

Mitchell Will Prosecute Any Violations in Leaks

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Special to The New York Times

WASHINGTON, July 1—Attorney General John N. Mitchell said today that the Justice Department was continuing to investigate the leaking of the Pentagon papers and he promised to prosecute anyone who had broken the law.

Later Secretary of State William P. Rogers said he hoped the press would "recognize an obligation to refrain from the publication of information" in the Pentagon papers harmful to the national security. He added that the Government was ready "to lend its assistance in identifying documents" that might do such harm.

In response to Mr. Rogers's statement, a spokesman for The New York Times said, "We have taken the interests of the country, including national security, into account at all times in our editing and reporting of the documents."

Mr. Mitchell's statement took the form of a brief press release issued by the Justice Department. A spokesman said that he could not go beyond the statement and that he would not answer questions about it about it.

The spokesman indicated, however, that the statement

was designed to show that the 6-to-3 decision yesterday by the Supreme Court, permitting The New York Times and The Washington Post to resume publication of the Pentagon papers, had not deterred the department from considering further criminal prosecution.

'Speaks for Itself'

The press release said:

"The decision of the Supreme Court speaks for itself.

"Since the beginning of the investigation of the unauthorized disclosure of the Pentagon's classified documents, all avenues of criminal prosecution have remained open. A review of the Court's opinions indicate that there is nothing in them to affect this situation.

"The Department of Justice is continuing its investigation and will prosecute all those who have violated Federal criminal laws in connection with this matter. As further developments occur relative to Justice Department action, they will be announced at the proper time."

It was unclear whether the possibility of prosecution referred to the persons who leaked the papers, the reporters or editors who received

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them, the newspapers that have published them, or perhaps all of these.

Mr. Rogers was asked whether plans for prosecution extended to editors and reporters. "I cannot and will not answer that question," he said.

The Justice Department spokesman, asked whether Mr. Mitchell's statement was meant in any way as a warning to newspapers to exercise restraint lest they be liable for criminal prosecution, replied: "I don't think you should characterize the Attorney General's statement as a warning."

Dr. Daniel Ellsberg, a senior research associate at the Massachusetts Institute of Technology, has been indicted on charges of unauthorized possession of Government documents. Dr. Ellsberg, now free on bail, has said that he leaked the

documents to the press and that he had the help of "other individuals," whom he would not name.

5 Justices Noted Possibility

In the decisions yesterday, five of the nine Supreme Court justices mentioned that the possibility of criminal prosecution might be open to the Government after the newspapers published the Pentagon papers.

"That the Government mistakenly chose to proceed by injunction does not mean that it could not successfully proceed in another way," Associate Justice Byron R. White wrote.

After listing "potentially relevant" sections of the criminal code that proscribe the publication of certain intelligence

information, he said: "If any of the material here at issue is of this nature, the newspapers are presumably now on full notice of the position of the United States and must face the consequences if they publish."

Justice White added that he was "not, of course, saying that either of these newspapers has yet committed a crime or that either would commit a crime if they published all the material now in their possession."

Mr. Rogers, in his statement made during a news conference, said that "for its part, the Government has recognized the need to review past classification practices, to establish procedures to reduce secrecy in government and more promptly to release information to the public and Congress."

In answer to a question, he said: "We have to be able to deal with other governments in confidence. If the law is

that anybody can steal papers and disclose them, then we'll have a serious problem."

He added that if "a disgruntled employe" gave out secret material on, say, the talks with the Russians on nuclear disarmament, "it would pull the rug right from under the negotiations."

Mr. Rogers said he had had several conversations with governments that had expressed concern about previous discussions. "We must reassure them

that they can deal with us in confidence," he said.

The Secretary said that one Ambassador whom he did not identify had complained that his Government had been assured that the role it had agreed to play in a peaceful solution in Vietnam would never be disclosed. The Ambassador said, Mr. Rogers related, that as a result of the disclosures his Government would not be available in the future for similar missions.