

Ellsberg Yields, Is Indicted; Says He Gave Data to Press

By ROBERT REINHOLD JUN 29 1971

Special to The New York Times

BOSTON, June 28—Dr. Daniel Ellsberg declared today that he had given the Pentagon study of the Vietnam war to the press. Moments later he surrendered to the United States Attorney here for arraignment on charges of unauthorized possession of secret documents.

Later in the day a Federal grand jury in Los Angeles returned a two-count indictment accusing Dr. Ellsberg of the theft of Government property and the unauthorized possession of "documents and writings related to the national defense."

The 40-year-old scholar and former Defense Department official had been described as the source of the Pentagon documents that The New York Times drew upon for its Vietnam series, the publication of which began on June 13 and was stopped on June 15 by Federal Court order.

Times Silent on Source

The Times refused again today to discuss the source of its documents.

After a one-hour hearing before United States Magistrate Peter W. Princi, Dr. Ellsberg was released on \$50,000 bail. The Government had asked that bail be set at \$100,000.

At almost exactly 10 o'clock this morning, as his lawyers promised Saturday, Dr. Ellsberg drove in a taxi to the Post Office Building, which houses the Federal courts. Looking calm and confident and clutching his wife, Patricia, around the shoulders, he told

Continued on Page 3, Column 1

Continued From Page 1, Col. 6

of transmitting documents to anyone else. After pressing through an almost impenetrable crowd of newsmen and cheering well-wishers, Dr. Ellsberg and his lawyers, Leonard B. Boudin and Charles R. Nesson, both professors at the Harvard Law School, entered the 11th-floor offices of the United States Attorney, Herbert F. Travers Jr.

There he was placed under arrest by F.B.I. agents and taken to the United States Marshal's office for photographs and fingerprinting. About 30 minutes later, with two Federal marshals holding his arms he was taken to a 12th-floor courtroom.

There Dr. Ellsberg sat alone behind a brass rail and listened intently, his chin propped on his hand, as his lawyers and the Assistant United States Attorney, Lawrence P. Cohen, presented arguments over bail.

'Severity of the Crime'

Mr. Cohen argued for \$100,000 bail because of the "severity of the crime as measured by the punishment"—up to 10 years in prison and a \$10,000 fine, or both—and because Dr. Ellsberg did not turn himself in immediately upon issuance of the warrant, eluding the F.B.I. over the weekend. "This suggests the defendant has the resources to remain in hiding and frustrate this court," Mr. Cohen said.

In response Mr. Boudin asked that his client be released in his own recognizance. Magistrate Princi expressed some doubt, saying that if the defendant was proved guilty of being insensitive to laws protecting secret documents, then "might he not be also insensitive to his obligation to appear if he found things were not going as he anticipated."

Mr. Boudin sought to establish Dr. Ellsberg's reliability by reading a long list of his accomplishments and former positions—as special assistant to the Assistant Secretary of Defense and as a special assistant to the United States Ambassador to Vietnam. The lawyer added that the defendant waited until today to surrender to avoid the "Roman holiday" atmosphere that sometimes surrounds major F.B.I. arrests.

First Appearance in 10 Days

The United States Attorney replied that it was a matter of public notice that Dr. Ellsberg "has been in concealment for two weeks."

"I'd like something concrete," the Magistrate said. "He is here this morning. Is there any reason to believe he would not be here next week?" Eventually Dr. Ellsberg, a slim, intense-looking man,

Mr. Boudin asked that his client be released in his own recognizance. Magistrate Princi expressed some doubt, saying that if the defendant was proved guilty of being insensitive to laws protecting secret documents, then "might he not be also insensitive to his obligation to appear if he found things were not going as he anticipated."

Mr. Boudin sought to establish Dr. Ellsberg's reliability by reading a long list of his accomplishments and former positions—as special assistant to the Assistant Secretary of Defense and as a special assistant to the United States Ambassador to Vietnam. The lawyer added that the defendant waited until today to surrender to avoid the "Roman holiday" atmosphere that sometimes surrounds major F.B.I. arrests.

The United States Attorney replied that it was a matter of public notice that Dr. Ellsberg "has been in concealment for two weeks."

"I'd like something concrete," the Magistrate said. "He is here this morning. Is there any reason to believe he would not be here next week?" Eventually Dr. Ellsberg, a slim, intense-looking man,

asked that he be allowed to "make myself responsible to appear." After several more minutes, he rose again and said, "I do ask that my responsibility for my appearance be accepted."

At this the Magistrate said: "I am going to take you at your word. I am going to put you on \$50,000 bail without surety. You're going to walk out and be free." He then scheduled a hearing on July 15 for the removal of Dr. Ellsberg to Los Angeles, where the case will presumably be tried.

At the conclusion of the hearing Dr. Ellsberg and his wife, both smiling, descended to the street and held an impromptu news conference under the bright sun in the middle of Post Office Square, which was thronged with cheering supporters.

He urged everyone to read the documents and expressed the hope that the disclosures would help "free ourselves from this war."

Asked if he had any regrets, Dr. Ellsberg replied, "Certainly not" and added that he was very pleased with the way the newspapers had defended the First Amendment.

"As a matter of fact, it's been a long time since I had as much hope for the institutions of this country," he continued. "When I see how the press and the courts have responded to their responsibilities to defend these rights, I

am very happy about that as an American citizen."

Action by Los Angeles Jury

LOS ANGELES, June 28 (AP)—A Federal grand jury returned a two-count indictment today accusing Dr. Ellsberg of theft of Government property and the unauthorized possession of "documents and writings related to the national defense."

The indictment supercedes a criminal complaint issued last Friday on which the arrest warrant was based. The grand jury met here last week, seeking to find how the Pentagon study reached The New York Times.

Dr. Ellsberg formerly worked at the Rand Corporation in nearby Santa Monica, which does research for the Pentagon and others. One witness before the grand jury, Lynda R. Sinay, who called herself a "dear friend" of Dr. Ellsberg, reportedly told the jurors he had paid her \$150 to copy unspecified documents on a Xerox machine in her office.

Another witness, Anthony J. Russo, who said he had worked with Dr. Ellsberg at Rand, declined to answer questions after being offered immunity. A hearing is set for next Friday on whether he should be held in contempt.

Paul Vincent, a Washington-based Justice Department attorney who has directed the inquiry here, told newsmen that Dr. Ellsberg would have the right to decide whether to stand trial in Boston or Los Angeles.