

Goldberg Protests the Surrender of Ellsberg Paper

By LINDA CHARLTON

Arthur J. Goldberg said yesterday that he was "shocked and surprised" by the decision of the Council on Foreign Relations, of which he is a member, to turn over to Federal authorities a paper delivered at a Council seminar last year by Dr. Daniel Ellsberg.

The council is essentially a large study group whose members, including prominent scholars, journalists and public officials, analyze international issues under strict rules of confidentiality. The Ellsberg paper, delivered at a November, 1970, seminar, was surrendered to the Federal Bureau of Investigation, in response to a subpoena, about two weeks ago.

Mr. Goldberg asked "that a special meeting of the members of the council be convened to discuss this matter and to take appropriate action to repair the abridgement of free speech, association and expression which has occurred, to the extent that it is now possible to do so."

Mr. Goldberg, former United States Representative at the United Nations and former Associate Justice of the Supreme Court, made his comments in a letter to David Rockefeller, the council's chairman of the board, and its president, Bayliss Manning.

Ellsberg Is Disheartened

Dr. Ellsberg, in a telephone interview last night, said he had learned of the council's action "after they'd done it."

He was not so much angry, he said, as pained—"I was very disheartened at one more demonstration of a group of people who have forgotten to put to sleep their own sense of constitutional rights," he said. Dr. Ellsberg is a member of the council.

He said he felt there was a definite and valid distinction between official secrecy and individual privacy. As an example, he said: "I think that McGeorge Bundy's statements as an official, the public very much has the right to know. I would, on the other hand, not challenge his right to speak privately to the Council on Foreign Relations as a private citizen."

McGeorge Bundy was a special assistant to Presidents John F. Kennedy and Lyndon Johnson for National Security offices.

Dr. Ellsberg said he was "very impressed" by Mr. Goldberg's letter. "It's very re-

assuring to me to know that one of my colleagues on the council—and I'm sure there are others—sees this as a threat to his own Constitutional rights," he said.

"The council should have seen the threat to its very raison d'être since it exists to promote fruitful private communication with an objective to communicate with the public, enlightening the public, but with some preliminary confidentiality as promoting [these] ultimate interests."

Dr. Ellsberg, the former Pentagon employe who has said that he gave the secret Pentagon study of the Vietnam war to the press, delivered the seminar paper in November, 1970. According to John T. Swing, the council's associate executive director, the Council responded to the subpoena on the basis of legal opinions that there were no grounds for successfully resisting it.

Another participant in the seminar was William P. Bundy, former Assistant Secretary of State for Far Eastern Affairs. Mr. Bundy, who will become editor next year of the Council's quarterly, Foreign Affairs,

said in a telephone interview yesterday that he had not been present at the seminar session at which Dr. Ellsberg presented his paper:

Mr. Bundy said, however, that he had read Dr. Ellsberg's paper and that it "had nothing to do with the Pentagon papers that I could detect." He said that he felt the council had "no reasonable basis" to resist the subpoena.

Goldberg Disagrees

Mr. Goldberg, however, said in his letter, which he also released to the press, that he disagreed with this legal judgment "and would have so indicated had I been asked my views as a member of the council."

"In any event," he added, "I should have thought that, at the very minimum, the subpoena should have been resisted and Dr. Ellsberg's paper turned over to the Government only after a decision by a court of last resort."

He also said, "I firmly believe that the members of the council should have been consulted and their views ascertained before action was taken.

Speaking for myself, I have not delegated to the officers of the council my Constitutional rights. And I feel that my Constitutional rights have been eroded by this ill-conceived action."

"In light of what has occurred," he said, "I do not see how the council can effectively in the future conduct 'of the record sessions' where speakers 'can freely express their views to council members under rules of confidentiality.'"

Mr. Swing, asked to comment on Mr. Goldberg's letter, said "There is a council policy on confidentiality." But he added that he would not comment "on a letter I have not seen." Mr. Manning could not be reached.

Dr. Ellsberg is under indictment in Los Angeles for the alleged possession and conversion to private use of Government documents. A grand jury in Boston has been investigating how the Pentagon study was disseminated. The subpoena for the council paper was signed by a Federal Court clerk in Boston.