

Ellsberg and Apathy

By Tom Wicker

In a depressing example of the moral and legal insensitivity that pervades the Nixon Administration, Vice President Agnew said Sunday on the program "Issues and Answers" that "whether a person steals Larry O'Brien's secret papers or steals the Pentagon Papers he should be punished. I didn't see any of these cries of moral indignation against the person accused of stealing the Pentagon Papers."

Aside from the question whether this further prejudices the case of Daniel Ellsberg, who is widely known as "the person accused of stealing the Pentagon Papers," Mr. Agnew's attempt to put Mr. Ellsberg on the same level as those charged in the Watergate case smells of that peculiar Nixon Administration technique of denying its sins without really denying them—merely by pointing to what Nixon men call the sins of others.

There is, in fact, no valid comparison between the Watergate case and the release and publication of the Pentagon Papers.

Those charged in the Watergate case were caught red-handed within the premises of the Democrat National Committee, with the tools of crime in hand, and are therefore charged with such common criminal practices as breaking and entering. Daniel Ellsberg, on the other hand, violated no premises or anything of the sort; rather, he used his legitimate access to the Pentagon Papers to have them made public, and the only statute under which the Government was able to charge him with a crime for doing so in the espionage act.

Neither the Government nor anyone else seriously accused Mr. Ellsberg of espionage; and he could not even have been charged with it had it not been for a novel Government interpretation of the act, one not yet validated by the courts. Where the act seems to say plainly that an intent on the part of the defendant to harm the national interest has to be shown before there can be a conviction, the Government now contends that such an intent was not necessary to make Mr. Ellsberg's act a crime.

That dubious contention will be settled if the case ever comes to trial (the Government's own wiretapping has jeopardized that possibility). But on several other grounds, the comparison Mr. Agnew attempted is ludicrous. Mr. Ellsberg's motivation was to inform the public about the secret history of the Vietnam war, which he believed the public had a right to know; those accused in the Watergate case are charged with acting in the secret political interests of certain Republican officials, as hired criminals paid with deviously accumulated

IN THE NATION

funds, and for no discernible or justifiable public purpose.

Mr. Ellsberg exhausted every other channel open to him before taking copies of the Pentagon Papers to the newspapers; for example, he tried to get members of Congress to make speeches about them, or put them in the Congressional Record, after he had instigated unsuccessful efforts to have Secretary of Defense Laird make them available to Congress and the public. When he had achieved his purpose, he admitted what he had done and surrendered to the authorities to face the consequences.

In summary, Daniel Ellsberg, even if convicted of a crime, still would have acted in what he thought was the public interest, in the valid tradition of civil disobedience, and with a willingness to pay the price. The men of the Watergate, if convicted of the crimes alleged, would be guilty not only of clandestine criminal practices but of participating for pay in an attempt to subvert democracy. The most shocking thing about Spiro Agnew's inability to make such a distinction is that, coming from him, it is no longer shocking.

For his part, Mr. Ellsberg—since the wiretapping disclosures caused suspension of his trial last summer—has been traveling the country raising money for his defense fund, sometimes speaking three times in a day. This has given him a close and chilling view of the so-called "apathy of the voters," which he believes is more nearly cynicism and frustration.

Having seen one President violate a pledge not to start a war, and another President fail for four years to honor a pledge to end a war, the voters no longer expect the truth, Mr. Ellsberg believes. They hear George McGovern pledge to end the same war but they do not believe him, either; they read about the Watergate but have little faith in achieving honorable government.

Paradoxically, this works in Mr. Nixon's favor, not against him in the Ellsberg thesis, because it amounts to a loss of confidence in the ability of the people to change things—which is to say a loss of confidence in the processes of democracy. But "the President" represents authority, not democracy; and when the people have lost confidence in democracy, they are likely to turn to authority even if they don't trust that either. Authority at least relieves them of the responsibilities and frustrations of democracy.

Ultimately, of course, authority also relieves them of democracy's rights and privileges.