

Supreme Court to Expedite Hearing on Gravel's

Special to The New York Times

WASHINGTON, Feb. 22— Senator Mike Gravel's legal stop a Federal grand jury in Boston from investigating arrangements he made for the publication of the secret Pentagon Papers will be heard later this spring by the Supreme Court.

The Court announced today that it would hear, on an accelerated schedule, appeals growing out of the unprecedented litigation between the Senator and the Justice Department over the impact of Congressional privilege upon the grand jury's far-ranging Pentagon Papers investigation.

Meanwhile, court stays have frozen the grand jury's inquiry into any matters touching the Alaska Democrat's role in the publication of the secret documents in book form by The Beacon Press.

It could not be learned what effect, if any, this would have on the Boston grand jury's related investigation of possible law violations growing out of publications of the documents by The New York Times and other newspapers.

Curb on Questioning

At issue is the breach of Article I, Section 6 of the Constitution, a seldom-invoked provision stating that members of Congress "shall not be questioned in any other place" on account of "any speech or debate in either house."

Senator Gravel obtained a copy of the Pentagon Papers at the height of the Government's legal efforts to block The New York Times and other newspapers from continuing publication of their comments. In an emotional midnight subcommittee hearing, he tearfully read long passages and had them published in the Congressional Record.

Senator Gravel obtained a copy of the Pentagon Papers at the height of the Government's legal efforts to block The New York Times and other newspapers from continuing publication of their comments. In an emotional midnight

subcommittee hearing, the Senator tearfully read long passages into the official subcommittee record.

He later arranged for them to be published by The Beacon Press, a nonprofit publishing division of the Unitarian Universalist Association.

The Boston grand jury subpoenaed Dr. Leonard Roberg, an aide to Mr. Gravel, and officials of The Beacon Press and Howard Webber, director of the Massachusetts Institute of Technology Press, which had declined the Senator's offer to publish the material.

When lawyers for Senator Gravel tried to block testimony by all these witnesses on grounds that it violated his

congressional privilege, the United States Court of Appeals for the First Circuit handed down a decision that displeased both the Senator and the Justice Department. Both appealed to the Supreme Court.

The First Circuit held that Mr. Gravel's role in the publication was shielded by the "speech debate" clause. Thus it said his aides could not be questioned about actions they took in arranging the publication. But it held they could be asked about contacts they had with the antiwar movement or the publishing world before they went to work for him and that third parties could be asked about contacts with his office.

Senator Gravel's appeal contended that to allow the grand jury to approach the incident through third parties encroached upon the rule against questioning Senators' speeches in grand jury investigations. The Justice Department asserted that his aides should not be shielded by the Senator's Congressional privilege.

Banning E. Whittington, spokesman for the Supreme Court, said that the clerk's office had placed the appeal on an expedited basis so that it will be heard and decided before the court adjourns in June.

The Court heard arguments today on another aspect of publications when it considered the

Action in the Pentagon Papers Dispute

case of Earl Caldwell, a New York Times reporter in San Francisco, who refused on First Amendment grounds to testify before a grand jury there that was investigating the Black Panther party.

Justice William H. Rehnquist, who had been expected by lawyers in the case — including some Government counsel — to disqualify himself from the case, indicated that he would take part. He remained behind the bench and asked questions during the arguments.

When he was an Assistant Attorney General, Mr. Rehnquist took part in the preparation of the Justice Department's guidelines for subpoenaing journalists, and on at least one

occasion he participated in a public panel discussion in which he defended the Justice Department's subpoenaing of Mr. Caldwell. Justices never give reasons for staying in or stepping out of cases.

Prof. Anthony G. Amsterdam of Stanford Law School, who argued for Mr. Caldwell, asserted that the United States Court of Appeals for the Ninth Circuit had been right in upholding the reporter's contention that he should not be required to risk alienating his sources within the black community by entering the grand jury room, unless the Government could show that his testimony was needed. He added that the Justice Department

had not tried to make such a showing.

Solicitor General Erwin N. Griswold replied that the Ninth Circuit's holding that Mr. Caldwell does not even have to enter the secrecy of the grand jury "goes beyond anything that has been decided and seems to go too far."

He added that "reporters are citizens and retain the responsibilities of citizenship." If the Court should rule that the First Amendment shields reporters from having to comply fully with grand jury subpoenas, he said, it will be difficult to deny the same right to book-writers, academic researchers, and "street-corner orators."