

NOV 30 1971

NYTimes

U.S. COURT BACKS WAR PAPERS CASE

Says Inquiry May Resume
on Release to the Press

BOSTON, Nov. 29 (AP)—The United States Court of Appeals for the First Circuit ruled today that a Federal grand jury here may resume a limited investigation of the release of the Pentagon Papers, an aide to Senator Mike Gravel said.

The court had ordered the grand jury inquiry halted pending a ruling on the contention of Senator Gravel, Democrat of Alaska, that attempts to subpoena two of his associates were an infringement of his legislative immunity.

Ted Johnson, an aide to Senator Gravel in his Washington office, said he had been notified by an appeals court clerk that it had issued a brief "interim order" allowing the grand jury to continue its investigations under certain restrictions, pending a final judgment on the Senator's arguments.

Mr. Johnson said that the court had ruled that neither the Senator nor his aides nor members of the staff of a Senate subcommittee of which he is chairman could be called to testify before the grand jury.

Limitation on Questions

The court also ordered the grand jury not to question any witness about Senator Gravel's "acquisition, use, publication or republication" of the papers, Mr. Johnson said.

Last June Mr. Gravel read portions of the Pentagon Papers—a report on the origins of United States involvement in the Indochina war—before a midnight session of his Senate Capitol Buildings and Grounds Subcommittee.

In a related development, Noam Chomsky, a professor of linguistics and critic of the war, filed suit today charging the Federal Government with illegally tapping his telephone.

The suit names as defendants the United States Attorney General, John N. Mitchell; the Federal Bureau of Investigation director, J. Edgar Hoover, and the New England Telephone Company, a statement from Mr. Chomsky's attorneys said.

Mr. Chomsky is seeking restitution and punitive damages for the alleged wiretapping, the statement said.

The statement said that Mr. Chomsky, who was subpoenaed last month before a Federal grand jury investigating the Pentagon Papers case, believes his telephone has been tapped because of the refusal of Government attorneys to answer questions about wiretapping in connection with the subpoena.

The suit of the Massachusetts Institute of Technology professor was filed in United States District Court.

District Court Judge W. Arthur Garrity quashed a subpoena against Mr. Chomsky on Oct. 29 after the Government refused to disclose whether wiretaps had been used to collect evidence that led to the subpoena.

Mr. Chomsky is a professional associate of Daniel Ellsberg, the M.I.T. researcher who had conceded that he leaked the once-secret Pentagon report to the press.