin said he had, "just been put into a position of fighting for a principle that no other scholar has been put into."

"I began work in my field," he continued, "believing a certain code of conduct was acceptable and for years I have talked with Government officials with confidence I could

protect them. How am I to know that those questions asked me were not designed as part of some great purge of young Foreign Service officers who might have helped me over the years to understand Government policy?"

For this reason, he said, because witnesses have no way of discerning a grand jury's intent nor any right to withhold any answer that the entire system needs investigation.

"The grand jury was originally designed to stand between the people and the Government and it is time it was brought back to that role," he said.

His experience, he said, is

bound to have a chilling effect on other scholars.

"Look at me, for example. I would be very careful to comment on my experiences in jail now because, if I did, I might be called before a grand jury," Mr. Popkin said. "Although I am a trained observer and what I saw and learned in prison might be useful, I'm afraid to talk about it because it might just lead to another grand jury summons."

After a brief vacation with his wife, Susan, Mr. Popkin intends to return to his job teaching government at Harvard next Tuesday. He plans some lecturing before groups of

scholars and journalists on the grand jury system and, "to keep up work I started in prison with two guys I started to help on their high school equivalency examinations."

With a sigh of relief at his unexpected freedom, Mr. Popkin concluded his meeting with the press with a statement of gratitude to other scholars and university officials for their financial and moral support.

"I believe, if I have proved anything," he said, "I proved that the people at the universities in America take the First Amendment very seriously. Other than that, I'm not sure I proved anything."