

The Washington Merry-Go-Round

U.S. Show of Force in Bay of Bengal

By Jack Anderson

Throughout the Indian-Pakistan War, the American people once again were misled by their leaders.

Secret documents dispute, for example, the White House explanation for dispatching a naval task force to the Bay of Bengal.

Official spokesmen emphasized that the task force's main mission was to evacuate American citizens from embattled Dacca.

We have studied the secret White House papers dealing with the two-week war. These make clear that the task force—including the aircraft carrier Enterprise, the most powerful ship in the Navy—was sent into Indian waters as a "show of force."

This provocative naval deployment was intended (1) to compel India to divert both ships and planes to shadow the task force; (2) to weaken India's blockade against East Pakistan; (3) possibly to divert the Indian aircraft carrier Vikrant from its military mission, and (4) to force India to keep planes on defense alert, thus reducing their operations against Pakistani ground troops.

The evacuation of American citizens was strictly a secondary mission, adopted more as the justification than the reason for the naval move.

Here's how the "Top Secret" orders to the task force were

finally worded: "Situation: U.S. citizens may have to be evacuated from the area affected by the present India-Pakistan conflict. The situation may also arise which will require the presence and utilization of a CVA (carrier) to ensure the protection of U.S. interests in the area . . .

"Mission: To form a contingency evacuation force capable of helo (helicopter) evacuation of civilians, of self protection, and of conducting naval air and surface ops (operations) as directed by higher authority in order to support U.S. interests in the Indian Ocean area."

Secret Excerpts

Meanwhile, those anonymous aides, who whisper the latest word from the White House into the ears of newsmen, have stopped pretending that the task force was intended to evacuate stranded Americans.

Now the aides are leaking the story that President Nixon had learned of the Soviet-Indian plans not only to lop off East Pakistan but to dismember West Pakistan. The task force was ordered into the Indian Ocean, according to this line as a deterrent.

But this, too, is a distortion of the information contained in the White House papers. Here are excerpts from the "Secret Sensitive" strategy session that took place in the

White House's fabled Situation Room shortly before the decision to present a "show of force" in the Bay of Bengal:

"Mr. Helms (the CIA chief) opened the meeting by briefing the current situation . . . It is reported that prior to terminating present hostilities, Mrs. Gandhi intends to attempt to eliminate Pakistan's armor and air force capabilities . . .

"Assessing the situation in the West, General Ryan (the Air Force chief) indicated that he did not see the Indians pushing too hard at this time, rather they seem to be content with a holding action . . .

"Dr. Kissinger (the President's chief foreign policy-maker) suggested that . . . if the Indians smash the Pak air force and the armored forces, we would have a deliberate Indian attempt to force the disintegration of Pakistan. The elimination of the Pak armored and air forces would make the Paks defenseless.

Scare Tactics

"It would turn West Pakistan into a client state. The possibility elicits a number of questions. Can we allow a U.S. ally to go down completely? Can we allow the Indians to scare us off? . . .

"Mr. Sisco (assistant State secretary in charge of Asian affairs) stated that if the situation were to evolve as Dr. Kissinger had indicated, then, of course, there was a serious

risk to West Pakistan. Mr. Sisco doubted, however, that the Indians had this as their objective . . .

"Dr. Kissinger stated that what we may be witnessing is a situation wherein a country (India), equipped and supported by the Soviets, may be turning half of Pakistan into an impotent state and the other half into a vassal . . . One could make a case, he argued, that we have done everything two weeks too late in the current situation . . .

"Mr. Packard (deputy Defense secretary) stated that perhaps the only satisfactory outcome would be for us to stand fast, with the expectation that the West Paks could hold their own . . .

"Dr. Kissinger said that we are not trying to be even handed. The President does not want to be even handed. The President believes that India is the attacker . . .

"Dr. Kissinger said that we cannot afford to ease India's state of mind. The lady is cold blooded and tough and will not turn into a Soviet satellite merely because of pique. We should not ease her mind. He invited anyone who objected to this approach to take his case to the President."

Next day, preparations were made to send a task force into the Bay of Bengal to confront both Soviet and Indian warships.

Bell-McClure Syndicate

30 DEC 1971

The Washington Merry-Go-Round

STAT

Jungle War Blunders Are Cited

By Jack Anderson

Publication of the secret Pentagon Papers exposed, all too late, the miscalculations and misrepresentations that entangled the U.S. in a jungle war in faraway Vietnam.

Without waiting for history to overtake the Indian-Pakistani war, therefore, we have decided to publish highlights from the secret White House Papers dealing with the crisis.

These papers bear a variety of stamps—"Secret Sensitive," "Eyes Only," "Specat (special category) Exclusive," "Noform" (no foreign dissemination) and other classifications even more exotic.

Yet astonishingly, the documents contain almost no information that could possibly jeopardize the national security. On the contrary, the security labels are used to hide the activities—and often the blunders—of our leaders.

We believe the public is entitled to know about these blunders.

Here are our conclusions from studying the White House Papers:

Blunders Cited

• President Nixon, apparently because he liked Pakistan's strongman Yahya Khan and disliked India's Prime Minister Indira Gandhi, placed the U.S. on the side of a minor military dictatorship against the world's largest democracy. Thereby, he aligned

the U.S. against the Bengalis, whose freedom Yahya had brutally repressed. He overturned their free election, jailed their elected leader and sent troops to terrorize the populace.

• The President gruffly overrode the advice of the State Department's professionals who urged him to use his special influence with Yahya to stop the Pakistani persecution and to grant the Bengalis a measure of autonomy. When the Indian Army finally came to the aid of the Bengalis, the pros pleaded with Mr. Nixon to remain neutral if for no other reason than Pakistan looked like a sure loser. Instead, he supported the repressor and associated the U.S. with Pakistan's eventual humiliation.

• In a fit of petulance, the President sent a naval task force to the Bay of Bengal and risked a military confrontation with Soviet warships.

• As a reward, the Russians are expected to seek military bases on the subcontinent. "The Soviet military ambition in this exercise is to obtain permanent usage of the port of Visakhapatnam," suggested Admiral Elmo Zumwalt, the Navy chief, at a secret strategy session. An intelligence report also declares that Bangladesh, the new Bengali state, has "already offered military bases in Chittagong to the Soviet Union in exchange for economic aid."

• At the height of the two-

week war, the White House scrambled around for some way to rush arms shipments to Pakistan. This would have been a violation of our own 1965 arms embargo against both India and Pakistan.

Secret Minutes

Here are excerpts from the "Secret Sensitive" minutes of Kissinger's White House strategy sessions:

"Dr. Kissinger asked whether we have the right to authorize Jordan or Saudi Arabia to transfer military equipment to Pakistan," declare the Dec. 6 minutes. "Mr. Van Hollen (Asian expert, State Department) stated the United States cannot permit a third country to transfer arms which we have provided them; when we, ourselves, do not authorize sale direct to the ultimate recipient.

"Mr. Sisco (Assistant State Secretary in charge of Asian affairs) went on to say that as the Paks increasingly feel the heat, we will be getting emergency requests from them. Dr. Kissinger said that the President may want to honor those requests . . .

"Mr. Packard (Deputy Defense Secretary) then said we should look at what could be done. Mr. Sisco agreed but said it should be done very quietly."

The Dec. 8 minutes pick up the subject again: "Dr. Kissinger referred to an expression of interest by King Hus-

sein relative to the provision of F-104s to Pakistan . . .

"Ambassador Johnson (Ambassador-at-large) said that we must examine the possible effects that additional supplies for Pakistan might have. It could be that eight F-104s might not make any difference once the real war in (West Pakistan) starts. They could be considered only a token . . .

"Mr. Packard stated that the overriding consideration is the practical problem of either doing something effective or doing nothing. If you don't win, don't get involved . . ."

The following day, a secret message was flashed to Ambassador to Jordan L. Dean Brown: "You should tell King Hussein we fully appreciate heavy pressure he feels himself under by virtue of request from Pakistan. We are nevertheless not yet in a position to give him definite response. Whole subject remains under intensive review at very high level of USG."

In New Delhi, Ambassador to India Kenneth Keating received a copy of the secret orders to Brown. Keating sent an anguished message to Washington, pleading: "Any action other than rejection (of the plan to ship planes to Pakistan by way of Jordan) would pose enormous further difficulties in Indo-U.S. relations."

We will print additional excerpts from the White House Papers in future columns.

Bell-McClure Syndicate

Merrily They Stamp— Guarding Non-Secrets

By WILLIAM G. FLORENCE
Special to the Miami Herald

WASHINGTON — Every day they sit in the Pentagon, thousands of workers with rubber stamps marked "confidential" and "secret" and "top secret," and they stamp this paper and that, with little regard for what they are doing. It is a mass exercise in wish-fulfillment, a giant attempt to keep secret what is already public knowledge, what is bound to become widely known, or what is so trivial that it cannot possibly be of use to anyone.

In the process, the buying of toilet paper for some military men becomes a national secret. Purchases of paper clips and paint and long winter underwear may turn into guarded statistics. The purpose and dimensions of a new aircraft, long trumpeted in congressional hearings, remain, to the Pentagon's way of thinking, "top secret" matters. Literally millions of documents are needlessly classified alongside the relatively few — I would estimate from 1 to 5 per cent in the Pentagon — which must legitimately be guarded in the national interest.

All this would be rather humorous if it did not have serious consequences. But the fact is that the widespread abuse of secrecy provisions wastes staggering sums of money, undermines the integrity of our security system, and, as with the Pentagon papers, conceals information which the public has a right to know.

THIS IS NOT to suggest that there is a Pentagon conspiracy to hide embarrassing documents by stamping "secret" on them. While sometimes the result, the secret-stampers rarely take the trouble to distinguish be-

tween what may or may not be embarrassing. Indeed, they rarely make distinctions about much else in the documents either. Which is precisely the trouble. They simply stamp away.

Tracing the causes and effects of this classification craze can be an exercise in the bizarre, one which I went through many times during my years at Air Force headquarters in the Pentagon.

It often begins, as it did in one case involving the F-111 fighter-bomber, with a single person at a single installation deciding that some piece of information should be closely protected. In this particular case, the person was in the avionics laboratory at Wright-Patterson Air Force Base near Dayton, Ohio, and what he wanted to protect was the process for turning out a metal used in the F-111.

THE METAL, tile-shaped pieces of ferrite developed privately by Conductron Corp. in Ann Arbor, Mich., "absorbs" radar signals.

As it happened, the same type of material had already been developed in the Netherlands, and similar radar absorbers shortly afterward were patented in Sweden. Moreover, Conductron had been generously scattering the metal tiles about in its sales effort.

Despite all this, the Air Force man stamped "confidential" on both the production process and the tiles themselves, an action which nobody above him questioned. To his mind, these were U.S. secrets, and Conductron and General Dynamics Corp., the prime F-111 contractor, were required to keep them so.

This was no small task, after all. The contractor had to have special facilities to store all waste metal left from their work

The reason: The waste could not be destroyed by simple burning or shredding, the standard methods of getting rid of paper secrets. So it had to be hoarded.

FROM the mid-1960s until September, 1970, Conductron actually stored about 28,500 pounds of waste metal. At General Dynamics' Fort Worth, Tex., plant, where the tiles were fashioned to fit the plane's body, about 285 barrels of waste accumulated over this period. This was in addition to special guards at the plants, barriers erected to make sure nobody could get a hand on a grain of the metal, and other precautions required by the government for "confidential" information. The over-all extra cost for these measures probably was in the neighborhood of \$400,000.

The cost would have kept rising if General Dynamics did not begin to run short of storage space. The company was faced with the choice of either putting up an additional building to hide the waste or finding some way to destroy it.

This, however, was not how the dilemma was solved, rather, federal security inspectors finally asked Air Force headquarters in Washington whether the "confidential" marking had been necessary in the first place. The question came to me, and I received assurances from the office of John S. Foster, director of defense research and engineering, that there had never been any need for security on the metal tiles.

I spent the next 10 months trying to get the classification canceled. It was finally dropped in September, 1970, about seven years.

THIS IS by no means an isolated case. Guarding infor-

known is something of a habit with many defense men. One officer at the Air Force's Aeronautical Systems Division in Ohio, for example, decided one day in late 1969 that the nation should keep a close watch on information about a new manned bomber. Mainly, he wanted to keep secret such details as the plane's purpose, its length and wing span, its take-off weight, how high it can fly, and what it looks like in a photograph.

I suppose this all would have been nice, except that it was absurd — these details had all been proclaimed for the world to hear while the Pentagon was pleading with Congress to authorize the bomber in the first place.

But this did not deter the aeronautics systems officer. He insisted that the nation should guard the information. So he stamped the instruction to the plane's contractor, North American Aviation, as "secret."

North American, in July of 1970, forwarded some advice of its own. The initial cost for remodeling facilities and taking numerous other steps to comply with the "secret" classification, it said, would be about \$1.2 million. This did not include similar measures and expenses that would be required by subcontractors and suppliers.

Luckily, this nonsense was halted before it went too far.

I WOULD estimate, however, that at least \$50 million a year still is spent on storing, protecting and inspecting unnecessarily classified defense information.

While many defense planners do not like to admit it, relatively little of what they do can be kept secret very long. This is particularly true in the scientific and technical area.

1 2 DEC 1971

A Madness For Secrecy

By William C. Florence

The author is a security expert who retired in May as deputy assistant for security and trade affairs in Air Force headquarters. Also a former Air Force major, he is now a security consultant to government contractors and to defense attorneys in the Daniel Ellsberg case.

EVERY DAY THEY sit in the Pentagon, thousands of workers with rubber stamps marked "Confidential" and "Secret" and "Top Secret," and they stamp this paper and that, with little regard for what they are doing. It is a mass exercise in wish-fulfillment, a giant attempt to keep secret what is already public knowledge, what is bound to become widely known, or what is so trivial that it cannot possibly be of use to anyone.

In the process, the buying of toilet paper for some military men becomes a national secret. Purchases of paper clips and paint and long winter underwear can turn into guarded statistics. The purpose and dimensions of a new aircraft, long trumpeted in congressional hearings, remain, to the Pentagon's way of thinking, "Top Secret" matters. Literally millions of documents are needlessly classified alongside the relatively few—I would estimate from 1 to 5 per cent in the Pentagon—which must legitimately be guarded in the national interest.

All this would be rather humorous if it did not have serious consequences. But the fact is that the widespread abuse of secrecy provisions wastes staggering sums of money, undermines the integrity of our security system, and, as with the Pentagon Papers, conceals information which the public has a right to know.

This is not to suggest that there is a Pentagon conspiracy to hide embarrassing documents by stamping "Secret" on them. While that is sometimes the result, the secret-stampers rarely take the trouble to distinguish between what may or may not be embarrassing. Indeed, they rarely make distinctions about much else in the documents either. Which is precisely the trouble. They simply stamp away.

A Bizarre Exercise

TRACING THE CAUSES and effects of this classification craze can be an exercise in the bizarre, one which I went through many times during my years at Air Force headquarters. It often begins, as it did in one case involving the F-111 fighter-bomber, with a single person at a single installation deciding that some piece of information should be closely protected. In this particular case, the person was in the Avionics Laboratory at Wright Patterson Air Force Base outside Dayton, Ohio, and what he wanted to protect was the process for turning out a metal used in the F-111.

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As it happened, the same type of material had already been developed in the Netherlands, and similar radar absorbers were patented shortly afterward in Sweden. Moreover, Conductron had been generously scattering the metal tiles about in its sales effort. Despite all this, the Air Force man stamped "Confidential" on both the production process and the tiles themselves, an action which nobody above him questioned. To his mind, these were U.S. secrets, and Conductron and General Dynamics Corp., the prime F-111 contractor, were ordered to keep them so.

This was no small task. The companies, among other things, had to have special facilities to store all waste metal left from their work. The reason: The waste could not be destroyed by simple burning or shredding, the standard methods of getting rid of paper secrets. So it had to be hoarded.

The Institution of Lying

"The classification system has been used to shield Government decisions from public view."

By DAVID WISE

WASHINGTON--President Johnson's memoirs contain extensive information drawn from classified documents—including some of those contained in the Pentagon Papers.

Inevitably, publication raised anew questions about the classification system, secrecy, and government credibility. If, for example, The New York Times had never published its series on the Pentagon Papers, would the Federal Government have gone into court to prevent publication of the Johnson memoir? Would the Justice Department seek to enjoin a former President?

It seems scarcely likely. The fact is that for years Presidents and others officials have regularly leaked classified documents to the press when it has suited their purposes. Or they have saved them for their memoirs.

The disclosures contained in the Pentagon Papers demonstrate how easy it is for Government officials to use the security classification system to keep from public view policies, decisions and actions that are exactly the opposite of what the public is told. In other words, through official secrecy, we now have a system of institutionalized lying. The resulting erosion of confidence between the people and their Government is perhaps the single most important political development in the United States in the past decade.

Security classifications are ephemeral and capricious when disclosure benefits political leaders. For example, on Feb. 6, 1970, Mr. Johnson discussed his March, 1968, decision to limit the bombing of North Vietnam in an interview with Walter Cronkite on the C.B.S. television network. When asked about Clark Clifford's reputed role in reversing Administration policy, Mr. Johnson held up a document in view of the television audience and said: "... that's totally inaccurate. Now if you would like to, Walter ... I'll declassify [this] now for a moment and show you just how much in error such an assumption can be ... if you'll indulge me ... I can read you a portion of

ary of State and Secretary of Defense." He went on to assert that it was Secretary of State Dean Rusk and not Mr. Clifford, the Secretary of Defense, who had suggested an unconditional bombing halt above the 20th parallel. In this instance, a former President announced publicly that he was declassifying a secret document before the eyes of millions of American television viewers.

In "declassifying" secrets for his memoirs, Mr. Johnson follows a well-established precedent. President Truman, in his memoirs, quoted freely from C.I.A. estimates and other classified documents. President Eisenhower drew upon similar material in his memoirs. Arthur M. Schlesinger Jr., in his account of the New Frontier, quotes from the conversations between President Kennedy and Soviet Premier Khrushchev. Robert F. Kennedy's posthumously published book about the Cuban missile crisis quotes parts of a still-classified letter from Mr. Khrushchev to President Kennedy. And so on.

I do not propose that Presidents, their assistants, or other high Government officials be restricted in what they write when they leave office, or what materials they quote from, including classified documents, for the reason that it would be difficult to devise any system that could be enforced, particularly against a former President. And these memoirs by Presidents and their assistants serve history. They help to inform us, however belatedly.

At the same time, the public should understand that these memoirs often do use classified information, and that former officials sometimes profit from the sale in book form of classified information about events, which, at the time they take place, are not shared with the press and public. Thus, the classification system has been used to deprive the American people of information which is later sold to them by the officials they elected, or by the appointees of those officials. Yet the information is denied to Americans when it might be pertinent to the opinions they hold and to the way they express those opinions at the ballot box.

Too often, the classification system has been used to shield Government decisions from public view, or to manipulate public opinion. It seems unlikely that the American people will stand for a system of official secrecy that makes it possible for their officials to mislead them. Under such a system, there is no consent for the governed.

21 OCT 1971

Pentagon Orders Decrease in Use Of Secrecy Stamp

Special to The New York Times

WASHINGTON, Oct. 20--The Pentagon announced today that it plans to make its documents harder to classify and easier to declassify and that it would reduce the number of people empowered to classify them.

To do this, the Defense Department plans to reactivate the Classification Review and Advisory Board, which has been dormant since March, 1968.

The board will give policy guidance to the Department of Defense security classification management program, which must rewrite the rules that govern the classification system.

The review of the classification procedure was spurred by a dispute over the classification of the Pentagon papers, the secret study of the Vietnam war, parts of which were published by The New York Times and other newspapers last June.

"What we are trying to do is to reduce the number of people who can classify information and to increase the number who can declassify information," Daniel Z. Henkin, Assistant Defense Secretary for Public Affairs, said in a speech to The Associated Press Managing Editors Association, which met in Philadelphia today. His text was made available here.

Last summer, William G. Florence, a civilian employe of the Air Force's security classification branch, told a House subcommittee that fewer than a million of the Defense Department's 20 million classified documents deserved to be kept secret.

WASHINGTON POST
21 OCT 1971

STAT

Pentagon Will Limit Classifiers

United Press International

The Pentagon intends to cut down the number of officials authorized to classify papers, a Defense Department official said yesterday.

As of April, 31,048 officials among the 3.6 million civilian and uniformed personnel in the Defense Department could stamp papers "confidential," the lowest category of classification. Of those, 7,687 could also stamp documents "secret" and of those 803 had authority to label papers "top secret."

The Pentagon papers on the Vietnam war, portions of which were published in June by several newspapers, were originally classified "top secret." It was the dispute over

the classification of those historical documents that led the Pentagon to begin reviewing its classification procedure.

Abuses of the system have been cited by former officials.

In a memorandum distributed today to the three service secretaries and four other major Pentagon officials, D. O. Cook, acting assistant defense secretary for administration, said he was reactivating the Dormant Classification Review and Advisory Board to rewrite the rules that govern the system. Like Henkin, he said fewer people would be allowed to classify documents.

Cook also said documents should be declassified more

quickly. Historians have long complained that the government takes too much time to declassify information. (Pentagon officials say that at this point they don't really know how much of a cut can be made in the number of those authorized to classify documents, but that "we are confident that we can make substantial reductions," they said reactivation of the civilian-run review board is intended to lift some of the burden of declassification from the military, who are at times not in a position to make policy decisions involved with the declassification of some documents.)

16 OCT 1971

Secrets Policy Voided By Court in A-Blast Suit

By WINSTON GROOM
Star Staff Writer

The U.S. Court of Appeals here has struck down the government policy of arbitrarily classifying all documents in a file the same as the highest classified single document in the group.

The ruling came yesterday in the case of 33 congressmen, led by Rep. Patsy T. Mink, D-Hawaii, who have sued the Nixon administration for release of a secret report on the proposed atomic test at Amchitka Island in Alaska.

The test, code named "Cannikin," is scheduled to be carried out this month if President Nixon gives his approval. Several environmentalist groups have filed suits to stop the blast, and their cases are pending in the federal courts.

The suit involved in yesterday's ruling sought release of a secret report held by the Environmental Protection Agency that

allegedly contains negative comments on the test from several other government agencies.

The ruling sends the case back to U.S. District Court Judge George Hart Jr., instructing him to hold a secret hearing at which EPA's Amchitka papers can be screened — and those documents which would not normally bear a security classification can be separated from those which would.

The congressmen opposed to the blast hope that once they have the documents in hand, they can convince the court of appeals that the Amchitka test is ill-advised.

The question of whether or not the government should classify all documents in a file just because one or more of them is classified has been the subject of controversy in the case of the Pentagon papers. Part of that report on the U.S. involvement in Vietnam was classified top secret but some of the report had been published previously without classification.

Today's ruling overturns a 1953 presidential order that set the current policy for classifying documents. It had said.

"A document . . . shall bear a classification at least as high as that of its highest classified component. The document shall bear only one overall classification notwithstanding that pages, paragraphs, sections or components thereof bear different classification."

In striking down that policy, the appellate court held that the Freedom of Information Act of 1970 supercedes the executive order.

"Secrecy by association is not favored. If the non-secret components are separate from the secret remainder and may be read separately without distortion of meaning they too should be disclosed."

In its instructions to the lower court regarding the Amchitka papers, the appellate court suggested that a cautious attitude should be adopted by Judge Hart in reviewing the matter.

"In approaching this problem we have in mind the very special place the President occupies in the conduct of foreign affairs," the court said in its

4 OCT 1971

Approved For Release 2006/01/03 : CIA-RDP80-01601R000400040001-6

RUSSELL BAKER**'Toppest Secret'—for Russians Only**

After the British accused the Russians the other day of supporting 105 spies in their embassy in London, a telephone call was made to one of the Russian spies in the embassy here. His name is Boris. He said, yes, he could get out for a rendezvous, provided it produced a secret document which he could send to Moscow to justify his expense account.

*

The U.S. government is very helpful about things like this. "Here," said a deputy to a deputy assistant at the Pentagon, and he cut a short news story out of the afternoon paper — it was about an automobile striking a cow near Frederick, Md. He stamped it "Very Secret."

Boris, rendezvousing in Lafayette Park under a bench which had been bugged by the FBI, accepted the newspaper clipping without enthusiasm.

"Can't you at least get the CIA to give you some fake blueprints to give me?" he asked. "You don't even take me seriously enough to want to mislead me anymore."

"Nonsense, Boris. The U.S. government regards you as one of the most key Russian spies operating in Washington this fall."

"You Americans!" Boris said. "Never willing to level with a guy."

It seemed an obvious truth not worth denying. It was time for a change of subject. "Boris, is it really true that your side had 105 spies in the London embassy alone?"

Boris hesitated before answering, and pointed to the bug which was attached to the park bench. "Is this the FBI's bug," he asked, "or one of ours?"

A quick examination disclosed the Great Seal of the United States imprinted on the

wire. "Good," he said, clearing his throat. "A hundred and five," he said. "You think that's a lot? You think 105 spies is enough to do the job we're up against in these Western countries?"

"Don't you know even what's happening in your own country?" he went on, speaking with great emotion. "The volume of secret papers has increased by a factor of 50 or 60 in the past 10 years. The more secret papers you have, the more spies we need to get hold of them."

The difficulty, Boris explained, speaking very clearly and distinctly into the bug so the FBI would hear every word, was that it had become a symbol of status in Washington for men to have secret papers in their possession.

*

He thought this had started with Dr. Henry Kissinger, Boris said. He had read somewhere, perhaps in a top secret story printed in a newspaper column of Washington society news, that Kissinger never attended a party without bringing along a briefcase ostentatiously filled with highly classified papers.

Naturally, he explained, high-ranking officials at the Pentagon and State Department didn't want to risk being put in the shade by showing up at a party without secret papers when they knew that Kissinger might drop in with an armful.

Boris said that he had, in fact, attended a party in one of the seedier salons of Georgetown at which a public-relations officer from the Department of Commerce tried to win a blonde away from a clerk in the Bureau of Obsolete Deeds by flashing a fat roll of papers labeled "Extremely Secret."

The clerk had promptly crushed this gambit by producing out of his jacket sleeve a roll of papers stamped "Excessively Secret."

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The demand for secret papers among government officials, Boris said, had become so intense that status-hungry officials were plastering classification stamps on every paper that came to hand. Among purloined U.S. secret documents which had turned up lately on his own desk, Boris went on, were a luncheon check for two cheeseburgers and a beer, a laundry list for five shirts and a 1964 copy of Playboy.

"The more paper you stamp secret," Boris shouted into the bug, "the more spies we need to get our hands on it, study it, puzzle out its significance and forward it on to Moscow."

Having made his point to the FBI, he hurried off to a cocktail party where he expected a minor official from the Washington Monument staff to appear with a sheaf of menus, classified "Unusually Secret," from the National Art Gallery cafeteria.

"The Russians are begging for mercy," the FBI man observed later. "Maybe — just maybe, mind you — if we keep stamping, we can use their spy payroll to bankrupt them."

All this, incidentally, is "Utterly Secret."

30 SEP 1971

Approved For Release 2006/01/03 : CIA-RDP80-01601R000400040001-6

The Washington Merry-Go-Round

Clamping the Lid on Embarrassment

By Jack Anderson

Ever since we reported on the drunken antics of an Agency for International Development official during Vice President Spiro T. Agnew's recent visit to Kenya, AID has been tightening the lid on classified messages.

FBI agents are grilling officials and giving lie detector tests to find out who leaked the secret report. Copy machines have been moved to secured areas where they are constantly monitored.

All these precautions have been taken in the name of national security. Yet our story, which precipitated the manhunt, had nothing to do with security.

We quoted from a message that Robinson McIlvane, the American ambassador to Kenya, sent to Dr. John Hannah, the AID administrator. The message was so sensitive that it was hand-delivered to Hannah under seal. He was upset, therefore, when we printed it for 45 million Americans to read.

But the subject of the message was the hijinks of Bert Tollefson, who is in charge of the AID program in Kenya. Alleged the hush-hush message:

"The problem started with Bert's well-known pushiness and general lack of sensitivity and culminated in his getting sloshed at Treetops (a night club), making passes at the

vice president's secretary and trying to drag her down the steps to meet an elephant at ground level."

Tollefson assured us by telephone from Nairobi that it was all a misunderstanding, and blamed the whole episode on unidentified Democratic holdovers.

But Hannah took urgent steps to make sure we don't get any more of his secret messages. He issued terse instructions, intended for the eyes only of those who handle sensitive documents.

As evidence that Hannah hasn't yet plugged the leak, here are his new instructions:

"The reproduction of the State's NODIS, EXDIS, and TOP SECRET and the AID's EYES ONLY and TOP SECRET messages requires the approval of the AID Executive secretary, and such reproduction can be accomplished only by the EXSEC Staff. . . .

"All reproduction and copy machines are being located in secured areas, which will be monitored. . . . During non-working hours, all copy machines will be secured in such a way that they are inoperable."

The Atlanta center was scheduled to go into full operation this month, but only eight patients are being treated, and they are in the psychiatric ward. Plans for renovation of the hospital's fifth floor into a 16-bed drug-treatment center still are awaiting approval from Washington.

The hospital's director, Dr. Julian Jarman, said the moratorium on hiring came at a time when requests for treatment were growing.

BEWARE CLASSIFICATION OF GOVERNMENT DOCUMENTS

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, the overclassification of Government information has repeatedly been criticized and challenged because of the blatant inconsistencies in the procedures utilized by the various departments and agencies of the executive branch. There have been frequent claims that the power of classification has been abused in an attempt to suppress information which the public has a right to know.

The classifying of Government information has not been exercised solely by those departments and agencies which concern themselves with matters of national security or foreign relations. Recently a Ph. D. candidate was refused access to 70-year-old documents in the National Archives which concerned a pollution investigation conducted by the Federal Bureau of Investigation. I cannot see where there is any justification based upon military security or foreign relations for prohibiting public access to such documents. The absurdity of the present classification procedures is quite evident. This incident and numerous others are recounted in an article by Morton Mintz which appeared in the July 20, 1971 issue of the Washington Post.

By the calculated classification of specific information public officials can shield themselves from public criticism. The classification appears ridiculous when every day we read and hear reports in the news media which are attributed to "leaks of inside information." Decisive action must be taken to make classification procedures comply with a policy of free availability of Government information which will not jeopardize our national security. The public's right to know must not be restricted. Decisive action must be taken to find a viable remedy to this situation.

I have been concerned with the public's right to know for some time. While I was a member of the Subcommittee on Foreign Operations and Government Information I submitted a bill dealing with freedom of information which was enacted into law. I feel that it is again necessary to submit legislation concerning this problem.

I have today filed a bill to establish a joint committee to conduct a complete investigation of the practices and methods used in the executive branch of the Government for the classification, reclassification and declassification of Government information in order to determine whether such practices and meth-

ods are exercised for purposes contrary to the public interest, and to determine appropriate procedures for the discovery, reclassification and declassification of Government information.

The membership of the joint committee would be composed of the chairman and ranking minority member of the Senate and House Committees on Armed Services, Foreign Affairs, and the Appropriations Subcommittee on Defense, and an additional three Senators appointed by the President of the Senate and three Representatives appointed by the Speaker of the House.

The joint committee would carry out its activities for the period of 1 year and at its termination it would submit a report of its findings and recommendations to the Senate and House of Representatives. If the joint committee had not completed its investigation and report within the year an extension for an additional year might be made by concurrent resolution. Any sensitive information which the joint committee might acquire through its activities might be kept secret by the committee.

The result of the efforts of the joint committee would be the availability of ample data and resulting recommendations for the proper classification of Government information. It would then be possible to formulate and put into effect an efficient, effective, just and uniform classification procedure.

I wish to append to my remarks the editorial entitled "The Right To Know" which appeared in the July 10, 1971, edition of the Christian Science Monitor and an editorial entitled "Secrets of the Bureaucracies" which appeared in the July 20, 1971, edition of the Washington Post:

THE RIGHT TO KNOW

The current controversy over classification of government documents centers on one key question: Can government by consent have any real meaning if those governed do not know to what it is that they are consenting? It was only the right, indeed the absolute need, of the people to know what their government is doing and has done, and why, that could have justified the recent publication by several newspapers, including this one, of documents bearing a "top secret" classification.

The rightness or wrongness of the decision by the particular newspapers to go ahead with that publication is now in the hands of history to determine.

But the need of the people to know goes on. So does the government classification procedure system that kept the Pentagon papers hidden so long. That system needs to be drastically overhauled, as recognized by the recent six-day hearing of the House Government Operations subcommittee, which sought to find out just how much classified material actually exists, who classifies it, and by what criteria. Not surprisingly, the subcommittee found out what everybody has long recognized, that overclassification is a perennial fact of government.

There are estimates of something like 100 million pages of classified wartime records, dating back to World War II, and 20 million classified documents in the Pentagon's machine-operated files. One former CIA official estimated that only 10 percent of the classified documents he handled over the years were "really sensitive."

The criteria by which classification takes place appears all too vague. It is clear that in wartime, any hard information about

troops, armaments, and plans must be kept out of enemy hands. But it is equally clear that 100 million pages of records from a war which ended in victory a quarter of a century ago hardly fall into that category.

And any Washington newspaper reporter knows firsthand how the classification system is used by bureaucrats to shield themselves from public surveillance, to serve their personal political aims, or to leak out "inside information" to chosen segments of the mass media at a tempo designed to build support for a particular policy. And the habitual breaking of security by the very officials who order documents classified—often in memoirs—only confirms the absurdity of the system.

Hopefully the House subcommittee will come up with some meaningful solutions. Worth considering is the suggestion of Rep. Sam Gibbons (D) of Florida, that Executive Order 10501—issued by President Eisenhower in 1953, and the basic law governing the system today—be scrapped. It is too vaguely worded, allowing as it does that any "extremely sensitive information or material" be kept from declassification for an unlimited time. One must ask, sensitive to whom, and for what reasons?

Mr. Gibbons would declassify everything that cannot be proven essentially confidential, and publish an annual list of what remains classified. Within three years, these holdovers would be automatically declassified unless a person of at least cabinet rank ordered to the contrary.

We believe the public's right to know is more basic and vital to the continued democratic operation of the United States Government than is the government's right to withhold, although secrecy has its obvious necessities. But the burden of proof for this necessity should lie on the government, and it should be the exception rather than the rule.

SECRETS OF THE BUREAUCRACIES

(By Morton Mintz)

"I am from Missoula, Montana, and I have been in Washington doing research on pollution for a Ph.D. dissertation in history," Donald Mac Millan said in a letter to Sen. Lee Metcalf (D-Mont.) the other day. "At the National Archives I was advised that I could not use anything that was stamped 'Bureau of Investigation.' The period I was interested in was essentially the first decade of the twentieth century . . . I feel ridiculous even suggesting that the Nation's security could be threatened by information seventy years passed, but apparently somebody does. . . . If we cannot have an honest and rigorous search for the truth our future as a self-governing democracy is indeed bleak."

Mac Millan's astonished discovery that he could not have access to—it bears repeating—files on pollution seven decades old serves to make a point which, quite understandably, drew scant attention in the recent momentous struggle over the Pentagon Papers. The point is that secrecy seems to be endemic in all bureaucracies—not just those occupied with national security—and it is manifested, almost always, against the very public supposedly being served; this happens readily and pervasively even when no justification in military security or foreign relations is so much as claimed.

The evidence of this, regrettably, is as easy to come by in the "open administration" of President Nixon as it ever was in those of his predecessors. Here are some examples:

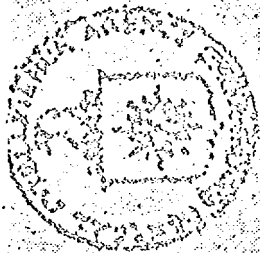
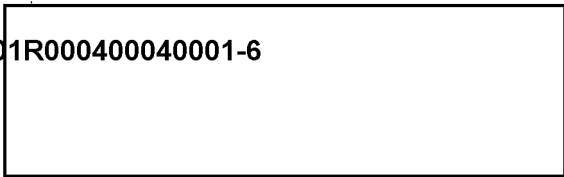
The Walsh-Healy Act empowers the Department of Labor to make federal contractors comply with the job-safety standards it has approved. The department had traditionally refused to make public inspection reports and notices of violation. It claimed that the Freedom of Information Act, enacted to protect "the public's right to know,"

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MONTREAL STAR

23 Sept 1971

Approved For Release 2006/01/03 : CIA-RDP80-01601R000400040001-6



CENTRAL INTELLIGENCE AGENCY

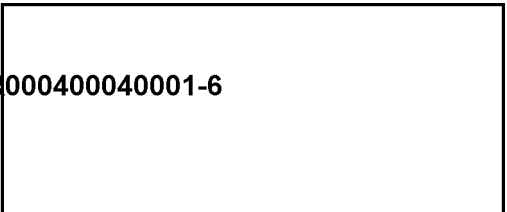
240 E. 110th St. N.W.
WASHINGTON, D.C. 20505

TOP SECRET

Oct. 20, 1971

Shown is photostat of a photograph left at The Montreal Star Washington Bureau, which forwarded it by air to Montreal. The bottom portion (not shown) contained only a repeat of the "top secret" stamp and the initials R. D. above the letters "RD/pl" at the bottom of sheet.

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The Washington Merry-Go-Round

STAT

By Jack Anderson

Intelligence Items

The coded intelligence reports that flood into Washington from all over the world often contain raw, unverified information. The Central Intelligence Agency has devised a simple system for rating the reliability of its reports. The veracity of the source is given an alphabetical rating; an appraisal of the content is rated by number. Thus, an A-1 report would be considered 100 per cent accurate. But if a wholly reliable source passed on a hot barroom rumor, it might be rated A-12. Or if a less trustworthy source submitted what he claimed was a really reliable item, the rating might be C-3. Hereafter, we will use this rating system to help our readers evaluate the accuracy of intelligence items.

Emperor's Surprise (A-2)—No one was more surprised than Emperor Hirohito to learn that his European trip would be interrupted by a stopover in Alaska. Prime Minister Sato neglected to consult the Emperor before setting up the trip. By staging a dramatic meeting between Emperor Hirohito and President Nixon, Sato hopes to take some of the steam out of the hot Japanese reaction to Mr. Nixon's Peking ploy and economic moves against Japan. The Emperor, left out of the backroom planning, was astonished to learn that he would interrupt his European trip to confer with Mr. Nixon in Alaska.

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30 AUG 1971

Were You Ever a Wobbler?

Repeating the Top Secret Clearance Process

By S. L. A. Marshall

DURING the Dog Days of August, a legion of officers in the U.S. armed forces and a phalanx of unknown civilians were given the news:

If they held top secret clearances, they were advised that unless they currently are working with top secret material, the clearance is being automatically cancelled by the U.S. government.

What do these tidings mean to them? At

'Over the years this resurgence of red tape will engage the services of the FBI, the CIA and countless clerks and bureau hawkshaws at the cost of millions of dollars to the taxpayer.'

present, practically nothing. But should they ever return to some job that requires such a clearance, they will have to repeat the whole "clearing" process.

They will be fingerprinted, though their prints have not changed. Then they will spend hours filling out forms relating their travels abroad, identifying their ancestors and making note of their associations and affiliations, present and past.

They will be quizzed by security officers as to whether they ever belonged to the KKK, the Know-Nothing Party, the Wobblies, the Knights of the Mystic Sea or other organizations on the current taboo list. Then they will sit and wait while that Rube Goldberg invention, called the review process, grinds out a decision.

Over the years this resurgence of red tape will engage the services of the FBI, the CIA and countless clerks and bureau hawkshaws

at the cost of millions of dollars to the taxpayer.

In my own case I have heard from two so-called Washington think tanks about their latest thoughts.

The message was that I was still cleared for top secret, but since I was no longer actively requiring that clearance, would I fill out the enclosed form acknowledging my discharge from the awesome responsibility? My knowledge of anything that might bring down the pillars of the temple being less than would fill a thimble punctured by a shell from Big Bertha, I was happy to comply.

But it did take time even as it made work for the mailman and no doubt the guardians of our security awaited the reply atremble, worrying about the possibility that another jackass would bolt and bedevil the system.

And what is this ridiculous convulsion all about?

Here is simply another wholesale mischief brought about directly by the capers of Daniel Ellsberg and his pal, Russo. These jokers from the world of science may stay steadfastly loyal to one another, but they seem not to give a hoot about how much trouble they give others.

To begin, there was a minor tremble at Rand Corporation in Washington where the two had worked after a fashion and the security of which they proceeded to scuttle. A new set of security hardhats was rushed to the scene to lock the stable after the horse was gone.

Then out of California, rumbling was heard all the way to the banks of the Potomac. The security beagles dashed to the seeming breaches in the tumbling walls, thereby to save America from total catastrophe.

Here we have what might be called the capricious compounding of a felony. It is an

utterly senseless way to manage a bureaucracy, this penalizing of thousands of persons and millions of taxpayers, because of the notions of two or more misfits who allegedly betrayed their trust. But that is government for you. What we have is but another horrible example of the ill-conditioned reflex that provided Ellsberg with his lame excuse.

Years ago I knew Ellsberg when he was quiet, soft-spoken and had no hint of that glint in his eye. He was working in the Pentagon studying the nature of international crises and had his own theory to expound. The gist was that what is called an international crisis comes about when two sets of men in power feel their personal positions challenged and likely to become forfeited unless they act boldly or at least stand firm. Out of selfishness, they move ever closer to the collision course. None but a simpleton would reject this idea outright.

That I play with it now is not because I am interested in what makes Ellsberg tick.

'... out of California, rumbling was heard all the way to the banks of the Potomac. The security beagles dashed to the seeming breaches in the tumbling walls, thereby to save America from total catastrophe.'

What made the security managers behave like waterbugs is the question. It is here suggested that they were more concerned about their jobs than with the exercise of common sense and that is the general fault in the system.

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OPEN TO DISCUSSION

What Price Secrecy?

by Lloyd Shearer

WASHINGTON, D.C.

One of the most shocking snafus in the United States Government is its secrecy classification system.

Like some million-footed, multi-webbed fungus, it grows wild, almost always expanding, practically never contracting.

Would you believe, for example, that someone in the Navy Department has been stamping newspaper clippings "Secret"? and that as a result the Defense Department has had to publish a special directive ordering employees not to classify newspapers?

Would you believe that the Air Force Electronics Systems Division issued the following statement for use on selected documents: "Although the material in this publication is unclassified, it is assigned an overall classification of CONFIDENTIAL"?

Would you believe that no one in government knows how many people in this country have the right to classify government documents TOP SECRET, SECRET, or CONFIDENTIAL? One Defense Department estimate given to a House subcommittee on June 29, 1971, is "hundreds of thousands."

20 million secrets

Would you believe that there are, according to the testimony of William G. Florence, a classification expert with 43 years of experience in government, 20 million classified papers currently held by the government of which 99½ percent should not be classified at all?

Or that unnecessary classification is wasting \$50 million of the taxpayers' money each year?

Or that, according to the testimony of Walter Pincus, a former chief consultant to the Symington subcommittee

of the U.S. Senate Foreign Relations Committee, classification is used by the government not only to keep valuable information from the nation's potential enemies but to hide the mistakes of government officials, to prevent documentation of White House errors, and to limit the extent of internal opposition to and criticism of government policy?

Whether one believes it or not, the evidence is sufficient that the Federal government suffers from massive overclassification of information.

There is no penalty for overclassification in this country. The result, in the opinion of some critics, is that a small army of "fearful bird-brains" has grown up who believe in classifying everything—and not without cause. For, as William G. Florence recently testified: "To my knowledge, no one in the Department of Defense was ever disciplined for classifying information, regardless of how much the classification cost for unnecessary security protection or what damage resulted from the restriction against releasing the information to the public. But I have seen how rough a person can be treated for leaving classification markings off of information which he knows to be officially unclassified if someone 'up the line' thinks that a classification should have been applied."

However one feels about Dr. Daniel Ellsberg and his leaking of the once-top secret, still classified Pentagon Papers, the fact is that the disclosure of those papers has made imperative a thorough overhaul of a faulty, outdated classification system.

At this moment, in one branch of the government alone, the Armed Forces, there are 31,048 people who have the

original authority to classify documents.

Of this number, 803 have the authority to classify them "Top Secret" originally.

Another 7687 have the authority to classify them "Secret" originally.

And all have the authority to classify them "Confidential."

From these 31,048 persons emanates a derivative classification authority flowing to countless civilians, assistants, consultants, and others connected or under contract to the Defense Department. No one seems to know exactly how many.

Can declassify, too

In addition to the authority to classify documents, all these 31,048 people have the authority to declassify documents.

"But in most cases," affirms Daniel Z. Henkin, a Defense Department secretary in charge of public affairs, "people are generally too busy to declassify. There are millions of documents still classified 'Top Secret' and 'Secret' which don't belong in that category at all. It is the position of the Secretary of Defense Melvin Laird that as much material as possible be declassified."

History, however, will record Melvin Laird as the Defense Secretary who, from November, 1969, to the end of June, 1971, refused to make available, even on a classified basis, to the U.S. Senate Foreign Relations Committee a single page of the 7000-page-long Pentagon Papers.

At about the time he was publicly espousing declassification, Laird was

continued

President Orders New Declassifications

Special to The New York Times

WASHINGTON, Aug. 12 --

President Nixon has ordered early declassification of secret Government documents on the Korean war, the 1958 intervention by American troops in Lebanon, the abortive invasion of Cuba in 1961 and the Cuban missile crisis of 1962, the White House announced today.

John D. Ehrlichman, assistant to the President for Domestic Affairs, said that Mr. Nixon felt that the four military actions were "of such historical importance" that scholars should not have to wait the customary 25 years before the bulk of the documents were made public.

Mr. Ehrlichman said that the decision to speed the removal of the "secret" classification from the documents had grown out of an interagency study of the Government's security system. The study was ordered in January by the President.

'Classifying Them Better'

In what he termed a "progress report" on the study, Mr. Ehrlichman said that it was aimed at devising a method for "classifying fewer documents in the future, but classifying them better."

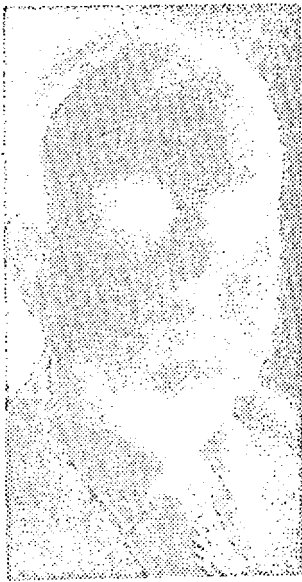
The President feels strongly, Mr. Ehrlichman said, that "Government has a duty to make disclosure of what is going on in the Government." But he asserted that Mr. Nixon's attempt to initiate an "era of negotiation" between the United States and other world powers required that the Government be able to demonstrate its ability to maintain confidentiality.

For that reason, Mr. Ehrlichman said in response to questions at a White House briefing, the Administration sought to block publication of the Pentagon's secret history of the Vietnam war in June. Parts of the study were published by The New York Times, The Washington Post and other newspapers.

He said it was unquestionable that "probably the large majority" of the Pentagon papers were "needlessly" held under restriction at the time of their disclosure in the newspapers.

Effect on Negotiations

But, he went on, the "massive compromise" of the Vietnam documents by the newspapers "demonstrably has raised questions in the minds of those



The New York Times
John D. Ehrlichman

whom we will be negotiating or have been in the past" as to whether the United States security system is effective.

Mr. Ehrlichman declined to relate the Administration's concern about the disclosure of the Pentagon papers to President Nixon's diplomatic initiative toward China.

The White House asked Congress last week to authorize a \$336,000 expenditure this year to begin a five-year process of declassifying some 160 million pages of documents on World War II that are still secret. The entire effort is expected to cost \$6-million.

Declassification of the documents on the Korean war and the Lebanon and Cuba actions would require additional funds, but the amount was not revealed today. This effort also will require a longer period of time and could take considerably more than five years, officials said.

Mr. Ehrlichman said that it also was possible that Government secrets related to other international incidents would be given the same accelerated declassification. The list is "open-ended as of now," he said, but he did not identify other possible subjects for early release.

Criteria Outlined

According to Mr. Ehrlichman, the study group, which is headed by William H. Rehnquist, an Assistant Attorney General, had tentatively established some criteria to follow. He mentioned the following

There should be new rules that individuals who have a specific security clearance, such as "top secret," would have access to documents only on a strict "need-to-know" basis.

New restrictions would be developed to curtail individuals' rights to duplicate classified matter or to disseminate it.

Secret documents should be released automatically after a specified period of time unless their publication would "jeopardize current intelligence sources," imperil relations with other governments or "needlessly embarrass individuals" in other nations.

As a general rule, the study group is tending toward reversing the established practice of keeping documents secret unless it can be demonstrated they are no longer sensitive, Mr. Ehrlichman said.

"The President believes past practice has resulted in classification of a number of documents that need not have been classified" for national security reasons, he added.

Restricted Circulation

At the same time, he emphasized that Mr. Nixon had followed a "set of principles" in his personal dealing with diplomatic and domestic issues that included highly restricted circulation of documents and extremely limited sharing of information with staff members.

The "cornerstone of an era of negotiations" is confidentiality, Mr. Ehrlichman stated.

"You people do and should dig for every piece of information you can get," he told the journalists at the White House. But he said reporters could publish information "innocently" that might have a bearing on events that the journalists were not aware of and could thus "create a climate of doubt" about Government confidentiality.

Mr. Ehrlichman was asked if the Government's unsuccessful court actions to stop newspaper publication of the Pentagon study were undertaken to demonstrate to other nations the good faith of the Nixon Administration.

"Yes," he replied.

A Federal grand jury in Boston has been examining the disclosure of the Pentagon papers and considering whether some reporters might be liable to prosecution. Mr. Ehrlichman was asked if the Government had established in light of his

comments about reporters "innocently" gathering news, whether the journalists who participated in the Pentagon disclosures were innocent.

He said he could not comment because the matter might be subject to litigation. The question was put by a representative of one of the newspapers involved, and Mr. Ehrlichman told him:

"Deep in the questioner's heart must lie the answer to that question."

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Nixon Moves To Protect U.S. Secrets

By Don Oberdorfer
Washington Post Staff Writer

President Nixon is tightening government control of current secrets in the diplomatic and military fields, while moving to release some still-classified papers from the Korean War, the 1958 Lebanon landing and the 1961-62 Cuban crises.

Presidential Assistant John D. Ehrlichman, in an interim report on a high-level study of government secrecy, said new rules will further restrict the distribution and duplication of classified documents in an effort to prevent leaks.

Among the reasons for tightening up, Ehrlichman indicated, are recent newspaper disclosures of Vietnam war secrets from the Pentagon papers and the government's unsuccessful attempt to stop their publication through legal action.

Ehrlichman said the "massive compromise" of secrets in the Pentagon papers had raised questions in the minds of foreign governments who are to participate in future negotiations with the United States.

He said Mr. Nixon is determined to safeguard the confidentiality of diplomatic talks and asserted that confidentiality is "a cornerstone of an era of negotiation."

At the same time, Ehrlichman reported, Mr. Nixon has asked government archivists to speed the process of declassifying historical papers. Last week the President asked Congress for \$636,000 to begin a five-year job of declassifying World War II secrets, and Ehrlichman said this request will be expanded to cover secrets of the Korean War, the Lebanon landing during the Eisenhower administration and the Cuban invasion and missile crisis of the Kennedy administration.

The historical documents will be released if they do not jeopardize current intelligence sources, imperil United States relations with other govern-

ments or cause needless embarrassment to foreign citizens, he said.

Ehrlichman would not say when the historical documents might be released, nor would he say whether some Vietnam war papers of earlier years would be declassified as part of the new policy.

Under previous policies, too many people had the right to classify documents and there was no workable system for review of their decisions to stamp them secret, the White House aide said. The new system now evolving will seek to insure automatic declassification of some documents after a period of years unless there is a showing that they should remain secret. As of now, the burden is on those who wish to remove the secrecy labels from historical documents—and this should be reversed, Ehrlichman said.

He added that the "general approach" of Mr. Nixon is that "the government has a duty to make disclosure of what is going on in the government except in those cases where disclosure would be inimical to the national security or the conduct of foreign policy."

On Jan. 15, Mr. Nixon ordered a study of government procedures for classifying documents. On June 30, shortly after the first of the Pentagon papers disclosures, he ordered government agencies to reduce the number of officials allowed access to secrets, and he ordered a "drastic" reduction in the holdings of highly secret papers outside the government.

Recent visitors to the White House have quoted Mr. Nixon as saying the publication of the Pentagon papers seemed for a time to jeopardize Henry A. Kissinger's secret trip to China. Mr. Nixon left the impression with some visitors that the Chinese had expressed concern about publication of the Pentagon papers — but White House officials have said this worry about confidentiality existed in Washington rather than in Peking.

Ehrlichman would not say yesterday whether the Peking regime was among the governments concerned about the Pentagon papers disclosures, nor would he comment on the conflicting reports regarding the Peking attitude.

The Nixon administration's action in seeking court orders to keep The New York Times

from publishing Pentagon papers data was related to the President's emphasis on the secrecy of diplomatic talks, Ehrlichman said.

The Supreme Court's refusal to stop the newspapers' publication of the document, he said, had given new impetus to a more discriminating yet more effective security system. It is evident from the decision that the government will be able to stop publication through the courts "only in the rarest of cases and only under the heaviest burden of proof on the part of the government," he added.

According to Ehrlichman, Mr. Nixon has ordered that current information on diplomatic negotiations be held very closely within the government. It is available only to principal officers on a "need to know" basis, with staff access extremely limited, he said.

The White House aide added that Mr. Nixon has followed the same practice of "extremely limited sharing of information" in some domestic matters, citing the recent presidential meeting management and labor negotiators in the steel industry as a case in point.

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6 Aug 1971

Approved For Release 2006/01/03 : CIA-RDP80-01601R000400040001-6

The CIA foiled again

American Intelligence faked a broadcast in Prince Sihanouk's voice in its latest attempt to regain influence in Cambodia: T. D. ALLMAN reports from Phnom Penh on the dangerous rivalry between the CIA and the American State and Defence Departments.

WHILE the armies of Phnom Penh and Saigon fight the forces of Hanoi for control of Cambodia, another war is being fought for the same territory by another set of allies against another infiltrator from the north. The other co-belligerents are the American Departments of State and Defence — like Cambodia and South Vietnam, hardly natural allies. The invader that has brought them together, to use President Nixon's phrase, is the Central Intelligence Agency.

The CIA, like the North Vietnamese, were supposed to have been deprived of their Cambodian enclaves last year, about the time of the US-South Vietnamese invasion, when the White House ordered that the post-invasion US rôle in Cambodia be as above-board as possible. Both criteria seemed to rule out the CIA, but both the North Vietnamese and the CIA keep trying to encroach on Cambodia from their secret outposts in southern Laos.

Whereas Hanoi's South Laotian base is known as the Ho Chi Minh Trail, the CIA's is called the "Annex." It is a white, multistoreyed building in the Laotian Mekong river town of Pakse. The building looks like every other building in Pakse — except that it has no windows, is covered with antennae instead of tropical vines, and can be entered only by playing the right combination on an electronic keyboard lock.

The CIA's latest Cambodian incursion recently was limited by an enterprising, Phnom Penh-based American correspondent named Boris Baczynskyj, who discovered nothing less than a CIA plot to synthesise Prince Norodom Sihanouk's inimitably squeaky voice, and broadcast it over the border into Cambodia. The venture was not only an attempt to discredit the Prince by putting embarrassing words into his mouth, but also a plot to win

a few Cambodian hearts and minds from the State and Defence departments.

Unfortunately for the CIA, Baczynskyj, a Khmer-speaking ex-Peace Corps Volunteer, noticed a considerable difference in the words of Sihanouk as beamed over Radio Peking, and the statements attributed to him by the Phnom Penh Government. After months of checking, he verified the existence of the clandestine Pakse Radio, and established the identity of its operators.

Unsuccessful

Baczynskyj's discovery, however, was more than a journalistic coup. It revealed the latest in a series of failed CIA attempts to maintain cover for its Cambodian operations, which are bitterly resented by the foreign service and military officers who predominate here. The agency, in fact, has been trying rather unsuccessfully to regain a piece of the Cambodian action ever since 1963, when Prince Sihanouk sent the US aid mission packing, which had served as the agency's main Cambodian cover.

The Green Beret scandal in Vietnam, for example, grew out of a CIA order to eliminate with extreme prejudice one of its Cambodian operatives. The agency also supported anti-Sihanouk insurgents, even when the State Department was trying for a Cambodian rapprochement in the late 1960s.

Several times burned, the State Department, when it resumed diplomatic relations with Cambodia in 1969, tried to make sure there would be no CIA agents in the embassy woodpile. Even now, ostensibly, there is no CIA component at all in the 100-man US mission in Phnom Penh.

Never daunted, the CIA has kept up its efforts to develop its own Cambodian infiltration routes. Early last

ing to stay out of the Cambodian political crisis, the Agency, unbeknown to the diplomats, relayed promises of support to the anti-Sihanouk faction. And as soon as the Cambodian war broke out, Agency-run teams of Laotian mercenaries began ranging down into Cambodia on "intelligence patrols," which the Pakse station hoped would be the landing parties for a whole CIA-run Clandestine Army in Cambodia.

The American sibling rivalry, which might otherwise be as amusing as a nineteenth-century broohaha between Whitehall and Simla over jurisdiction of some Indian Ocean atoll, already is producing some unedifying complications.

Complications

The CIA's Pakse operations — which for all their ingenuity so far have failed to keep the Communists from taking over most of South Laos — are flagrant violations of Laotian neutrality. And neither Laos's premier, Prince Souvanna Phouma, who is a northerner, nor the US Embassy in faraway Vientiane, seem able to curb the Pakse operation.

Here in Cambodia, where the US embassy has become the nexus of Cambodian political power, the American infighting has already produced some domestic political complications — notably affecting the much publicised rivalry between Premier-delegate Sisowath Sirik Matak and Marshal Lon Nol's young and ambitious brother, Lon Non. The embassy likes Sirik Matak, and hardly bothers to veil its distaste for Lon Non.

With Sirik Matak, who has shunned CIA contacts, emerging as the embassy's man, and Lon Non emerging as the CIA protégé, the American squabble seems to contain seeds potentially as disastrous as those that disrupted Laos a decade ago. At that time, the CIA so disliked the State Department's candidate for premier of Laos that it sent its own Laotian army marching north to drive him out of Vientiane.

Several times routed in its efforts to infiltrate Cambodia, the CIA, like Hanoi, may decide on a strategy of letting dissension spring up among its adversaries. The State

Department wants to keep the Cambodian operation lean, clean, and honest. The Defence Department keeps pushing for a big in-country US military establishment.

"You might say we're caught in the middle," said one foreign service officer recently, empathising with the Cambodians who are similarly caught between North and South Vietnam.

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DOVISH NEDZI'S NEW JOB

Overseer to Lift CIA's Lid

By ORR KELLY
Star Staff Writer.

Shortly after Congress returns from its August recess, five congressmen will turn off the George Washington Memorial Parkway at an unmarked exit, swing back across the parkway on than overpass and suddenly emerge into a spacious, tree-dotted parking lot surrounding a gleaming white building.

Only after they have parked and entered the building will they see their first solid evidence — inlaid into the floor in a giant seal — that this is the headquarters of the Central Intelligence Agency.

Heading the little group of congressmen will be Rep. Lucien Norbert Nedzi, a 46-year-old Democrat who has represented the eastern portion of Detroit since 1952, and who has just been named — to the surprise of many — as the chairman of the House Armed Services Committee's subcommittee on central intelligence.

Nedzi's record has not been the kind that would, on the surface, endear him to the more senior — and generally more conservative — members of the committee. He co-sponsored an end-the-war amendment in the House, has opposed the B1 bomber and the Safeguard missile defense system, and is one of a tiny group of rebels on the 41-man committee known as the Fearless Five.

Why did Rep. F. Edward Herbert, a Democrat from Louisiana, choose Nedzi for one of the most important subcommittee assignments — a post traditionally held by the chairman himself?

Nedzi Explains Choice

"The chairman was generally interested in having a review of this area," Nedzi explained in an interview. "My experience with him has been excellent — we understand each other. I know where he stands, and he knows where I stand. I have never deceived him and he has never reflected deception to me."

"He feels that we need to call a spade a spade and he feels I'll do just that."

Nedzi comes to his new assignment — which will cover all intelligence agencies, not just the CIA — with few preconceptions and, in fact, very little edge of the field.

"The senior members were on the Central Intelligence subcommittee and we were not privy to their deliberations. We had absolutely no information on the budgets of the agencies or what they were up to. Periodically, we got intelligence reports," Nedzi said.

The five-man subcommittee was, in the past, made up of the chairmen of the full committee and the two senior members from each party. The senior members serving with Nedzi will be Reps. Melvin Price, D-Ill., O. C. Fisher, D-Tex., William G. Bray, R-Ind., and Alvin E. O'Konski, R-Wis.

Nedzi had some brief exposure to the intelligence field when he served on a special subcommittee looking into the capture of the U.S.S. Pueblo by the North Koreans.

Has Met Helms

He has met Richard Helms, director of Central Intelligence, on several occasions when Helms has appeared before the committee and he thinks highly of him. But Nedzi has never visited the CIA, has never called on the CIA for a special intelligence briefing, and does not know Lt. Gen. Donald V. Bennett, director of the Defense Intelligence Agency, or Vice Adm. Noel Gayler, director of the super-secret National Security Agency.

The only time a top intelligence official has appeared in an open hearing in the last decade, was on June 2, 1961 when Helms, then No. 2 man in the CIA, testified before a Senate Judiciary subcommittee. Normally, Helms and other CIA officials not only testify in closed hearings but their names and the name of their agency are deleted before a transcript on the hearing is made public.

Sets Priorities

Despite his lack of experience in the area, Nedzi has a pretty good idea of the areas he would like to explore and he listed them this way:

1— Is there too much overlapping of functions among the CIA and the State and Defense Department intelligence operations?

2 — Are the budgets the proper size — and does all the information get to the man who needs it when he needs it?

3 — Are individual rights being protected? Nedzi is aware that military intelligence people have been told to cut out their domestic intelligence activities, but he wants to make sure the new rules are being obeyed.

4— Is it proper for the CIA to manage operations such as those in Laos?

"There is a question of whether we should be involved in such operations and the further questions of whether this agency is the proper one to do it," Nedzi said.

5— Should the whole system of security classification be revised?

"That this is a difficult area, I realize," Nedzi said, "and I'm not sure we're going to be able to come up with a Solomon-like decision."

6— How are the national intelligence estimates arrived at? What really is the basis for arriving at decisions?

Since his selection for the new job announced earlier this week, Nedzi said, his phone has been constantly busy with callers volunteering information about U.S. intelligence operations.

"We will give them an appropriate audience," he said. "We are hearing from people with all sorts of axes to grind. We'll screen them all for substance, but no one is preemptorily dismissed."

STAT

4 AUG 1971

Letters to the Editor

Otepka Replies to Rowan

SIR: In the interest of fairness and accuracy, I respectfully request that you publish the following in order to correct statements made about me by Carl T. Rowan in his column of July 25.

Mr. Rowan said: "Otepka was fired by the State Department for leaking secret documents to senators known to share his right-wing sentiments."

The fact is that I have never been fired, dismissed or discharged by the State Department for any reason whatsoever. I entered on duty in the Subversive Activities Control Board on June 30, 1969, by transfer from the State Department without any break in service. My position at the time of my transfer from the department was management analyst. I originally entered the government service in 1936.

I did not leak, slip, or otherwise slyly or secretly convey any documents to any senator and I was not charged by the department with any such offense.

Along with other State Department personnel I was formally requested to appear before the Senate Internal Security subcommittee and asked to testify under oath concerning security procedures. After I was duly informed that the testimony of my superiors was in material conflict with mine and in derogation of my performance, I provided the subcommittee with two, and only two, so-called classified documents to support my testimony.

I was never a volunteer witness before any congressional committee but testified at all times on written request and with the knowledge and permission of my superiors.

In common with certain other journalists when writing about me, Mr. Rowan consistently omits from his columns the fact that my testimony proved that my superiors lied under oath. Because of their false testimony one superior was required to resign and another was reassigned to other duties. One subordinate was also required to resign because of his false statements. It was not I who was dismissed but those who did not tell the truth.

Mr. Rowan also wrote: "The Senate has yet to confirm Otepka, who is a sort of Daniel Ellsberg in reverse."

There isn't the slightest resemblance of my actions to those of Mr. Ellsberg. I did not furnish any classified document to any newspaper nor did I make any classified information public. As a government official, I appeared in a closed session of the Senate Internal Security subcommittee, an authorized functionary of the United States government, and provided relevant documents on its request while testifying under oath.

I am proud that I fulfilled my sworn obligation to United States government authorities by availing myself of the opportunity given me to testify before Congress. I am equally proud, as is my family, that I resisted the State Department's attempts to dismiss me because of my testimony. In the process I was compelled to endure five years of isolation in a tiny room during which all sorts of unbelievable tactics were used to thwart my determined appeals to obtain justice through the administrative procedures of that government agency. I refused all inducements to resign.

My personal life has been influenced by my family in a philosophy which is now rejected by many modern philosophers. It is in the tradition of the ancient Greeks who said "He who so loves truth will not care to return evil for evil; he will think it better to suffer injustice than to do it; he will go forth by sea and land to seek after men who are incorruptible, whose acquaintance is beyond price."

Otto F. Otepka,
Member,
Subversive Activities Control Board.

* * * *

STAT

E - 10,062
 AUG 2 1971

A Conflict Of National Interest

Although we usually view the political and social scene from a different viewpoint, we find ourselves in accord with Columnist Marianne Means in the belief that 110 people are a lot of individuals to keep a secret.

We believe a lot of others would agree--especially if it were explained that the 110 were all members of congress.

The reference is to the Columnist's piece on the proposal that the Central Intelligence Agency be required to give routine briefings of its activities to the Armed Services and Foreign Relations committees of the House and Senate.

The proposal has been made by the Hon. Sherman Cooper of Kentucky, fourth ranking Republican on the Senate Foreign Relations Committee whose chairman is the Hon. J. William Fulbright, Democrat of Arkansas.

At the present time the CIA is required to give such reports only to five subcommittees of the two houses, these including only the senior members of the four standing committees.

Quite naturally the heads of CIA (to say nothing of the boys down in the field) are quaking in their boots at the thought of 110 members of congress being made privy to their activities and this is not strange for if there was one fact on which there was any general agreement in the recent Pentagon Papers hassle it was that Washington, D.C., was about the loosest place in the world when considered from the secrecy-security viewpoint.

One can easily imagine the confusion that would exist as 110 members of congress rushed from the multi-exits of the State Department to the taxi stations in an effort to be the first to hold a press conference after receiving something hot like the CIA employment of the Indochina mountain people to locate Chinese launch sites.

We would venture the guess that CIA might as well close up shop if required to give an overview of its activities to

110 members of congress, considering also the fact that most of them would have a husband and - or wife.

CIA not only has the difficult problem of furnishing information and intelligence to the President, but it frequently appears that it faces the task of justifying its existence and activities to a large portion of the 435 members of congress. It is rather difficult to accomplish such a mission when such activities are supposed to be known only within the organization.

To its other difficulties, Central Intelligence has the problem of recruiting personnel--commonly known as agents--and this is about as difficult as recruiting for the famous 82nd Airborne, even when the advertisement promises a five-day week, no k.p., and short orders in the mess halls at all hours, including a dish of foam.

Perhaps we have seen too much of Mission Impossible and the electric wizardry of Barney and Jim, but the avid followers of this series should remember that the "Secretary will deny any knowledge" if any of the team gets caught with a hand in the cookie jar.

This is the sort of decision which members of congress are required to make--and incidentally for which they are paid \$47,500 per annum, plus fringe benefits. We have become big boys now and face the necessity of making disagreeable decisions, of which this kind of business is one.

The member of congress is responsible for the actions of the government. Equally as important, he or she is responsible for the disbursement of public funds. To this is added the responsibility for national defense, including methods.

The natural conflict ought to be apparent to all, just as is the conflict within the mind of the President. Consequently we find it necessary to ask ourselves if the system can operate, but,

PHOENIX, ARIZ.
REPUBLIC

JUL 29 1971

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S - 252,975

Columnist's viewpoint called 'simple-minded'

Tom Braden's July 20 column criticizes U.S. Supreme Court Chief Justice Warren Burger as being simple-minded for stating, in his dissent on the Pentagon Papers, that it is the duty of every citizen -- "taxi drivers, justices, and the New York Times, to report stolen property to the proper authorities." Braden then went on to relate two stories which illustrated his own simple-mindedness, rather than that of Chief Justice Burger.

One story told of FBI Director J. Edgar Hoover releasing a copy of a memo-

randum from Gen. William Donovan to President Roosevelt to the Chicago Tribune. The second story said that President Nixon just recently leaked a CIA memorandum to the New York Times.

Braden then asks if "it is the duty of every citizen to report stolen property, doesn't this duty extend to J. Edgar Hoover," and, by implication, to President Nixon?

The obvious difference in these cases is this: The memoranda which President Nixon and FBI Director Hoover passed on to the press reached them through the normal conduct of their duties as officers of the United States government. They were not stolen. Daniel Ellsberg admits having filched the Pentagon documents.

Even liberal columnist Tom Braden should be able to understand the difference.

Keeping secrets

One certain result of the furore over the Pentagon Papers is that far fewer people are to be allowed to see secret government documents. The first blow fell, predictably, on the Rand Corporation, the defence "think-tank" which once employed Dr Daniel Ellsberg through whom 47 volumes of top secrets reached the press. The Secretary of Defence has stationed air force personnel in Rand's offices and they have taken physical possession of the secret documents which Rand has held. These documents are being examined to see which are really needed for Rand's work for the government; in future the corporation's access to government secrets will not be automatic, but will have to be justified in each case.

More broadly, President Nixon has demanded from every department and agency a list of the people who have access to top secret documents, with particular emphasis on consultants outside the government. At present such clearances are granted by individual departments, which may well not know how many are outstanding; the total runs into thousands, perhaps hundreds of thousands. In future clearances will be much fewer and centrally controlled. There is also to be a review of outside individuals and organisations which hold so-called classified materials.

Apart from Mr Dean Acheson not many people are urging publicly that America follow Britain's example and pass a stiff Official Secrets Act. But prosecution for publishing official secrets is another matter. A grand jury, meeting in great secrecy in Boston, is considering the evidence. The Justice Department maintains, with good cause, that nothing in the Supreme Court's dismissal of the case against the *New York Times* bars prosecution where the law has been broken. In fact, four Justices of the Court went out of their way to point out this remedy and the deterrent effect that it could have on future offenders.

But, as Justices White and Stewart also pointed out tartly, the government will not only have to take more care in

the future to guard its secrets, but will also have to cease befogging the issue by a passion for secrecy for its own sake. Finding a real secret is like looking for a needle in the vast haystack of documents stamped confidential, secret or top secret--the origin of the mystifying term "classified material." Mr William Macomber, Deputy Under Secretary of State for Administration, told Congress last week that the State Department classifies 200,000 documents every year, while a retired security expert, once at the Pentagon, said that the Department of Defence's files were clogged with classified documents; many Pentagon officials think that "information is born classified."

Most people agree that some effective system of review and declassification has got to be worked out. In January Mr Nixon ordered (confidentially, of course) a start to be made. This leisurely study will have to be speeded up. Otherwise Congress (which only received its two copies of the Pentagon Papers after most of their contents had appeared in the newspapers) may take things into its own hands.

NEW YORK TIMES
8 JUL 1971

Air Force to Supervise Rand's Papers

Special to The New York Times

WASHINGTON, July 21--The Air Force disclosed today that the Rand Corporation has custody of more than 170,000 confidential documents.

The Air Force Secretary, Robert C. Seamans Jr., said in a memorandum that custody of the documents as they are inventoried would be transferred to the Air Force, which contracts for Rand's services.

Mr. Seamans' memorandum, which was received at the Pentagon July 18, replied to a directive issued July 1 by Defense Secretary Melvin R. Laird. Mr. Laird called for fighter security at Rand after discovery by the Pentagon of "deficiencies" in the research corporation's protection of secret information.

Mr. Seamans said that detailed inspections of Rand's facilities revealed "some deficiencies" in the Washington office, but he did not specify what they were.

A Pentagon source said that security "deficiencies" could range from loss of documents to writing down safe combinations, which are supposed to be memorized, in visible places.

Mr. Seamans said prelim-

inary findings in terms of "deficiencies" at Rand's Santa Monica office, by far the larger of its two installations, were not yet available.

About 153,000 classified documents are kept at Santa Monica, he said. The remaining documents--59 of them classified top secret and 15,000 secret--are at the Washington office.

Central Deposit Required

Among the security reforms called for by Mr. Seamans is the placement of all top-secret and most special-access documents in one central repository with an adjacent reading room.

The Washington office already has such a system, but Santa Monica has several repositories and employees with security clearance have reportedly been permitted to remove documents to their offices.

Under Mr. Seamans' security reforms, Rand personnel are

no longer permitted to remove top-secret or special-access documents to individual offices or safes.

He said while the Air Force will be accountable for all secret material, contractors such as Rand will be authorized to store and have unlimited access to the documents for "limited periods."

The major day-to-day result of the reforms will be the presence of an Air Force officer--instead of a Rand official--in the central reading and storage rooms at each installation, Mr. Seamans said.

When Mr. Laird issued his directive July 1, a spokesman for Rand said it "is not going to affect our ongoing work--we will have direct supervision rather than indirect supervision."

The security reforms are a result of an investigation made after publication in The New York Times of the Pentagon papers.

WASHINGTON POST
22 JUL 1971



STAT

Rand Has More Than 170,000 Classified Documents on Hand

An Air Force inventory of all highly classified documents held by the Rand Corp.—the “think-tank” that has been implicated in the leak of the secret Pentagon study on the Vietnam war—reveals that the firm has more than 170,000 documents classified either secret or top secret.

Most of these are held at the firm’s Santa Monica, Calif., office. Dr. Daniel Ellsberg—who has admitted leaking the papers to the press—was employed at Rand from 1959 to 1964 and again from 1967 to 1970.

Rand at Santa Monica, according to the Air Force, has 5,000 top secret and “special access” documents, and 153,000 secret documents, and custody. At the firm’s Washington, D.C., office, there are another 59 top secret and 15,000 secret volumes of classified material.

In July 15 memorandum to Defense Secretary Melvin R. Laird, which was released yesterday by the Pentagon, Air Force Secretary Robert C. Seamans confirmed that the Air Force investigation of Rand had turned up “some deficiencies” in handling classified documents at the Washington office.

The investigation of the Santa Monica headquarters was not yet completed, Sea-

mans said. Seamans said that all classified documents held by the firm are being transferred to Air Force custody as they are inventoried. The documents will remain at Rand, but henceforth the corps of scientists and strategists who work there will not be allowed to take top secret and special material out of special Air Force-administered reading rooms.

Seamans also said Rand’s “need-to-know” status was being reviewed, which means that a study will be conducted to make sure that only material necessary to Rand’s specific work will be made available.

Privately, Air Force officials

said the crackdown would no doubt have a depressing effect on the work atmosphere at Rand, which has played a major role in several key weapon systems developments.

The tightening up on security, which was ordered by Laird July 2, may also spill over into two other Air Force think tanks — Aerospace Corp. and Mitre Corp. — when the Rand investigation is completed.

The Making of a Myth

By ALLAN W. CAMERON

MEDFORD, Mass.—In its Pentagon disclosures the press has fallen into the same trap as those who overclassified the study in the first place. Because of its secrecy, the press has treated the study as if it contained astounding revelations, and has conveyed that view to the public. This obscures the simple fact that the Pentagon Papers provide minimal new information and raise more questions than are answered.

Really new information is confined to the extent and timing of "black" (covert) operations against North Vietnam, operations whose military significance was less than their psychological impact on policy-makers.

The result is that the public has been presented a distorted and fundamentally inaccurate picture both of the Pentagon study and of its lessons. The total impact is more myth than history. For this there are a number of reasons.

○The study concept itself was flawed. It was based primarily on materials authored by, or in the files of, "third level" policy-makers (the assistant secretary level) in the Departments of State and Defense, primarily the latter. There was no access to the files of the President and his immediate advisers, no opportunity to supplement files by interviews.

○Documents alone are an inadequate indicator of decision-making, all the more so when they are taken out of context and represent only a small proportion of the total. Moreover, in the Johnson Administration much key work was personal and informal (the "Thursday Group," for example) and the President himself relied heavily on verbal communication and the telephone. As a historical tool, documents are a poor guide to process (as opposed to event). I doubt that examination of the daily memorandum file of, say, one of The New York Times' editors would be a very good indication of the decision-making process which led to publication of the Pentagon study series.

○By all accounts the Pentagon study itself is incomplete, disorganized, sometimes contradictory and biased.

○There is little indication from press accounts that the authors of the study (or the press itself) attempted to put the documents into proper historical context. Key external events are missing. For instance, in the 1964-1965 period there is no mention of the rapprochement between North Vietnam and the Soviet Union in February 1964, of the ouster of Khrushchev in October, of the presence of Kosygin in Hanoi in early 1965.

○There is no indication that the Pentagon study made adequate use of available historical sources, domestic and foreign. A French study on the Geneva Conference, published in 1960 and apparently based on access to French diplomatic archives, is far more complete than the Pentagon account appears to be. The British, in 1965, released a quantity of diplomatic documentation (with little public outcry) which is essential to an understanding of events.

○Whatever the intrinsic value of the study, the press has not been given a complete version.

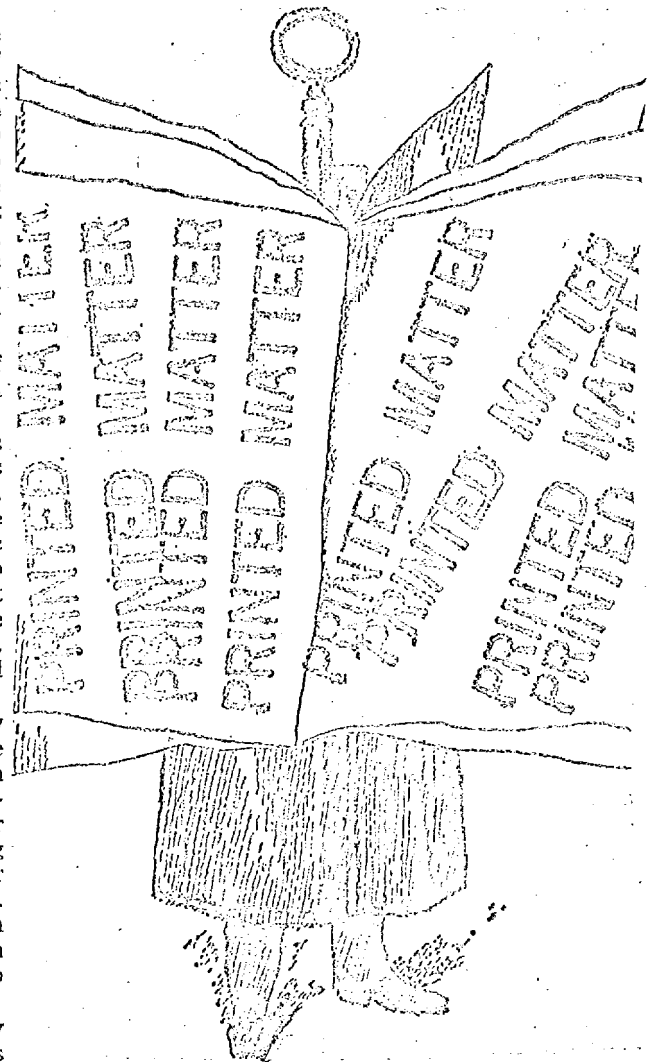
○The press reporting of the portions of the study available is in some cases obviously biased or just poorly done. Aggressive exercise of "freedom of the press" has tended to overwhelm the responsibility that freedom *ipso facto* requires. Too many reporters have lost sight of the admitted fact that the source is inadequate and incomplete. They have written not for balance and understanding but for headlines.

What conclusions? Perhaps the study itself, and certainly much of the reportage, appears governed by an acute case of *post hoc* fallacy, confusion of cause and effect. Neither provides a sound basis for sweeping generalizations about the adequacy or honesty of the policy-making process. It is commonly observed that one can prove any point with quotations from Lenin; the same may well apply to the Pentagon Papers.

The historical value of the study can be established only when it is made available in its entirety and examined in conjunction with a mass of other material. To date, despite the sensationalism and the almost voyeuristic thrill at seeing top-secret documents in print, we have learned little more than that planners plan for multiple contingencies, decision-makers make decisions (although sometimes reluctantly), and there is considerable debate in the course of both functions.

We cannot adequately evaluate decision-making and write proper history without knowing the context, the forces, and the choices which impacted the decision-makers. The Pentagon Papers do not provide this, nor does the reportage which has accompanied their partial revelation. The breeding of myth does not serve a constructive purpose. The Government needs to put the policy record "on the record" through presentation of a white paper on Vietnam comparable to the famous China White Paper of 1949 or the Yalta documents published in 1955.

and assistant professor of international politics, Fletcher School of Law and Diplomacy, Tufts.



PORTLAND, ORE.
OREGON JOURNAL

E - 139,332

JUL 19 1971

A Question Of Integrity

Dr. Daniel Ellsberg, who has admitted leaking the Pentagon Papers to the New York Times, is a hero to many persons who think that almost any step is justified to end the Vietnam War. But is he really a hero?

In handing out the papers, Dr. Ellsberg broke the promise he made to his employers to keep them secret, and he betrayed people who trusted him. There are a lot of words in the language to describe people who act like that, and depending on the circumstances they range from "fiuk" to "traitor."

Dr. Ellsberg, of course, has convinced himself that he acted for a higher good. Whether he really did, or whether any of those nasty words applies to him, can't be judged until all the consequences are known, and that will take a long time.

But there can't be much doubt that this would be a different, and a poorer, world if everyone made a practice of breaking promises and pledges as Dr. Ellsberg did.

Ironically, a good example of how we depend on mutual trust and integrity is provided by the latest issue of "Times Talk," the employe magazine of the Pentagon Paper-publishing New York Times. Its lead article proudly describes how the Times' series of articles on the papers was put together in two and a half months of cloak-and-dagger secrecy, by about 75 Times peo-

ple all sworn to keep their mouths shut in order to protect the Times' scoop.

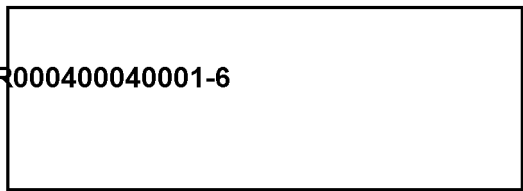
Most of the writing was done in guarded rooms -- eventually, nine of them -- which the Times rented under a cover name in the New York Hilton Hotel. To maintain security for the printing end of the job, the article says, an office in the book and educational division of the Times was made over into a special print shop, complete with six Teletypewriter perforators, a galley press, a metal saw, other printing equipment and -- shades of the CIA -- a paper shredder to destroy extra proofs. Fifty to 60 printers worked in the room in round-the-clock relays and, says the Times' magazine, "Each man had been told that his was an immensely secret project. If he agreed to work on it he must agree not to talk about it."

As the world now knows, the Times was able to break its scoop without its competition catching on to it. It was a newspaper coup, and its success depended on the ability of some 75 Times employes to keep a secret with which their employers had entrusted them.

But what would have been said about one of those workers if he had broken his pledge and gone whispering what he knew, if not to the FBI then to Time magazine or the Washington Post? Why, they would have called him a traitor to the Times.

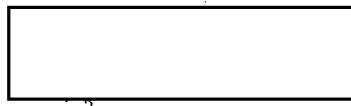
So what is Dr. Ellsberg?

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How the Pentagon papers battle shielded Nixon plan for China trip

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"Pentagon papers 'delay also saved CIA agents' lives, helped allied regimes, safeguarded key emissaries."

By J. F. TER HORST
Chief of Our Washington Bureau
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WASHINGTON -- One prime reason why the government went into court to try to stop publication of the Pentagon papers was a fear that certain disclosures might wreck the secret planning then under way for President Nixon's anticipated trip to Communist China.

In going to court, the government's top lawyers believe they also saved the lives of several Americans, headed off some grave security leaks and preserved the machinery of some of today's most delicate and secret peace moves involving many countries of the East and West.

The Washington-Peking thaw is one of them. Mr. Nixon, it can be said on high authority, shares this view.

So even though the Supreme Court ruled, 6-3, that the New York Times and Washington Post could resume printing material from the top-secret Pentagon study of U.S. involvement in Indochina, the government feels it won more than it lost.

Two factors are vital in the government's reasoning.

One was the two-week period, June 15 to July 1, during which the administration's court tactics kept the Times, Post and some other newspapers from publishing the documents.

The second factor, now in the Supreme Court's vault, is a single-spaced typewritten list of "10 items" contained in the Pentagon study. The government contends these items would cause "grave international consequences" if disclosed at any time.

These two elements—the two-week time span and the 10-item list—are interlocking.

Together they constitute the heart of the government's contention that it went into court, not to prevent embarrassment to previous administrations or to thwart the First Amendment, but to head off "irreparable injury" to the global security of the United States.

(Daniel Ellsberg, the former Pentagon staffer and Rand Corp. employe, has said repeatedly that he was the conduit to the New York Times, the Post and other newspapers.)

As proof of the government's success in this respect, the official cited the nature of stories in the Times and Post after the Supreme Court gave them permission to resume publication of the Pentagon papers.

"They haven't surfaced any of the ultra sensitive stuff on the 10-item list," he said.

What the government feels it gained from its lawsuits, in spite of the Supreme Court verdict:

• The two-week injunction period gave the Central Intelligence Agency (CIA) sufficient time to "extract" key agents from dangerous assignments abroad.

These agents "almost certainly would have been killed," one source said, had several Pentagon documents been printed or described in detail.

"By going into court we gained enough time to get them the hell out," he said.

Removal of these agents—six in particular—appears to have been accomplished "without blowing anybody's cover," to use the phrase of one intelligence official. In other words, the agents may be able to resume their assignments later, without tipping off unfriendly governments.

The lawsuits gave the government an opportunity, beneath the formal umbrella of the federal courts, to use in-chambers sessions to acquaint the judges and Times and Post editors with the highly sensitive nature of some portions of the 47-volume Pentagon study.

"It might have appeared to be only ancient history to some people," one knowledgeable official said, "but to us and other governments affected, it was an acute and current matter of highest priority. Disclosure certainly would have disrupted relations with many coun-

tries, especially behind the Iron and Bamboo curtains."

In other words, since the newspapers involved had not availed themselves of the government's declassifying process for the Pentagon papers, the government used the courts as a mechanism to "get the message across."

U.S. Attorney Whitney North Seymour first submitted a 22-page "special appendix" before the federal Appellate Court in New York in the New York Times case, citing items in the Pentagon study which the government believed would cause grave national danger if disclosed. When the case moved to the Supreme Court, Solicitor General Irwin H. Griswold summarized these matters in his 10-item list given to the justices in a sealed envelope for in-chambers perusal.

What the government believes it has been successful in preventing is the publication of details of certain Pentagon papers on that list, obtained by this reporter. The contents are summarized here only in general terms so as not to violate security.

The News has been assured that the following points, without further amplification, do not offer any security breach or threat to the people involved.

• The Pentagon study included precise documentation of American reconnaissance and intelligence activities involving certain Asian countries supporting Hanoi's side in the Vietnam war.

These activities were known to be taking place by the spied-upon countries but they were technically unable to stop it and so had said nothing publicly.

But publication of official U.S. documents from the Pentagon papers, detailing specifics of the reconnaissance activity, undoubtedly would have required these countries to respond publicly against the United States "in a most bellicose fashion" to quote American officials.

The ensuing diplomatic crisis, they believe, would have undercut current U.S. efforts to improve relations with these countries.

One can assume that among initiatives that would have been jeopardized, if not destroyed, is Mr. Nixon's scheduled trip to mainland China before next May and his administration's efforts to normalize relations with that diplomatically-unrecognized country of 800 million persons.

At the height of the Pentagon papers controversy last month, American and some key foreign diplomats were secretly arranging with Peking the 10-day visit by Dr. Henry A. Kissinger, White House foreign policy adviser.



urges the Voice of America to begin broadcasting programs in the Yiddish language to the Soviet Union, in order to recognize the cultural heritage of the more than 3 million Soviet Jews and to display our Nation's support for the Soviet Jewish struggle for freedom.

Mr. President, for several years, first as a member of the House and more recently as a Senator, I have been calling upon the Soviet authorities to afford full religious and cultural rights to the Soviet Jewish community. I have urged that the Soviet Union not only assure these rights to Jews within the Soviet Union but also permit those Jews who wish to emigrate to do so.

I am pleased, therefore, to join in this resolution, which points to something quite practical and wholly within the control of our own Government—the instituting of Yiddish programming on the Voice of America as a morale booster for the courageous Soviet Jews who, at this moment, are struggling for their freedom. Many are awaiting trial or have already been convicted for acts related to their status as Jews in the Soviet Union. Others are waiting literally for several years for permission to emigrate to Israel and other nations where they could live a fuller Jewish life. I feel that our Voice of America should begin reaching these people in Yiddish as the very least that our Nation could do for these brave, unfortunate people at this period in their history.

Moreover, I understand that there is precedent for what we are asking the Voice of America to do, since the Voice of America already broadcasts in the native tongues of other communities within the Soviet Union. These include the Latvians—1.9 million persons, the Estonians—1.3 million, the Lithuanians—2.7 million, the Georgians—2.8 million, and the Armenians—2.9 million. The Jewish community in the Soviet Union, numbering over 3 million, should certainly then be entitled to similar recognition, especially when, as in the past, the Soviet authorities are singling out the Jewish community for persecution.

Mr. President, last month I visited Israel and because of my long interest in the Soviet Jewish issue, I made a point of meeting with some newly arrived immigrants from the Soviet Union. My meeting with these three courageous persons has only bolstered by willingness to try to help the Soviet Jews in their cause. Visiting them at their quarters at a Jerusalem center for new immigrants, I listened to their stories, and now I would like to share them with Senators.

Alexander Rabinovich, 33, formerly a dentist in Riga, Latvia, had just come to Israel with his parents, his wife and his two small children, in search of a life, he told me, where Jews could perpetuate their own culture. His children, he told me, had frequently been taunted by the schoolmates with the derogatory Russian term for Jew, "zhid."

Clara Nachimofsky, also of Riga, is the mother of two sons, one 25, and the other 15. She and her husband waited 9 years for permission to leave the Soviet Union. When the permission finally came

through, they were allowed to take out their younger son, but their older one was kept behind and is still there.

Rachel Rabinovich, 25, from Vilna—no relation to Alexander—is one of the young Jewish activists who staged a sit-in last March at the Supreme Soviet. She told me she was sure this was what caused the authorities to let her come to Israel, although the next group of demonstrators to try that approach were all placed under arrest.

Looking back on that meeting with these three, I particularly recall what Rachel told me about the indomitable spirit of Jewish youth in the Soviet

The Jewish youth in Russia now want to get out. The activities are not going to stop. They are not going to stop until they all come here, to Israel.

Mr. President, I strongly support our Nation's taking a firm stand on behalf of the Soviet Jewish struggle for freedom, and Yiddish programming by the Voice of America would be a significant step toward that objective.

INFORMATION AND NATIONAL SECURITY

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 14, 1971

Mr. SCHMITZ. Mr. Speaker, George Washington, declining the request of the House of Representatives for papers leading up to the negotiation of the Jay Treaty, said:

The nature of foreign negotiations requires caution, and their success most often depends on secrecy; and even when brought to a conclusion a full disclosure of all the measures, demands, or eventual concessions which may have been proposed or contemplated would be extremely impolitic; for this might have a pernicious influence on future negotiations, or produce immediate inconveniences, perhaps danger and mischief, in relation to other powers.

There is an old saying to the effect that knowledge is power. In truth knowledge forms the base of power. Power is simply the ability to effect change, and bringing about a desired change is usually based on correct knowledge of that which one desires to alter.

For thousands of years the secrets of nature were hidden to man and he lived in a world of technological poverty. Control of the external material world came into being when man began to acquire accurate knowledge of factors theretofore hidden, of secrets kept by nature. Man learned how to effectively interfere in the course of material events when science revealed to him the actual relationship existing between things.

Knowledge of actual relationships, as opposed to ignorance of these relationships, gives man the power to influence the course of events. This applies no less to the world of men and nations than it does to the strictly non-human world of things.

It is necessary to understand this when examining the question of govern-

mental classification of certain information. Outside the Government of the United States lies more than just the citizenry of our Nation. There lie foreign powers led by men whose hostile intent, disregard for basic morality, and proclivity for violent action is well known. To increase their ability to interfere in our affairs is not in the best interest of our citizens. Therefore the Government limits the distribution of certain types of information through various classification procedures when it is determined that the possession of this information would enhance the ability of hostile nations to adversely influence our national interest.

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Although the power to classify has been abused—and what power has not—the basic rationale behind limiting access to certain types of information is unassailable. Thus, it is disturbing to see that efforts are being made to utilize the furor engendered by the New York Times' publication of highly classified stolen documents to strike further blows at our system of safeguarding information—information of incalculable value to nations whose object is the destruction of the United States and other free world nations.

For example, there was legislation recently introduced in the House of Representatives which called upon the Central Intelligence Agency, the Department of Defense and the Department of State to furnish "full and complete information" not only on the exact future plans for the deployment of U.S. Armed Forces in South Vietnam but also for a full analysis of South Vietnam's military capability. Information of this sort is, of course, the primary objective of enemy intelligence operations.

While the need to safeguard defense-related information is obvious—and accepted by most people, it is also necessary, as George Washington pointed out, to limit access to some of the information concerning our relations with foreign nations. If confidential communications between ourselves and our allies begin to appear regularly in our Nation's dailies we will not long have frank exchanges of information with our allies, nor, for that matter, will we for long have any allies.

The importance of maintaining working alliance systems at this point in time was brought home to me at a recent breakfast meeting with Secretary of Defense Laird. I asked the Secretary whether he would agree with the thrust of the late Congressman L. Mendel Rivers' great speech concerning the Soviet threat which he gave shortly before his untimely death—see Newsletter 70-14. Congressman Rivers, then chairman of the House Armed Services Committee, had stressed the fact that the U.S. was now second to the Soviet Union in overall military strength. Secretary Laird replied that this was probably true if we were to consider the United States by itself; but, when we also consider the strength of our allies, the free world is still in first place.

Regardless of the dubious merits of basing our own force posture relative to the Soviet Union on the totality of free world strength, it is apparent that our

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Free Press, Free People

By OGDEN R. REID

Our democracy does not work well in secret. The Pentagon Papers illuminate the arrogance of those in high places and the serious erosion, if not breakdown, of our constitutional system of checks and balances.

At least two Administrations, if not three, believed that they were not accountable to the Congress and the American people for watershed decisions taken about Indochina.

The present Administration has gone even further and launched the most serious attack on the press in our history: subpoenaing reporters' notes, threatening reprisals against television and radio stations under the power to license, and, for the first time nationally, invoking prior restraint against the right to publish.

This precensorship was claimed to be justified because of an "immediate grave threat to national security." Critical national security touching our very survival is not in fact at issue here—nor is cryptographic intelligence.

While the Kennedy and particularly the Johnson Administrations' failure to inform Congress is a shocking example of unilateral executive decision-making, the attempted effort by the Nixon Administration to prevent what is essentially past history reaching Congress or being published is hardly more reassuring.

After six days of hearings before the Government Information Subcommittee of the House of Representatives, certain remedies are clearly called for if the Congress is to reassert its constitutional role.

First, the Congress must enact a new statute governing classified documents. This law must sharply limit that which should be labeled secret and it must provide for automatic declassification and Congressional oversight. If a matter should remain secret after a stated period, there should be an affirmative, positive finding as to why continued secrecy is necessary.

The Congress should explicitly reserve the right to make public material improperly classified by the executive contrary to statute when its classification is not a matter of national security and is simply a device to avoid governmental embarrassment.

Equally, no Executive order on classification should be issued that subverts the intent of the Congress. Above all, there must be a vast reduction in the corps of 8,000 Defense Department officers who now have authority to originate top secret and secret designations.

Second, the Freedom of Information Act should be tightened in two respects. The types of information now permitted to be withheld must be sharply limited, and time permitted for Government response to a court suit must be reduced from the present 60 days.

Third, the Congress must come to grips with executive privilege. Here we are dealing with a collision between the executive and the Congress that has been going on since George Washington assumed office. It should be subject to accommodation, but that will never happen if the Congress does not assert the powers and responsibilities given to it by the Constitution.

Fourth, legislation may well be required to protect the Fourth Estate. The press often serves as a coordinate branch of our democracy, especially when a breakdown occurs between the other three. Specifically, we need a national Newsmen's Privilege Act—now law in six states—protecting the confidentiality of sources, absent a threat to human life, espionage, or foreign aggression. Legislation should be enacted to prohibit the issuance by the courts of injunctions against publication, thereby removing prior restraint from the reach of the executive.

Congressional legislation and assertion of appropriate initiatives can help redress the current situation. If need be, the power of the purse can be more resolutely used vis-à-vis an unresponsive executive. But more fundamentally, what we need is government with faith in the American people and in their right to participate in the great decisions. If we do not see this now, after the Bay of Pigs, the Dominican Republic intervention and the whole tragic history of Indochina, then as a nation we do not really understand democracy.

Ogden R. Reid, Republican, is member of Congress for the 26th New York district.

Washington Whispers

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[Items appearing on this page are being talked about in Washington or other news centers]

Where Is Connally Headed? . . . Why CIA Chief Went to Israel . . . Secrecy: Don't Forget Civil War

President Nixon's designation of Treasury Secretary John Connally as his chief "economic spokesman" immediately raised new speculation about the political future of that Texas Democrat who has moved up fast in the ranks of a Republican Administration. Mr. Connally, although outspoken on the state of the nation, refuses to be drawn into discussions that have to do with partisan politics.

* * *

J. Edgar Hoover of the Federal Bureau of Investigation knows the identity of the people who stole secret files from the FBI office in Pennsylvania. The agency is now working to gather enough evidence to prove guilt of burglary—which probably will be the charge when the case is brought to trial.

* * *

Chief Justice Warren E. Burger will go to Communist Yugoslavia this summer to participate with the Chief Justice of the Soviet Union and the chief judicial officers of other countries in a so-called "moot court" during which the Justices will make their own study of judicial procedures and contrasts in the worldwide system of justice.

* * *

The hush-hush visit to Israel of Richard Helms, Director of the Central Intelligence Agency, had this purpose, among others: The CIA chief was determined to reconcile conflicting reports about who is making the key decisions in Israel—and who is likely to be running the country in the future.

A point overlooked in all the excitement about the Pentagon Papers: There are still documents left over from the Civil War that have not been "declassified." There are thousands of papers of both World Wars I and II, and the Korean War, that remain "top secret." One White House aide estimates it would cost 7 million dollars in manpower expenditure alone to reclassify the World War II and Korean documents.

* * *

An East European diplomat, who had been quietly trying to bring the U.S., Saigon and Peking to some sort of an understanding, was so furious about the publication of the Pentagon Papers that he told the State Department he was going home to "write a book" about loose security in America.

* * *

Reports are current in Washington once again that John Volpe, Secretary of Transportation, may soon leave the Cabinet and be elevated to a major ambassadorship by President Nixon.

U.S. POLICY FILES REVEALED SLOWLY

Winnowing Vast Archives Is
a Painstaking Task

By HENRY TANNER

Special to The New York Times

WASHINGTON, July 10—The Government is keeping 49,000 cubic feet of documents on World War II stored in the National Archives Building, a colonnaded neoclassical structure on Pennsylvania Avenue a few blocks from the White House.

The material, according to an estimate, amounts to 160 million pages. The estimate for the Korean war is 60 million pages.

Those figures, unofficial and highly approximate, illustrate the magnitude of the Government's task in recording and revealing—or withholding—the history of the nation's foreign policy.

The Government tackles the task on four levels.

Its great pride is that since 1861 it has been publishing without interruption a monumental chronological history called "The Foreign Relations of the United States."

Though generally praised by scholars for its fairness, completeness and professional quality, it is universally criticized because it is running 25 years behind events.

Two Eagerly Awaited

The 11 volumes to be issued this year deal with the events of 1946. Two of them, eagerly awaited by China scholars, will discuss relations with Generalissimo Chiang Kai-shek and with the Chinese Communists during that crucial year.

On occasion the State Department has also issued separate volumes of documents. Among them was the famous and highly controversial China White Paper, published in 1949 and dealing with developments during the preceding four years. It has been roundly condemned by historians as highly selective, self-serving and misleading.

In addition, thousands of documents are released routinely by various departments, without claim to being a historical record.

Finally, there is the mass of documents in the archives, the vast majority of which have not found their way into either the chronological series or special publications. They are open to scholars and researchers after 30 years.

Notes Must Be Cleared

American scholars can also apply for access to archives containing documents 25 to 30 years old. Permission is almost always granted, according to officials, but the visitors must later submit their notes for clearance.

More recent documents may be shown to scholars who ask for them, but it is up to the scholar to name the document or the series of documents he wants to see, having learned of their existence elsewhere. He cannot get access to the files themselves.

There is no Government regulation saying that the foreign relations series can be published only after 25 years. William F. Franklin, the State Department's chief historian, said in an interview that the delay was due partly to the forbidding, steadily growing volume of the material that has to be sifted and partly to a shortage of manpower. He has 15 historians on the series.

Political considerations also play a role. The documents relating to the most sensitive years of American-Chinese relations, 1946 to 1949, were collected and edited separately and were ready for publication some 10 years ago, but Government historians say, Secretary of State John Foster Dulles decided in 1953 against beginning to publish them in a separate series then. During the Kennedy Administration it was decided to issue them as part of the master series—that is, 25 years after the event.

Mr. Franklin said that the master series included all the documents that the editors judged important for any given period. If all documents in the files, were included, he said, it would take about a hundred volumes a year instead of the present average of 10 to 12, at about 1,500 pages each.

The price of one of the 220 volume varies, depending on such considerations as length and the number of maps. A volume on the 1945 Yalta Conference cost \$5.50; another on the conferences of American, British, French and Soviet Foreign Ministers in London, Paris and New York during 1946 is \$7.50.

The series, produced by the Government Printing Office, is usually sold out in a matter of months. Reprintings of the entire set have been bought by libraries and other institutions at over \$2,000, an official said.

The series was originally largely limited to communications with other governments.

In recent years an effort has been made to turn it increasingly into a record of the internal decision-making process.

Government historians say that many of the recently published Pentagon papers will eventually be found in the series—but not, it may be safely assumed, such documents as Edward G. Lansdale's report on sabotage in Hanoi in 1954. ✓

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The Not-Very-Secret Secrecy Game

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By William Greider

Washington Post Staff Writer

Trafficking in government secrets, despite the recent uproar, is an old and established enterprise in Washington, conducted largely as a 9-to-5 affair, no cloaks, no daggers.

During the recent unpleasantness in the federal courts over this subject, some of the regular players of the game came forward to describe how they operate, asserting in sworn affidavits that the practice of transmitting "top secret" information to the public (and the enemy) is old stuff, well, as old as yesterday's newspaper.

Chalmers M. Roberts, who retired the other day after a long and active career as a newsman, remembers a time when the operation approached a formal routine.

Roberts would drop by the Secretary of State's office regularly and a young special assistant would read him selected excerpts from the daily flow of classified diplomatic cables. The young man was William Scranton, later a congressman, then governor of Pennsylvania and a presidential aspirant in 1964. He was, of course, purveying the state secrets with the full approval of his boss, John Foster Dulles.

"What he was doing was getting out the stuff," said Roberts, who saw to it that the information was printed in *The Washington Post*. "I think it was a good system but, of course, it was incomplete. Generally, the people don't tell all the bad news in that kind of a system."

New York Times bureau chief Max Frankel, another one of the town's prominent dealers in classified material, recalls how he obtained an authoritative account of the U.S.-Soviet summit talks in 1967 simply by standing beside a swimming pool in Texas and taking notes. The talkative swimmer was President Johnson.

Still another operative, Washington Post Executive Editor Benjamin Bradlee, has attested to securing portions of a confidential government memorandum on private talks in 1961 between President Kennedy and Nikita Khrushchev.

Bradlee got it upstairs at the White House from the President. Although the material is still highly classified, it appeared in *Newsweek Magazine* 10 years ago. Protection of Sources

These men, of course, are journalists who, under normal circumstances, are sworn to protect the identity of their sources—especially when they obtain and print classified information, even if it came from the President himself. However, one by-product of the recent court confrontation between the Justice Department and the newspapers over the top-secret Pentagon papers was the spectacle of new reporters coming forward with affidavits to assert that they traffic in secrets all the time, so why make a federal case out of it?

That claim apparently still shocks people, even some Supreme Court justices and some newspaper columnists (who surely know better). The reality in Washington, as described by the practitioners, is a continual process of breach-and-leak which is as grand and petty, as vast and varied in purpose, as the bloated files which are supposedly guarded by the government's system of security classifications.

George C. Wilson, who covers the Pentagon for *The Post*, once did a careful job of prying-and-piecing information from a variety of sources—a standard tactic for all reporters—and came up with a story that the United States was developing a new and ominous nuclear weapon, a multi-headed rocket which could launch a shower of separate

warheads. That was in early 1967 and the secret weapon, now known as MIRV in the jargon of the arms race, was probably news to the Russians as well as the American public. How could Wilson justify such a serious breach?

"I'm sorry I didn't have that story three years earlier," Wilson replied. "The development was so far along that it was beyond the point of no return. The only way you can control the arms race is to know what's going on. If weapons developments cannot stand up under Congressional and public examination, then they ought not to be pursued. What we're talking about is the life or death of the planet. That should not be left to weapons experts alone."

Cynicism Develops

From the petty to the sublime, reporters who cover these areas develop a certain cynicism about security labels. No self-respecting reporter, for instance, bothers to mention that he is revealing Pentagon data merely classified "confidential" because that designation is so commonplace.

Likewise, the old hands remember that no one complained much when the Eisenhower administration provided *The New York Times* with the Yalta papers or in 1957 when Roberts revealed in *The Post* the contents of the top-secret Gaither Report on U.S. preparedness. The eight-column headline said: "Secret Report Sees U.S. in Grave Peril" and, indeed, that document helped foster heavy arms spending by Democratic presidents in the 1960s.

Re-Leaked Documents

The absurdities were especially clear in the current flap over the Pentagon study on Vietnam. Some of the contested documents were actually re-leaks. For instance, Joseph Alsop, the syndicated columnist, de-

scribed and paraphrased in 1964 some of the same contingency plans and memoranda which *The New York Times* revealed in 1971—and which the government went to court to keep from the public.

Frankel described the process in his 18-page affidavit as "a cooperative, competitive, antagonistic and arcane relationship."

In large part, the reporters who get the secrets are the ones who dig hardest, who cover their fields with enough expertise that officials either trust them or cannot prudently ignore their questions. Often, the process requires asking a lot of speculative questions aimed at a lot of people in government. Sometimes, the answers are provided by officials with no motive other than seeing an accurate report of what is going on.

Frankel noted:

"Without the use of secrets . . . there could be no adequate diplomatic, military or political reporting of the kind our people take for granted, either abroad or in Washington, and there could be no mature system of communication between the government and the people. That is one reason why the sudden complaint by one party to these regular dealings strikes us as monstrous and hypocritical—unless it is essentially perfunctory, for the purpose of retaining some discipline over the federal bureaucracy."

Mutual Hypocrisy

Hypocrisy, however, may reside on both sides of the strange relationship between press and government. Both *The Post* and *The Times* have sometimes found occasion to defend the sanctity of the security system, without a hint that their own reporters ignore it routinely.

The *Post* waxed indignant in 1963 when Otto Otepka, a State Department security officer, was leaking classi-

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Efforts to Quiz Macomber on Laos Raid Fail

By SHIRLEY ELDER

Star Staff Writer

Deputy Undersecretary of State William B. Macomber Jr. has declined to answer insistent questions from Rep. Paul N. (Pete) McCloskey, R-Calif., about U.S. bombing in Laos.

Macomber told a House freedom of information hearing yesterday he knows little of what goes on in Laos.

He said he was invited to testify about the State Department's system of classifying documents and any further effort to try and get him to talk about Laos would further strain relations between State and Congress.

McCloskey has been hammering at what he feels is a calculated administration effort to hide a clandestine war in Laos from Congress and the public. He said each bombing strike in that country is personally controlled by the U.S. ambassador.

Rebuffed by House

Earlier yesterday, McCloskey, who has vowed to oppose President Nixon's bid for re-election next year if the war is not over, was rebuffed by his own colleagues in an information-gathering effort.

On a 261-118 vote, the House killed a McCloskey resolution that would have directed the secretary of state to tell Congress about U.S. involvement in Laos.

Then, by voice votes, the House tabled similar resolutions of inquiry seeking data about other U.S. activities throughout Southeast Asia.

One resolution sought copies of the once-secret Pentagon papers, which already have been made available on a top security basis, and another sought a report of the so-called Phoenix assault against Viet Cong agents.

7-Year War Claimed

McCloskey told the House that the United States has been at war in Laos for seven years and more bombs have been dropped in that one country than were rained on Nazi Germany.

But Rep. Peter H. B. Frelinghuysen, R-N.J., argued that the resolution was an unwise attempt to obtain highly sensitive information.

Although Macomber, in his testimony before the subcommittee headed by Rep. William Moorhead, D-Pa., declined to talk about Laos, he agreed that many State Department documents are over-classified.

Half of the approximately 400,000 documents accumulated at State each year, he said, are marked Top Secret, Secret of Confidential.

About 6,000 State Department officers have authority to classify documents, Macomber said, and some misuse that power to simply limit distribution of the papers involved.

He suggested there should be some kind of automatic system for declassifying documents after a period of time, perhaps 10 years.

A shorter declassification period—some have suggested two years—would be unrealistic, Macomber said, and just lead to new and bigger bureaucratic problems.

In the Senate, meanwhile, Sen. John Sherman Cooper, R-Ky., introduced legislation requiring the Central Intelligence Agency to provide Congress regularly with detailed intelligence information.

Cooper said Congress needed this kind of evaluation and analysis, now available only to the executive branch, in order to participate in the formation of foreign policy.

Two other senators also suggested proposals relating to the CIA.

Sen. George S. McGovern, D-S.D., suggested that expenditures and appropriations for the intelligence agency appear as a single line item in the budget. Agency funds currently are concealed in other budget items.

Sen. Clifford P. Case, R-N.J., said he would offer measures prohibiting such CIA activities as the funding of Thai troops to fight in Laos.

U.S. Acts To Stiffen Security

Will Trim List Of Clearances For Top Secret

By Ken W. Clawson
Washington Post Staff Writer

President Nixon has ordered all government agencies to compile lists of persons, in and out of government, who have top-secret clearances with the aim of sharply reducing the number of security clearances.

In a memo labeled "administratively confidential," the White House also ordered federal agencies to immediately initiate a review of outside individuals and organizations holding classified materials "... with the aim of drastically reducing such nongovernment holdings."

The memo, signed by Brig. Gen. Alexander M. Haig Jr., Deputy Assistant to the President for National Security Affairs, said that "the President has directed that the following actions be taken . . . :

By noon Saturday, each federal agency, including the White House itself, must submit a list of the number of government employees, outside consultants and private contractors who hold clearances for access to top-secret information and "the various categories of compartmented intelligence data."

By the end of July, the federal agencies are ordered to turn over to the White House the names of the holders of secret clearances broken down to indicate government and nongovernment employment.

"It is further directed that each responsible department and agency initiate at once a review and screening of each top-secret and compartmented clearance presently held by individuals in the above employment categories with a view to effecting immediate reductions of all clearances which cannot be demonstrated to meet the requirement of strict need to know.

"Particular consideration is to be given to the screening of employees in the consultant and contracted categories," the Haig memo said.

The memo, written on White House stationery, was dated June 30, two days before Defense Secretary Melvin R. Laird ordered Air Force security men to take custody of all classified documents held by the Rand Corp., the leading private "think tank" engaged in defense research. Laird alleged earlier that there were "security compromises" at Rand.

Laird's direct action and President Nixon pledge to tighten up security clearances across the board followed disclosures June 28 by Daniel Ellsberg, a former Rand researcher and Pentagon official, that it was he who leaked secret Pentagon papers to the press.

The White House memo made it clear that Mr. Nixon means to get a handle on security clearances, estimated variously at between thousands and hundreds of thousands, and to pare the list considerably. The top-secret clearances are awarded by individual government agencies and branches and there currently is no central repository in the government.

A check yesterday of key government agencies where top secret clearances are most prevalent also revealed that the agencies themselves do not know who—or how many—hold top security clearances.

The Pentagon, for example, said the figures are "not readily available" nor are the identifications of those holding clearances compiled.

Officials at the State Department said they don't have the information sought by the President and said they would be surprised if it could be compiled by noon Saturday, the presidential deadline.

One official said he believed about 10,000 Foreign Service Officers have top secret clearance as did, presumably, technical specialists. But he said the State Department has many outside consultants who are called on only rarely who presumably also have top secret clearances.

All agents of the Federal Bureau of Investigation have top secret clearances by virtue of their jobs, although the need-to-know application actually limits the number of persons who see classified documents.

It is understood that other federal intelligence agents also must pass a top secret security investigation as a pre-condition to employment.

The Justice Department, which is prosecuting Ellsberg for a security breach, also could not indicate yesterday the number or the names of its personnel who are cleared for top secret documents. A spokesman said that a "wild guess" would place the figure at a "few hundred."

A White House official said a similar survey was being "didn't have any idea" how taken in the Executive Office of the President, but that he many top secret clearances were held there.

Directives in the new Nixon memo appeared to grow directly out of disclosures from the secret Pentagon papers and were not related to a Jan. 15 memo in which the President called for broader and speedier declassification procedures and for a continuing review of that process.

The January directive was also confidential, but it was made public by the White House June 22, at the height of government efforts to stop publication of the top-secret Pentagon papers.

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Credible Secrets

"For when everything is classified," said Justice Stewart in a concurring opinion in the Pentagon papers ruling, "then nothing is classified, and the system becomes one to be disregarded by the cynical or the careless, and to be manipulated by those intent on self-protection or self-promotion. I should suppose in short that the hallmark of a truly effective internal security system would be the maximum possible disclosure, recognizing that secrecy can best be preserved only when credibility is truly maintained."

This is a lesson to be learned from newspaper publication of the huge collection of government papers marked "Top Secret—Sensitive." The government's attempt to prevent publication of articles based on the "classified" papers was in difficulty from the start because most of the information in the documents clearly was not "top secret" at all. It was patently absurd, and in some part a violation of the government's own rules applying to the classification of information, to put a "top secret" label on this collection, which was primarily historical in nature and which did not extend beyond the last year of the Johnson administration. Moreover, much of the information in the Pentagon papers was publicly known and published in the day-to-day news, not in the form of "classified" documents but as information obtained by reporters in the course of their work.

It long has been common knowledge in Washington, in the executive branch of the government, in Congress and among newspapermen, that too much government information is classified, and that too much of the classified material is overclassified; that is, papers which might qualify for the lower categories of "confidential" and "secret" are often raised to the awesome level of "top secret" which implies top-level relationship to national security.

One beneficial result of the litigation over the Pentagon papers has been the widespread acknowledgment that the system of classifying government records to keep them from public view has been grossly abused. If, as Justice Stewart suggested, the use of the classified label is greatly limited and applied only to matters which really affect national security, a credible system could be maintained. The classification system has been discredited in the case of the Pentagon papers. The Nixon administration and Congress should get to work on the job of making it credible.

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The Government vs. the Press

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It was, sighed one Federal appeals judge last week, like asking the courts to "ride herd on a swarm of bees with a pencil." The matter at hand was the government's unprecedented attempt to suppress publication of data from the top-secret Pentagon study of the war in Vietnam. But even as the case labored upward to a momentous showdown in the Supreme Court, the bees got loose—at least ten more newspapers and one congressman joined The New York Times and The Washington Post at spilling secrets—and the Nixon Administration got stung. It had, for its pains, succeeded mainly in making itself look at once oppressive (for breaching the ancient American taboo against censorship in advance) and inept (for picking a fight it could not win whatever the verdict). The nine Justices assembled in extraordinary session at the weekend. But the great Constitutional collision had by then dissolved into fiasco, and the Administration was already looking for graceful ways out.

The dawning discovery was that the whole exercise had been not only legally shaky but politically bootless as well. A NEWSWEEK poll, conducted by The Gallup Organization, showed a widespread feeling that both the press and the government sometimes go too far in the continuing contest over secret information—and that, in a crunch, Americans worry more about national security than freedom of the press (page 18). But, by 48 to 33 per cent, they disapproved of the Administration's attempt to bottle up the Pentagon papers by court order. Worse still, the court fight shifted the focus of controversy away from the mistakes and deceptions of the Kennedy-Johnson war years—and onto Mr. Nixon's misadventures at censorship. Some Administration insiders thereupon began offering the line that it was Attorney General John Mitchell's fault—that he had given the President bad advice and that the White House was taking political charge of the matter. The new management quickly began de-escalating. The main object now, said one Nixon aide, was "to get out of the line of fire."

It was too late to get all the way out

The government had little choice but to press its two original cases through the U.S. Courts of Appeals (where it lost a round to the Post and won a partial victory against the Times) and on to the dramatic denouement in the Supreme Court in the last days of its term. And Mitchell's men dutifully got a third court order against The Boston Globe when it too began printing stories out of the Pentagon archive. But their taste for combat flagged when still more papers from Mi-

potentially explosive select-committee inquiry into the history of the war this fall. The President himself sought to mollify tempers by sending Congress two copies of the 47-volume study, though with the understanding that it would still be kept secret. The White House, meanwhile, disclosed that Mr. Nixon had issued a Jan. 15 order (itself secret till now) directing all agencies to review their classification procedures with an eye toward making more information public. The Pentagon said it was rereading the Vietnam history in light of that directive and would declassify some of it within 90 days; in court, government lawyers halved the time, to 45 days.

Secrets: The din of combat stole the headlines from what the papers disclosed—and, truth to tell, none of the new secrets quite matched the first eyebrow-raising inferences in the Times that the Johnson Administration had planned all its escalations months in advance and had lied to Congress and the public about them. Several of the new leaks (page 19) documented how Kennedy Administration officials at points encouraged and in the end acquiesced in the coup in which South Vietnam's President Ngo Dinh Diem was overthrown and murdered in 1963. The Los Angeles Times disclosed that a State Department expert on Vietnam had advised earlier that year that the U.S. "get out honorably" while it still could; Robert Kennedy took up this line later, according to Rep. Paul McCloskey, who had his own cache of secrets, but both doubters were overridden. The Boston Globe discovered that, when Lyndon Johnson announced his abdication in March 1968, he was already working on plans for a Vietnamization policy much like the one Mr. Nixon began instituting a year later.

None of this was very surprising. But just as the store of secrets seemed to be running thin, Daniel Ellsberg, the 40-year-old former Pentagon analyst suspected of leaking them to the Times in the first place, suddenly resurfaced for a taped interview with CBS-TV's Walter Cronkite—and ventured that the most painful revelations were even yet to

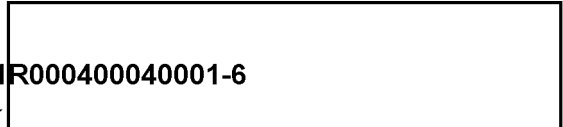


©—Herblock, in The Washington Post

'Follow That Car—And That One—And That One—'

ami to Los Angeles splashed their own VIET SECRETS; the government did get an order against The St. Louis Post-Dispatch but ignored most of the others.

At the same time, Mr. Nixon moved to quiet the rising furor over the study and its top-secret classification. Capitol Hill was angry at having seen it first in the papers; a House subcommittee began hearings last week on secrecy in government (one early witness ventured that 99½ per cent of all the Pentagon's classified files could safely be made public), and the Senate geared up for a



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Why not change classifications so that 'secret' means just that

By EDWARD A. O'NEILL

When I was in basic training at the Fort Bragg Field Artillery Training Center in early 1942, they took us one afternoon to the battalion "rec hall" to see a training film on classified documents.

Ordinarily on those hot North Carolina afternoons, training film periods were when you caught up on your sleep. But this film with Walter Huston as a G-2 colonel, complete with Sam Browne belt and boots and spurs, was more dramatic than most, so I stayed awake.

"Colonel" Huston was conducting a group of officers through his intelligence section explaining the varying needs for caution in the handling of military papers. First there was "Restricted" material (disclosure harmful), then "Confidential" (disclosure damaging), and then "Secret" (disclosure disastrous). The "Secret" episode was only a little less dramatic than a Hitchcock thriller.

Huston led his group past an armed sentry, down a long corridor to a door which he unlocked, past a sergeant with a .45 on his hip, and then to a vault which he opened after carefully shielding his manipulation of the combination knob. Inside the vault he explained in hushed tones the precautions necessary for the protection of "Secret" material. "Top Secret" Adopted

As the war dragged on, the British created the classification of "Top Secret," which we adopted at once. I knew about this vaguely, but as a field soldier I never ran across anything more highly classified than a "Restricted" field manual.

That is, until my outfit was preparing to leave Hawaii for Okinawa. I had occasion then to go to G-2 headquarters in Schofield Barracks to check on something or another. Outside the G-2's office sat a corporal reading a comic book. His desk was flanked by two message baskets. One was labeled "In--Top Secret," and the other "Out--Top Secret."

It was not until 1953 that I again encountered the classification system. I was city editor of the Louisville Times, and one of my reporters had dug up a first-rate story on the Army's desertion and AWOL rates among units slated to be shipped out to Korea. For comparison,

we wanted World War II desertion and AWOL figures, but my reporter's sources could not produce them.

I called the Pentagon where I shinned up the chain of command to a major general who was the Army's chief of information. But without success. All I got was "Sorry. That information is still classified." I suppose I was naive, but I thought it outrageous that eight years after V-J Day such information should still be withheld from the public.

17-Year Secrecy

In 1969 I was working in the Department of State as public affairs adviser for the Near East. I was called to a meeting with the chief of the historical division, the office that publishes "Foreign Relations of the United States," the compilation of official documents relating to our world-wide foreign involvements.

The meeting had been called to clear documents involving events and decisions

Mr. O'Neill is a Washington-based freelance writer and former Foreign Service officer whose last "security" clearance in 1968 was "positive."

of 1943 in North Africa. As it progressed, it became apparent that there were snags to be overcome before the volume could be published. The snags were CIA objections. Some of the people mentioned in the official papers had worked for the Office of Strategic Services (OSS) and, although not stated, apparently still were working for the CIA.

The volume finally was published in 1965. Whether it was, in State Department lingo, "sanitized" or not, I have no idea. Currently, the slow-grinding mills of bureaucracy are working on the volumes of "Foreign Relations of the United States" for 1946.

The Bureaucratic Everglades

The whole business of "classification" is a bureaucratic swamp that, unlike the Everglades, widens with each passing year. Since the end of World War II, the proliferation of official U.S. activities overseas has been stupefying. There are about 25 government departments and agencies, exclusive of State and Defense, with overseas operatives who, with varying degrees of frequency, use their em- send classified material back to their bosses in Washington.

These same bosses in Washington, of course, demand to be clued in on embassy matters impinging on their bailiwicks. It was not unusual to see an incoming telegram from the field with AGR (Agriculture), TREAS (Treasury), COM (Commerce), LAB (Labor), INT (Interior), TRANS (Transportation) together with a half-dozen or more State Department offices listed for distribution.

The information contained in these telegrams hardly had the import of the secret Pentagon papers, but some of it was important enough. Important enough, that is, to warrant new layering in the classification process. In 1964, to keep information more closely held, categories known as LIMDIS, EXDIS, and NODIS were established. (Limited Distribution to persons directly involved; Exclusive Distribution to top level people involved; No Distribution beyond the top-level action officer. A State Department wag suggested another category: "Burn Before Reading.")

The result of this categorization has been that things that should be "closely held" generally remain closely held and are not the subjects of discussion at cafeteria coffee breaks all over the District of Columbia and environs. (Except when it is deemed politic and useful to leak information to The New York Times, the Washington Post, The Sunpapers, or the TV networks.)

There is an urgent need for change in the government's system of classifying papers—as many persons are saying. The system now in use is arbitrary and highly subjective. Maybe we should go back to "Colonel" Huston's day. When he talked about "Secret," you knew he meant "Secret" and that the disclosure of the labeled information would be disastrous, and not just embarrassing.

The Court's Decision

The decision of the Supreme Court allowing The Times and other newspapers to continue to publish hitherto secret Pentagon documents on the Vietnam war is in our view less important as a victory for the press than as a striking confirmation of the vitality of the American democratic form of government.

Despite the potentially far-reaching significance of doubts and reservations expressed in the confusing welter of individual opinions—each of the nine Justices wrote his own—the outcome of this case is a landmark for the press in its centuries-old battle against the efforts of Governmental authority to impose prior restraints. But we believe its real meaning goes deeper than that, in the context of the present time and place. We believe that its more profound significance lies in the implicit but inescapable conclusion that the American people have a presumptive right to be informed of the political decisions of their Government and that when the Government has been devious with the people, it will find no constitutional sanction for its efforts to enforce concealment by censorship.

For this is the essential justification of The Times' grave decision to take on itself the responsibility of publishing the Pentagon papers. It was a decision not taken lightly; but The Times felt that the documents, all dating from 1968 or earlier, belonged to the American people, were now part of history, could in no sense damage current military operations or threaten a single life, and formed an essential element in an understanding by the American people of the event that has affected them more deeply than any other in this generation, the Vietnam war.

The decision had to be made whether or not the embarrassment to individuals, or even to governments, outweighed the value to the American public of knowing something about the decision-making process that led into the war and its subsequent escalation. Furthermore, it was evident that Governmental documents have been so generally overclassified and misclassified for so many years that the mere fact of labeling bore no necessary relationship to the national security. An intensive review of classification procedures is sure to be one beneficial result of this affair.

But there will be other results. We hope that the great lesson to have been learned from publication of the Pentagon papers is that the American Government must play square with the electorate. We hope that this Administration and those to come will realize that the major decisions have to be discussed frankly and openly and courageously; and that the essence of good government as of practical politics is, in Adlai Stevenson's phrase, to "talk sense to the American people."

The Pentagon papers demonstrate the failure of successive Administrations to carry out this policy in respect to Vietnam. We do not think it is a question of personal morality, but rather of private attitudes. We do not think that the respective officials involved made recommendations or took decisions that they did not conscientiously believe to be in the public interest. As an early opponent of the escalation of American military force in Vietnam, this newspaper has never attacked the motives of those leaders, but we have criticized and we continue to criticize their wisdom, their sense of values and their failure fully to apprise the people and Congress of the implications of decisions taken in secret.

Even if these decisions, now being revealed in the Pentagon papers, had been generally understood by the public at the time, we are not at all sure that in the climate of those days, the results would have been any different. Given the fear of Communist penetration and aggression throughout the '50's and most of the '60's, it is quite likely that the American public would have supported the basic rationale on escalation even if the respective Administrations had been as forthcoming as democratic procedures demanded.

The fact remains that out of the publication of this material, the American people emerge the gainers. They have gained in knowledge of the past, which should serve them well in the future. They have gained in an understanding of their rights under the Constitution. And they have gained in the perennial effort of free men to control their government rather than vice versa.

RAND SAFEGUARDS CALLED STRICTER THAN PENTAGON'S

BY GEORGE REASONS

Times Staff Writer

Daniel Ellsberg who says he leaked the top secret Pentagon papers to the press would have found access to them easier at the Pentagon than at Rand Corp., a former Rand scientist said Friday.

"Rand security is tighter than security at the Pentagon," Dr. Bernard Brodie said. "And you can quote me."

Brodie, who worked at the Santa Monica "think tank" for 15 years and also on national security projects at the Pentagon, accused Secretary of Defense Melvin R. Laird of unjustly "punishing" Rand by taking security custody of all secret documents away from the agency. Laird said Rand security was "lax" and could not be tolerated.

His action came in the wake of the scandal surrounding the Pentagon papers. Rand had custody of two sets while Ellsberg was employed there in 1969.

The two Rand sets were recalled after Ellsberg disclosed that it was he who leaked them.

Brodie said Laird's action in clamping a security lid on Rand was "unreasonable and petty, a grandstand play."

"Laird is acting sore, that's all."

He said Laird should look to his own organization for comparison.

"Anyone can go in the Pentagon and walk around without being challenged except in a few sections such as the offices of the Joint Chiefs of Staff," said Brodie, a UCLA political science professor who still serves as consultant to Rand.

"Every Pentagon office has classified material in it," he said. "It's handled carefully but anyone can go in."

Another Agrees

Another former Rand researcher, who declined to be identified, backed Brodie's remarks about comparative security based on 10 years of association both with the Pentagon and Rand.

"I have been in and out of the Pentagon and other defense agencies and found you can walk up to the very office of Laird without anybody checking you out," he said.

"The only one who stops you is his female secretary in the outer office. There are classified documents in every room—and the safes are open," he said.

"The only rule is that someone must be present in the room if the safe is open, but it can be only the female secretary."

He said security at the State Department was about as lax.

"There is an entrance for diplomats who can enter without an appointment and another working entrance at which visitors must have an appointment which is verified by the receptionist.

"She issues a pass which is surrendered to the guard when you enter and then the visitor is on his own to wander around. No one knows whether he works there or not."

At Rand, the controls are much tighter, the two former researchers said. They outlined the system this way:

There are guards on all three doors. The arrival and departure of employees, who must show their pass, is recorded on a tape recorder.

Visitors must have an appointment to be admitted. Their arrival is recorded on a log on which is noted their names, whom they are calling on, whom they represent, whether they are American citizens and whether they will be discussing classified information.

Waits for Escort

After verifying that he has an appointment, the guard issues the visitor a red badge bearing his name and holds him at the entrance until an escort arrives. He can take his briefcase but must leave camera and tape recorder behind.

No outsider without an appointment is permitted in the sensitive areas where clas-

sified documents are being used. He goes literally nowhere alone.

If a visitor goes to the restroom, his escort stands outside the door.

Even new employees whose security clearances have not yet been approved are confined to a so-called "clear area" out of reach of classified information. The clear area is on the first floor near the main entrance.

If the visitor is going to discuss classified information, a clearance authorizing it must have been submitted and approved beforehand.

If he is not cleared, his host must take all classi-

fied documents in his possession and place them in his special safe and lock it.

Those procedures are required even though visitors frequently are officials from such agencies as the Central Intelligence Agency, Air Force or State Department and hold top secret security clearances.

If the visitor leaves Rand for lunch, he surrenders his badge at the door and his departure is noted in the log. When he returns, he must pin the badge back on.

To check out a top secret document, a Rand staff member must have the appropriate security clearance and must justify his request at the top secret control room by supplying the number of the project on which he is working which attests to his "need to know."

He cannot check out top secret documents unrelated to his project. He must sign for his document on an IBM card which records the document's location.

He is responsible for the document until he returns it to the control room.

Researchers must follow strict procedures to safeguard documents in their possession. Guards periodically patrol the offices, note infractions and re-

Too many violations and the offender is fired or demoted to work not involving classified information.

No one can leave this office unless all top secret documents are locked in his safe.

Those whose offices are on the first floor with windows facing the street are forbidden from leaving the room with classified information on their desks. Neither can they leave their safes open.

A top secret document cannot leave the office of the man who checked it out. He cannot give it to a colleague until he establishes that he has the proper security clearance and

fills out a transfer form noting it changed hands.

A copy of the form goes to the control room.

Except for a dozen researchers who are working on crash studies, top secret documents must be returned to the control room at night.

Those who retain possession keep the documents in a special tamper-proof file "safe" with a combination lock. Less sensitive documents may be kept by any researcher in his locked file cabinet.

Only the researcher and one other person knows the combination. It must be memorized. To write it down is a security violation.

The combination is changed every year.

Pentagon Safes

(According to Brodie, there are safes all over the Pentagon in which top secret documents are kept. He said there is no requirement for top secret documents to be returned to the control room at the end of the day.)

Every six months at Rand, the top secret control room makes a periodic check of outstanding documents to verify their location.

Removal of classified material from the premises is forbidden but Brodie admitted guards do not check the brief cases of employees when they leave.

JUL 1971



Jack Anderson

The Government Secrets Game

PUBLICATION of the classified Pentagon papers has thrown some light on the shadow government which shapes policies, plans wars, gathers intelligence and conducts secret operations out of sight of the American people.

This shadow government is staffed by faceless men who speak a secret language all their own. They talk of bombing North Vietnam, Laos and the Ho Chi Minh trail in such colorful terms as "Rolling Thunder," "Steel Tiger" and "Barrel Roll."

A hush-hush attempt to wash out the infiltration trail by seeding the clouds over the Ho Chi Minh system is known as "Intermediary Compatriot." Clandestine operations in Cambodia are called "Salem House," in Laos "Prairie Fire."

Members of the shadow government use a variety of labels to classify their secret communications. Special secrets used to be designated "Secret Landa" and "Top Secret Trine" to emphasize their sensitivity.

Urgent messages to the "Pinnacle," as Washington was secretly known, were marked "Flash." If an international incident might be impending, a higher priority called "Critic" was supposed to ensure that a message reached the highest echelons. Intercepted enemy communications were identified as "gamma controlled items."

Some of these terms were changed after the capture of the spy ship Pueblo, an event that rocked the shadow government. The loss of the Pueblo's papers to the North Koreans forced the government to revise its entire security procedures. The revisions filled two huge volumes, which are now guarded with tender care.

Meanwhile, coded messages flood into the White House, Pentagon, State Department, Central Intelligence Agency, National Security Agency and other centers

shadow government from all over the world.

The most urgent messages are given special handling. But the sheer volume makes it impossible for the top policymakers to read everything. The authors of the secret messages and memos, therefore, use sensitive security labels often for no other purpose than to catch the eye of the bigwigs.

Since our specialty is covering the backrooms of Washington, we have managed to obtain special access to the secret doings and secret documents of the shadow government. Most classified material that has fallen into our hands over the years should never have been kept secret from the public.

We have also found that high officials use security labels to hide their mistakes, cover up embarrassment and mislead the public. On the other hand, they don't hesitate to release the most secret information if it will help them win elections, promote their policies, gain more appropriations or make themselves look good.

"No Walk, No Fly"

RALF HOTCHKISS, a disabled engineer and writer who gets around in a wheelchair, made a reservation in Washington not long ago to fly to Montreal for a television appearance.

He is an experienced traveler who had used the nation's airlines for years. He was astonished, therefore, when the Northeast Airlines ticket agent told him that, because he was crippled, he couldn't fly without an "attendant."

Two young men booked on the same flight agreed to act as "attendants." But a Northeast official huddled with them and talked them out of it. When other passengers volunteered, the airline relented. Then it discovered that the new volunteers were going only to Boston. Hotchkiss, halfway up the boarding

ramp on a loading chair, was kicked off the plane.

His experience was not unique. The nation's airlines have long had a policy, backed by Civil Aeronautics Board regulations, that "if you can't walk, you can't fly."

Bill Swenford, a CAB spokesman, explained that the policy dated back to the days of commercial aircraft that could glide or float. Then, a disabled person might be unable to escape from a plane forced down upon water.

Harry Schwelkert of the Paralyzed Veterans Association said he has "files and files" of complaints from his members about being refused air passage. Often, they were denied seats by the same airlines that, on other occasions, accepted them as passengers. Only United Airlines, he said, has never to his knowledge refused any of his members a seat because of his disability.

We talked to Dick Jones, a spokesman for Northeast, who claimed that safety was the principal reason his airline continue to have the "no-walk, no-fly" policy. Jones said Northeast felt a crippled passenger would have difficulty escaping afterwards if he survived a plane crash initially.

Footnote: The Airline Consumer Action Project, Ralph Nader's federation of fed-up air travelers, is quietly pushing the CAB for a change of its regulations.

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Joseph Kraft

It Won't Happen Again

THE FUMBLING efforts to draw clear general principles from the six opinions of the Supreme Court in the case of the Pentagon papers have a lesson for all of us. It is that the case is not a landmark case.

On the contrary, it is a freak case, distinguished above all by special circumstances. And all of us need to be careful about drawing from it sweeping conclusions with regard to the right state of relations between the government and the press.

The first special circumstance was Defense Secretary Robert McNamara's decision to prepare a systematic study of the involvement in Vietnam. McNamara, once a partisan of the war, had begun to have grave doubts about the course he had advocated. That in itself is unusual.

Moreover, unlike almost all officials who have doubts, he wanted an independent assessment of what went wrong. So he authorized a group of analysts to make a study of how intervention came about. He gave them access to vast stores of highly classified documents, and he left their work relatively unsupervised — still another rarity.

McNamara's unexpected departure from the Pentagon in March 1968 combined with the change in administration at the end of the year to leave the explosive documents in a kind of limbo. There was no policing of the documents by senior interested officials. There were copies at the State Department and the Pentagon, but also at some semi-private institutions such as the Rand Corp. in Santa Monica — another rarity.

By a further fluke, Daniel Ellsberg came into the picture. He had been assigned to the original Pentagon study, but had excited the suspicion of two colonels on McNamara's staff and had been discreetly bumped from the project. So discreetly that his exclusion was unknown to the Rand officials who gave him continued access to the documents — still another rarity.

Ellsberg turned out to be not only a hawk turned dove and an insider prepared to go outside. It also developed that he had a positive flair for the strategy of news presentation, not to say management.

THE RESULT was the most massive security leak in history. The material emerged without advance warning, a true thunderclap. After the first explosion, others followed in train. It was a stroke of public relations genius — yet another rarity.

The Nixon administration was caught wholly by surprise. One White House official presumed the stuff was leaked by Defense Secretary Melvin Laird to embarrass the Democrats, and started to call him down. And it was in these dazed conditions that the administration moved to bar publication by legal injunction.

That action, as the decision by the Supreme Court shows, was wrong. Moreover, the court decision is a salutary reminder — the kind of reminder we need every few years — that there is a First Amendment underwriting freedom of belief and expression.

But none of that makes a classic case. On the contrary,

the massive leak that surfaced so unexpectedly is almost certain never to happen again. There is no reason to expect such crude precensorship by this or any other administration.

The right relationship between government and press, accordingly, has almost nothing to do with the across-the-board confrontation of the Pentagon papers case. The right relationship is delicate and subtle, varying in highly pluralistic fashion from man to man and time to time and episode to episode. And the maintenance of that kind of rapport counts much more than a fundamentalist assertion of supposed rights in fostering responsible government and an informed public.

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Secret Files Taken Over From Rand

By Peter Braestrup

Washington Post Staff Writer

Defense Secretary Melvin R. Laird yesterday ordered Air Force security men to take custody of all classified documents used by the Rand Corp., the leading private "think tank" engaged in defense research.

Laird's action, announced here while he was en route to Japan, followed what the Defense Secretary called "security compromises" at Rand.

The step also followed the furor over disclosures Monday by Daniel Ellsberg, a former Rand researcher and Pentagon official, that it was he who leaked the Pentagon papers to the press. About two weeks ago Rand was asked to return its two copies of the 47-volume history of U.S. Vietnam policy.

According to Rand and Pentagon sources, Rand researchers will continue to use secret documents in the corporation's Washington and Santa Monica offices. But Air Force personnel will take over the custody and control of secret material from Rand's own security men.

Laird's move, a senior Pentagon official said, was designed to show "scores" of defense contractors using classified documents "that we mean business." Rand, these sources said, is not the only "think tank" whose security procedures are under scrutiny.

However, officials at two other leading research centers—the Institute for Defense Analysis in Arlington, Va., and the Hudson Institute at Croton-on-Hudson, N.Y.—said they had as yet undergone no special Pentagon security investigation. Such checks, they said, occur routinely anyway.

One think tank analyst, a Defense Department veteran, contended that it was harder to prevent leaks at the huge Pentagon than at small research centers, where all visitors are usually checked in and out.

Rand Statement

Later yesterday, Rand ident, Henry Rowen, a former Pentagon official, saying that "we understand and support" Laird's action, "we are confident that our research efforts devoted to the national security will continue to be conducted in an effective manner," Rowen said.

"There can be no excuse, he said, "or proper reason for the violation of trust and confidence by any person who has received a high security clearance from the government."

On June 24, in Los Angeles, Lynda R. Sinay, a friend of Ellsberg, testified that he used her Xerox machine to run off

13,000 pages of documents in late 1969, while Ellsberg was employed at Rand's office in nearby Santa Monica.

Other Developments

Amid the continuing furor over the Pentagon papers, there were these other developments:

• Senate Majority Leader Mike Mansfield (D-Mont.) told newsmen he would help Sen. Robert Dole (R-Kan.), who is also GOP National Committee Chairman, set up an unusual

closed-door session after Sen. Mike Gravel (D-Alaska) read aloud to newsmen some of the secret documents in a late-night subcommittee meeting earlier this week.

• State Department spokesman said the department had been approached by several (unnamed) news organizations responding to Secretary of State William P. Rogers' invitation on Thursday to discuss sensitive documents, including the papers, prior to publication. The spokesman, Charles Bray, would give no details.

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Rogers Believes Times Got Secret Papers Not In Study

By PHILIP POTTER

Washington Bureau of The Sun

Washington, July 1—The Secretary of State, William P. Rogers, today expressed belief that the New York Times not only got 43 of 47 volumes of a secret Pentagon study of the Vietnam war, but other classified documents from Defense Department files not included in that study.

He made the statement that there was "reason to think" this was the case and that publication of such documents could be "dangerous" in response to a question at a news conference at which he pleaded that the press refrain from publication of information that would "harm the security of the United States."

No Comment

The New York Times declined comment on Mr. Rogers's statement.

Mr. Rogers added that the government remained ready to assist in identifying "any documents which if disclosed would result in such harm."

Last night on a National Broadcasting Company program, William A. Macomber, deputy under secretary of state, took exception to a statement by Max Frankel, Washington Bureau chief of the Times, that the government had sought to stop the newspaper's publication of a series based on the Pentagon

study despite its full knowledge of "what we had."

Mr. Macomber, who had attributed the suits against the New York Times and other newspapers to their refusal to identify or produce for inspection documents in their possession, challenged Mr. Frankel's statement.

In addition to the volumes of the Pentagon study, he said, the Times had "associated documents" and had published one damaging one not included in the copies of the highly secret study, which was commissioned by Robert S. McNamara, former defense secretary, in 1957 and completed in 1969.

Daniel Ellsberg, who participated in the task force engaged in the study, has acknowledged giving the New York Times some but not all of the volumes.

Mr. Macomber said today it is believed the "associated" papers of which he spoke last night were working papers used by those preparing the study, some of which were not included in the published Pentagon studies in the government's possession, and the identities of which have not been traced.

He conjectured that Dr. Ellsberg had "worked from an earlier draft of the study and a bunch of back-up documents"

and not the final draft, of which the government got several "top secret" copies.

A highly informed source on the McNamara task force that did the study said he had been "struck" in reading the New York Times series on it "that I did not recognize some of the stuff, and I have heard from State Department sources that there is material not in the study that is in the New York Times."

"It could have happened" he said, "that some engaged on the study walked away with documents they found interesting and that were not included in the study."

Instructions from Leslie H. Gelb, who headed the McNamara task force engaged in the work for two years, this source said, were that "personal musing and hand-written memos in the Pentagon files did not qualify as official documents" and were not to be incorporated in the volumes prepared at Mr. McNamara's request for preservation as historical records.

"But some of these could have been xeroxed and retained by participants in the study," the source said.

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RICHARD WILSON

Fuel for Future Controversies in Press Ruling

The issue of freedom of the press in the case of the Pentagon papers is not likely to remain settled for long. There was enough in both the majority and minority opinions of the Supreme Court freeing newspapers to publish these particular purloined documents to fuel future controversies.

The government did not make a very good case that the security of the United States was irreparably damaged by disclosure of five-year-old documents on who advocated what, and when, in escalating the Vietnam war. Perhaps the government didn't have enough time, as some of the dissenting justices argued, to make a strong case.

In some other instance where the government could

make a stronger case the possibility is not excluded that prior restraint would be sanctioned.

But the press has won a great victory. The barriers go down on the publication of documents, stolen, bought or begged, and it is inevitable that the governments "secrets" will flow out in a steadier stream from disaffected officials.

But the government does have a way to protect itself and the public interest, by using common sense. The big common sense lesson from the Pentagon papers case is that vast amounts of historical material are bound up tightly in a classification system which makes no sense and is administered stupidly.

From now on when the "top secret" stamp is used it had better be used carefully or it will be as meaningless as it proved to be on the Pentagon papers. The government will be required to shake down the classification system and declassify huge amounts of material if it wishes to preserve the credibility of the secret classifications and have any chance of making them stick in court.

The Danger herein is that in their newly expanded area of freedom reporters and editors will cross that vague line which remains and do specific provable damage to the national security. Then the findings in the Times case may not protect them and particularly if there is accompanying

public indignation, which there was not much of in the publication of papers proving that Lyndon Johnson reluctantly and hesitantly did what his instincts told him not to do.

It may well be found that the presumption of unconstitutionality against any prior restraint of publication is so very heavy that the government's best weapon will be, as it has been in the past, the threat of criminal prosecution. Here again, however, the government will be compelled to prove its case, and it is very doubtful that it could do so on the Pentagon papers.

There is another predictable result from this historic decision. The government will tighten its own internal security systems, and that may not be a pleasant operation. But the presumption now rests that the government must protect its own secrets, prevent papers from being stolen or embezzled and deal firmly with those who leak them. There is little recourse in closing the barn door after the horse is stolen.

When all that is said, attention should be paid to the opinion of two Justices, Byron White and Potter Stewart, who were in a swing position in this 6-3 decision. They joined in rejecting any conclusion that there are no circumstances under which a newspaper could be ordered to withhold publishing information about government plans and operations. Their conclusion, however, was that the government had not "satisfied the very

heavy burden which it must meet to warrant an injunction against publication in these cases.

The idea was brought forward in various opinions that there was an absence of specific law applicable to the press, but there is deemed to be little likelihood that Congress will now do what it has refused to do before and adopt such specific laws.

The net result of this decision is to draw back a curtain which has inhibited the view of secret government operations. But, nevertheless, a formidable barrier remains. This barrier is the refusal of the government to release information to which the public is entitled.

Until it is established that the public does in fact have a right to know what the government does not desire to disclose, the problem of free and full public information will remain.

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Laird Issues New Rules For Security at Rand

Defense Secretary Melvin Laird said today he has ordered strict new security regulations covering the Rand Corp., the Pentagon "think-tank" that employed Daniel Ellsberg.

Ellsberg has admitted to leaking top-secret Pentagon papers to several newspapers.

Laird said the new rules, which he ordered last night, would have a "far-reaching effect," but did not say how they would apply to other defense contractors.

Laird's comment came as he prepared to leave Andrews Air Force Base for a three-week trip to the Far East.

Pentagon sources said they had uncovered serious deficiencies in security procedures followed by Rand—which has been closely associated with the Air Force—and said classified documents in possession of the corporation now have been placed in custody of Air Force personnel.

Laird's decision was said to reflect deep concern over the unauthorized release of the doc-

uments by Ellsberg and a commitment to tighten security to prevent similar releases in the future.

Secretary of State William P. Rogers said yesterday the Supreme Court decision permitting newspapers to print the secret Pentagon papers "present a very difficult problem and we've got to find ways to solve it."

Insisting that he was not taking issue with the court's decision, Rogers said the government must find ways to preserve orderly procedures, safeguard the national interests, and maintain confidential relationships with foreign governments, the Associated Press reported.

Rogers called on the press to "recognize an obligation to refrain from the publication of information which would harm the security of the United States."

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- EXPECT GOVERNMENT TO PROTECT SOME OF PENTAGON DOCUMENTS: Washington insiders expect the Administration will quickly move to declassify most of the stolen Pentagon papers which have been leaked wholesale through the press, but still call for careful protection of some reports. (Congress now has access to the whole report.) Disclosure of some papers could still adversely affect present policies. The secrets hemorrhaging has seriously damaged U.S. prestige, and the culling of selected documents for publication by the New York Times has served to misinform, rather than inform, according to some knowledgeable observers. The average citizen, they say, is ill-prepared to evaluate the propriety of, for example, a contingency plan (what to do if a, b, or c...or x or y or z, happens). But security men are adamant about one thing: "If somebody doesn't go to jail for this," said one intelligence man, "then we deserve to lose." Another asked, "Now, when is Hanoi going to publish its working papers?" Another said, "It's the same as the Tyler Kent case." (Kent, an American code clerk at the U.S. Embassy in London, gave exchanges of telegrams between Prime Minister Churchill and President Roosevelt to pro-Nazi British during the dark days of 1940; the Nazis passed the cables on to Hitler's intelligence service. Kent was caught -- with 1,500 documents -- convicted under Britain's official secrets act and got seven years.) Gen. Maxwell Taylor gave most lucid protest about leak of Pentagon papers: "If it becomes accepted usage that any disloyal employee of government can find in the press a ready market for governmental secrets, no secret will be safe. * * * The Times has...undertaken to substitute its own judgement in deciding what secrets are entitled to protection."
- CRONKITE FAILS TO REPORT HOW HANOI TREATED FRENCH P-O-W'S: Walter Cronkite's report on U.S. prisoners of war held by North Vietnam (CBS calls them "pawns of war") failed to correct two major misstatements of fact by Senators Church (D-Idaho) and Hatfield (R-Ore.) in the CBS program June 22. Both Senators were shown arguing earnestly that if the President would only set the date of U.S. withdrawal from Indochina then North Vietnam would almost immediately release the POW's. Research of Rep. John Ashbrook (R-Ohio) shows how Hanoi violated its own solemn pledge on POW exchange 17 years ago: the Geneva Agreement (signed only by the Vietminh Communists and the French government) called for POW and civilian internee release 30 days after the 1954 ceasefire. *Eight years later*, Ashbrook noted in a June 10 statement in the Congressional Record, Hanoi radio reported the North Vietnamese government was making final plans for releasing "French soldiers who had surrendered and who had applied for repatriation."
- MADAME BINH PRAISES, CRITICIZES MAYDAY ORGANIZERS: Mme. Nguyen Thi Binh, Paris negotiator for the "Provisional Revolutionary Government of South Vietnam," a Hanoi-Viet Cong front, met secretly with leaders of the Mayday crew that tried to disrupt Washington, D.C. two months ago, and has given them accolades -- and some scolding. The meeting with Mme. Binh and two other Hanoi delegates in Paris was held the week of May 10, immediately after the capital upheaval. The Americans had been summoned to Paris by the Communists. Details of the secret conference were given in testimony before the House Internal Security Committee by one of its investigators, Herbert Romerstein. The committee would not say how it came by the information but claimed it was from a "highly confidential but highly reliable source." Romerstein said Mme. Binh, Xuan Oanh and Nguyen Minh Vy met with Robert Greenblatt (from the People's Peace Treaty group), Jack Davis and Carol Kitchens of the Mayday organization, and Sydney and Louise Peck of the People's Coalition for Peace and Justice. Romerstein said Mme. Binh thanked the Americans, but made several objections: she liked the People's Peace Treaty idea, but thought it had too many points (and someone "turned off" by one point might not sign it), she wanted more mass organizing, and the propaganda slogan should be "Set the Date" (for U.S. withdrawal). She suggested increased pressure on the U.S. Congress. She urged the necessity of a coalition of "peace groups" -- no bickering, inclusion of Trotskyists, the Vietnam Veterans Against the War, the Mayday Tribe.

DROP IS EXPECTED IN 'SECRET' MEMOS

Fulbright Says That Ruling Will Have 'Psychological Effect' on Government

By MARJORIE HUNTER
Special to The New York Times

WASHINGTON, June 30—

Congressional leaders today generally applauded the Supreme Court decision on publication of material from Pentagon papers.

The ruling was greeted with almost silence by the White House officials of the Nixon Administration.

Asked if the White House had any reaction, Ronald L. Ziegler, press secretary to the President, replied, "I have no comment on the Supreme Court decision today."

Asked what the President thought of the decision, Mr. Ziegler said: "The President is aware of the Supreme Court decision. He has been in a National Security Council meeting this afternoon."

And asked if the President supported freedom of the press, Mr. Ziegler replied: "There is no need for me to comment on that. The President's stand on the First Amendment and freedom of the press is well known."

Mitchell: No Comment

A Justice Department spokesman said that Attorney General John N. Mitchell would have no comment on the Court's ruling.

But at the State Department and on Capitol Hill, the Court decision was generally viewed as certain to speed up the process of declassifying many documents, some of them dating back many years, now stamped "secret" and "top secret."

State Department officials said that the Court decision was certain to discourage many officials from writing too many "secret" memos, but they said they did not think that this would seriously affect foreign policy process.

Senator J. W. Fulbright, Democrat of Arkansas, chairman of the Foreign Relations Committee, said that the decision was certain to have "a tremendous psychological effect" on secrecy in government

and "indiscriminate" classification of documents.

"I could not be more pleased if I were editor of The New York Times," he said. "The Times has justified the First Amendment."

'Great Day for Freedom'

The Senate Democratic leader, Mike Mansfield of Montana, reacted more cautiously to the decision but said that, barring matters affecting national security, "this will be a good move in the freedom of information area for the American people and, may I say, for the United States Congress as well."

Senator Hubert H. Humphrey, Democrat of Minnesota, said in a floor speech: "The Court has performed its most valuable service for many a year. . . . This is a great day for freedom in the land."

While reaction to the Court's decision was generally favorable, several Senators were openly critical of the New York Times for printing the documents and of Dr. Daniel Ellsberg, a former Defense Department official who has said that he gave the press the 47-volume Pentagon study on United States involvement in Vietnam.

Senator Barry Goldwater, Republican of Arizona, said that he felt that The New York Times and Dr. Ellsberg should be charged under the Espionage Act.

Dr. Ellsberg was indicted this week on a charge of unauthorized possession of "documents and writings related to the national defense"—it carries a penalty of up to 10 years in prison, \$10,000 fine or both—and was released on \$50,000 bail. No criminal charges have been filed against The Times or other newspapers.

Newspapers Criticized

Senator Gordon Allott, Republican of Colorado, said that he felt that The New York Times and other papers had set themselves above the law. "This cannot be permitted," he added.

The main issue, Senator Allott said, is whether people in government with the responsibility of classifying documents "are going to be allowed to make those decisions, or whether the press is going to make the decisions for them."

Several Government panels are now looking into the question of classification and declassification of documents.

State Department officials disclosed today that Secretary William P. Rogers had quietly ordered the creation of such a panel shortly after articles on the subject appeared in the Times and other newspapers.

Department officials said that the group would study how best to make available to Congress or to the press information that was now classified.

Another governmental panel, headed by Assistant Attorney General William H. Rehnquist, is reviewing the Government's system of classification and declassification.

Mr. Rehnquist told a House

Government Operations Subcommittee today that too many Government documents are classified. David O. Cooke, Deputy Assistant Secretary of Defense, told the subcommittee yesterday that at least 20 million Government documents are now classified, a number that he said he felt was excessive.

Meanwhile, a Defense Department official said tonight that consideration was being given to printing copies of the Pentagon papers for members of Congress. However, he said, that no final decision had been made.

Senator Edmund S. Muskie, Democrat of Maine, said today that he would introduce a bill to create an independent board to declassify appropriate documents "and provide Congress and the public the information they must have to play their proper roles in our democratic system."

Senator Muskie said that the Court decision "is a victory for the American people's right to know."

Symington 'Gratified'

Senator Jacob K. Javits, Republican of New York, termed the Court ruling a "historic reaffirmation of freedom of the press" and a reaffirmation of "the good judgment and high patriotic sense of The New York Times and The Washington Post."

Senator Stuart Symington, Democrat of Missouri, said that he was "gratified by the decision."

"What the press is really doing here," he said, "is a job the legislature should have done for itself." He added that he did not think The Times should be criminally prosecuted for publishing the documents.

Senator George S. McGovern of South Dakota, the only announced candidate for the Democratic Presidential nomination, said that he "never doubted the First Amendment meant what it said."

Senator McGovern said he also never doubted that the Court would "stand with the men who wrote the Constitution rather than those in this freedom of the press is just another political catch phrase."

The Senate Republican leader, Hugh Scott of Pennsylvania, said that he was "pleased that the Supreme Court has ruled in favor of a free press."

But Senator Robert A. Taft Jr., Republican of Ohio, while praising the Court for upholding freedom of the press, said that the ruling presented "some serious problems for Congress" on protecting truly sensitive documents.

Representative William S. Moorhead, Democrat of Pennsylvania, chairman of a House government operations subcommittee investigating government secrecy, said that he was "gratified" at the court ruling.

But Representative Samuel A. Stratton, Democrat of upstate New York, said that he felt the Court had made "a very serious mistake."

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Approved For Release 2006/01/03 : CIA-RDP80-01601R000400040001-6

Let's Declassify

By RICHARD HUDSON

More than half a century ago Woodrow Wilson called for "open covenants openly arrived at." It was a good idea then, although the other statesmen of the time didn't think so. They made a lot of secret deals, and a generation later the world had its biggest war yet.

Now, I think, Wilson's idea is not merely good but indispensable if mankind is to avoid catastrophe. The Pentagon Papers provide fresh and dramatic evidence that Government officials operating behind closed doors do not possess some mysterious high wisdom denied to the rest of us. Indeed, one could make a good case that the outside public exhibits more good sense.

Suppose the Johnson Administration had been a goldfish-bowl operation, leveling with the Congress and the people. If the truth had been released about the events in the Gulf of Tonkin in August, 1964, would there have been a Tonkin Resolution? Most unlikely. Without the Administration's massive snow job, I believe it is probable that the American people and the Congress would never have permitted a U.S. ground war on the mainland of Asia.

The system of secrecy backfires even within governments and at the highest levels. The case of Adlai Stevenson at the time of the Bay of Pigs crisis, when he declared (and believed) that the U.S. had nothing to do with it, is well known. For no gain whatever, the U.S. suffered a serious loss of credibility. Also well known is the fact that The New York Times knew about the planned invasion beforehand but refrained from printing much of the story at the request of President Kennedy. If The Times had published the story surely a storm would have arisen—but a disastrous foreign-policy blunder probably would have been prevented.

I think it has not been published before that in the Cuban missile crisis the shoe of secrecy was on the other foot, I have learned from a Russian source in a position to know that on October 23, 1962, in the heat of the Security Council debate, when Stevenson angrily turned to Soviet Ambassador Valerin Zorin and said that he would wait "until hell freezes over" for Zorin's answer as to whether there were Soviet missiles in Cuba, Zorin stalled and balked for the simple reason that he didn't have the foggiest idea of the true answer. It is also clear from Robert Kennedy's book, "Thirteen Days," that Soviet Ambassador Dobrynin in Washington did not know on that same date, the day after President Kennedy's television address letting the world in on the crisis, whether there were Soviet missiles in Cuba.

whether Gromyko was in on Khrushchev's secret when he saw Kennedy on October 17--the day after Kennedy had seen photographs of the Soviet missiles--and assured Kennedy "that the Soviet Union would never become involved in the furnishing of offensive weapons to Cuba" (Robert Kennedy's words). I have never been able to ascertain the answer to this question but circumstantial evidence leads me to believe that Gromyko had not been told.

What if President Kennedy had not kept his secret and had confronted Gromyko with the photographs? Might not the public confrontation have been avoided? What if Khrushchev had told Dobrynin of his intentions? Surely Dobrynin would have told Khrushchev in strong terms that putting Soviet missiles into Cuba would take the world to the brink.

The most bizarre example of secrecy today is that at the talks on the limitation of strategic arms--SALT. Supposedly secrets are to be kept from potential enemies, but here the potential enemies sit down together to talk about important matters that are kept from their own people. U.S. officials say that they have to be secretive about the talks because the Russians want it that way, but I suspect that the American officials have not pressed for openness. I think that the talks might very well progress better if they were open to the public.

Of course, there are valid arguments at times for secrecy: military matters have to be kept quiet so long as the present archaic international security system continues to exist; codes must be protected; information in personnel files that might damage reputations should not be released; often diplomats can avoid making propaganda speeches by holding private negotiations.

What is needed is the establishment of a rule that unless there is overriding reason for secrecy, Government business should be done in the open. I would suggest that all executive department documents be automatically declassified after one year unless a newly established commission rule that a valid reason existed for a document to remain classified. The commission should be a quasijudicial institution not under the authority of the executive department. It would review documents at the time they are first classified and would not permit classification unless a strong case were presented. In short, the less material classified, the better, and for material that is classified, the sooner it is declassified, the better.

Richard Hudson is editor of *War/*

Approved For Release 2006/01/03 : CIA-RDP80-01601R000400040001-6

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'An Enlightened People'

The historic decision of the Supreme Court in the case of the United States Government vs. The New York Times and The Washington Post is a ringing victory for freedom under law. By lifting the restraining order that had prevented this and other newspapers from publishing the hitherto secret Pentagon Papers, the nation's highest tribunal strongly reaffirmed the guarantee of the people's right to know, implicit in the First Amendment to the Constitution of the United States.

This was the essence of what The New York Times and other newspapers were fighting for and this is the essence of the Court's majority opinions. The basic question, which goes to the very core of the American political system, involved the weighing by the Court of the First Amendment's guarantee of freedom against the Government's power to restrict that freedom in the name of national security. The Supreme Court did not hold that the First Amendment gave an absolute right to publish anything under all circumstances. Nor did The Times seek that right. What The Times sought, and what the Court upheld, was the right to publish these particular documents at this particular time without prior Governmental restraint.

The crux of the problem lay indeed in this question of prior restraint. For the first time in the history of the United States, the Federal Government had sought through the courts to prevent publication of material that it maintained would do "irreparable injury" to the national security if spread before the public. The Times, supported in this instance by the overwhelming majority of the American press, held on the contrary that it was in the national interest to publish this information, which was of historic rather than current operational nature.

If the documents had involved troop movements, ship sailings, imminent military plans, the case might have been quite different; and in fact The Times would not have endeavored to publish such material. But this was not the case; the documents and accompanying analysis are historic, in no instance going beyond 1968, and incapable in 1971 of harming the life of a single human being or interfering with any current military operation. The majority of the Court clearly recognized that embarrassment of public officials in the past—or even in the present—is insufficient reason to overturn what Justice White described as "the concededly extraordinary pro-

tection against prior restraint under our constitutional system."

So far as the Government's classification of the material is concerned, it is quite true, as some of our critics have observed, that "no one elected The Times" to declassify it. But it is also true, as the Court implicitly recognizes, that the public interest is not served by classification and retention in secret form of vast amounts of information, 99.5 per cent of which a retired senior civil servant recently testified "could not be prejudicial to the defense interests of the nation."

Out of this case should surely come a total revision of governmental procedures and practice in the entire area of classification of documents. Everyone who has ever had anything to do with such documents knows that for many years the classification procedures have been hopelessly muddled by inertia, timidity and sometimes even stupidity and venality.

Beyond all this, one may hope that the entire exercise will induce the present Administration to re-examine its own attitudes toward secrecy, suppression and restriction of the liberties of free man in a free society. The issue the Supreme Court decided yesterday touched the heart of this republic; and we fully realize that this is not so much a victory for any particular newspaper as it is for the basic principles of freedom on which the American form of government rests. This is really the profound message of yesterday's decision, in which this newspaper rejoices with humility and with the consciousness that the freedom thus reaffirmed carries with it, as always, the reciprocal obligation to present the truth to the American public so far as it can be determined. That is, in fact, why the Pentagon material had to be published. It is only with the fullest possible understanding of the facts and of the background of any policy decision that the American people can be expected to play the role required of them in this democracy.

It would be well for the present Administration, in the light of yesterday's decision, to reconsider with far more care and understanding than it has in the past, the fundamental importance of individual freedoms—including especially freedom of speech, of the press, of assembly—to the life of the American democracy. "Without an informed and free press," as Justice Stewart said, "there cannot be an enlightened people."

Sulzberger Expresses 'Complete Joy' at Ruling

Arthur Ochs Sulzberger, president and publisher of The New York Times, said yesterday that his reaction to the Supreme Court's decision was "one of complete joy and delight."

Mr. Sulzberger held a news conference with A. M. Rosenthal, managing editor of The Times, and James C. Goodale, the newspaper's general counsel, about 20 minutes after the decision was announced.

The publisher said that he had "never really doubted that this day would come and that we'd win," adding that "sometimes it seems like it was going to be a little longer waiting than I had hoped." The Times had been under court orders to suspend publication of its series on the Pentagon papers since June 15.

When asked, "Knowing what you know about what happened, would you do this again if someone came to you with what you considered to be an equally important discovery?" Mr. Sulzberger replied that he would.

'A Joyous Day ...'

Mr. Rosenthal, asked for his reaction, said: "Well, I think it's a joyous day for the press and for American society. And I thought this was the way it would turn out. I prayed it would."

He said also that "there will be no changes in the presentation of the articles" as a result of the Government's action and the delay. "We will present them exactly as we planned." He added:

"Obviously, I'm not filled with joy that other newspapers have had pieces of this story, but I really do not think it dilutes it. Quite the contrary—I think that an enormous amount of interest has been built up in these papers, and I think that the job we intend to do will demonstrate that they are a matter of enormous historical interest."

Mr. Rosenthal was asked if he felt the decision would "open up channels of information to the news media that

may heretofore have been closed?"

"Yes; I do, really," he replied. "I think this whole case will have done that. I think that people in the press, people in government and people in the public will see as the result of this whole case that a great deal of information is classified for no real national security interest and I think the move will be in the direction of more information rather than less."

Press Freedom 'Upheld'

He said also that he thought the Court, in its decision, "upheld the freedom of the press, and that is a matter for great joy."

A great deal of the material, Mr. Rosenthal said, had been "a rather profound surprise" to him. "Not individual decisions . . . but the rationale or lack of rationale, the government planning or lack of government planning."

Mr. Goodale, asked if he thought there was "a new kind of antagonism between First Amendment rights and the Nixon Administration," said: "I don't really know if that's the case. I sometimes suspect it to be the case. But . . . I can't really answer that, I don't know."

Mr. Rosenthal, asked the same question, said that he felt there was "a tendency to . . . try to take legal action that is more pronounced in this Administration than in others." And in reply to the succeeding question, as to whether such antagonism between the press and government might not be "a sign of good health in both parties," he said:

"To a great extent I think it is. I don't think we'll ever see the day, nor should we see the day, when we're in bed together."

Toward the end of the 30-minute news conference, the questioning returned to Mr. Sulzberger, who was asked if he felt the motto of The Times — "All the News That's Fit to Print" — had been upheld.

"Yes, sir," Mr. Sulzberger said, "I think it was very much upheld."

Britain tells U.S. of concern over secrets leak

By VINCENT RYDER, Diplomatic Correspondent

THE Government is worried about the publication of private diplomatic exchanges in United States newspaper disclosures of the Pentagon's secret history of the Vietnam war.

The Foreign Office said yesterday that the Earl of Cromer, British Ambassador, had been instructed to tell the State Department of Britain's concern at "the threat to the confidentiality of diplomatic exchanges."

Anxiety in London is based partly on the possibility that controversial private messages about Vietnam may be disclosed and partly on the general principle that exchanges between the two capitals will be inhibited if there is a risk of their being made public within a few years.

There is a tradition of plain speaking and candid comments about other world leaders in messages between London and Washington.

No embarrassment

The United States Government has made the same argument in its legal efforts to prevent further publication of the papers. There is no embarrassment in London about exchanges disclosed so far.

These include a telegram from Mr. Wilson, when Prime Minister, expressing concern at the bombing of oil refineries near Hanoi and Haiphong, but Mr Wilson made no secret of his stand at the time. He has himself written candidly of his exchanges with Washington on Vietnam policy in his memoirs.

The problem is expected to be discussed during the London visit of Dr Henry Kissinger, President Nixon's adviser on international affairs, who lunched yesterday with Mr Heath and will confer with Foreign Office officials today.

He is in London at the invitation of Sir Burke Trend, secretary to the Cabinet, for talks on the organisation of the Administration's National Security Council, whose staff he directs, and comparable machinery in Whitehall.

Neither the Pentagon papers nor government organisation are likely to be the most important topics during his four-day stay. As the President's closest adviser he is a major influence in Washington and his views will be sought on a wide range of international affairs.

Documents Not Always Reliable, Ellsberg Says

Pentagon Study Figure Warns Internal Papers May Not Show President's View

BY DAVID KRASLOW
Times Washington Bureau Chief

WASHINGTON — The man who has admitted leaking the top secret Pentagon study of Vietnam policy cautioned in a magazine article last month that internal bureaucratic documents are not necessarily a reliable guide to a President's thinking.

That cautionary note by Daniel Ellsberg is especially relevant to one of the major controversies that erupted following partial publication of documents from the 47-volume study tracking this nation's involvement in Vietnam.

The documents published so far suggest that President Lyndon B. Johnson, while campaigning as a peace candidate in 1964, knew two months before the election that he would inevitably have to order the bombing of North Vietnam.

Losing Battle

Some authorities say this is an erroneous interpretation drawn from an admittedly incomplete and therefore distorted historical account — that while the issue was discussed, contingency plans drawn, and a consensus of some advisers achieved, there was no decision by Mr. Johnson.

Former Undersecretary of State George Ball, a Dove in the Johnson administration who fought a losing battle against deepening American military efforts in Vietnam, has said since publication of the papers that Mr. Johnson did not decide the bombing question until early in 1965. The regular bombing of North Vietnam was begun in March, 1965.

Some 35 authors who put together the massive Pentagon study at the direction of former Secretary of Defense Robert S. McNamara operated under acknowledged handicaps.

They apparently were given complete access to Defense Department records, but had no access to White House or State Department files and they were enjoined from interviewing any principals involved in the decision-making.

Writing in the May issue of the Public Policy quarterly published by the Kennedy Institute at Harvard, Ellsberg said:

"Certain general considerations caution the analyst/historian not to take the mosaic of bureaucratic inputs to presidential decision as a close or highly reliable guide to the President's own view of a matter, his private expectations and aims."

In the lengthy article, a commentary on Vietnam policy decisions by four Presidents, Ellsberg also said:

"Documentary evidence on the internal decision-making process is far from adequate to answer the critical question of what considerations were salient to presidential attention at a given moment.

"The President—having no formal need to persuade a superior, to coordinate a proposal or to justify a decision internally—puts much less down on paper than other participants in the bureaucratic process."

Ellsberg asserted that because of a "frequent overlapping roles," he conceals, or dissembles his

own views even more than other participants, except selectively to his closest associates. They in turn guard them closely, for reasons of loyalty, their own access, and politics, even when they later come to write "history."

"Mr. Johnson is expected to present some now-secret evidence of what he was thinking about on Vietnam during the 1964 campaign in his memoirs to be published next November.

In fact, Mr. Johnson's use of classified documents in his memoirs is part of the defense raised by the Washington Post in its court fight against the Nixon Administration's effort to suppress the Post's continued publication of the Pentagon study.

Benjamin Bradlee, executive editor of the Post, said in an affidavit to the federal district court that the Johnson manuscript, which he examined at the invitation of the publisher, "contains extensive, verbatim quotations from classified documents contained in the materials involved in this case."

White House files, of course, contain in addition to presidential and National Security Council papers copies of many of the classified documents that originate elsewhere.

When Henry A. Kissinger, President Nixon's adviser for national security affairs, reported for duty at the White House in January, 1969, he found the cupboard bare.

The numerous file drawers of the NSC, which

is Kissinger's domain, were empty. The walk-in vault of the Situation Room in the basement of the White House, where the most sensitive NSC documents are stored, contained not a scrap of paper.

Even the log book had disappeared. The log ger a fairly good idea of what secret papers—in-

cluding probably the Pentagon's Vietnam study—the NSC had received from other agencies during the Johnson administration.

Following what apparently has become presidential tradition, Mr. Johnson had all of the NSC files taken to Texas.

Presumably, this material now is in the Johnson library at the University of Texas, and presumably, it will be made available to historians many years later.

One top foreign policy official during the Johnson era has suggested that even under the best of circumstances historians will never get at the whole truth on Vietnam.

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SCOTT AND GOLDWATER ASK DISCIPLINING OF SEN. GRAVEL

Republican Sens. Barry Goldwater of Arizona and Hugh Scott of Pennsylvania urged today that their Democratic colleague, Mike Gravel, be disciplined for his decision to release sections of the secret Pentagon papers on the Vietnam war.

Scott, the GOP minority leader, said Senate Democrats should determine whether Gravel had violated the chamber's rules.

He said he believed that if Gravel continued to read publicly from the documents--as Gravel said he would--he would be in violation of Rule 36, which bars senators from releasing confidential communications from the Executive Branch.

Goldwater urged that the Alaska Democrat be denied further access to any classified material.

29 JUN 1971

2nd View Held by State Dept. Humphrey

BY RICHARD BERGHOLZ
Times Political Writer

Former Vice President Hubert H. Humphrey said Monday he believed undisclosed State Department papers would present a different view of the Vietnam war origins and conduct than the Pentagon papers.

The Minnesota senator told a Beverly Hilton news conference it should be up to Congress to uncover the State Department documents that, he said, will present a "balanced view" of the internal policy discussions relating to the Vietnam war.

Humphrey, who said he sat in on some top-level policy discussions on the war during former President Lyndon B. Johnson's

administration and was excluded from others, told newsmen that "regrettably, Vice Presidents are not always made privy to what's going on."

He concluded, however, that "I don't think the President (Mr. Johnson) deliberately deceived the American people" regarding the decisions to increase the scope of U.S. military operations in Southeast Asia.

Humphrey said the Pentagon papers disclosed by the news media thus far indicate a "lack of candor" by Mr. Johnson.

But he explained that he thought this resulted from what the President believed to be the demands of "military security."

"There is a tendency of people in government to be over-protective on security matters," Humphrey said, "but this is not out of any avarice."

In answer to a question, the former Vice President again confirmed published reports that in 1965 he

sent a personal memo to Mr. Johnson contending that increased U.S. bombings on North Vietnam would not be "productive" and that "generally, I did not look with a great deal of favor on military escalation."

The senator defended the need for contingency plans in the national defense and said it would not be in the national interest to "publish them prematurely."

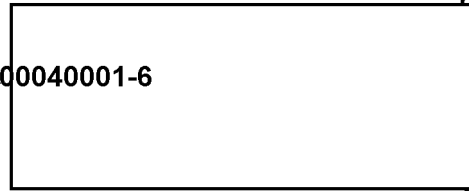
But he repeatedly called for revision of the means by which classified doc-

uments are declassified. He said Congress should "lay down the guidelines" for declassification, which now is handled by the Pentagon.

Humphrey defended publication of the Pentagon papers thus far, but warned against undue preoccupation with them.

"We're in sorry trouble if we just seek to relive the '50s and '60s," he said. "We should learn that this is a serious matter of government credibility, that the integrity of government is involved here."

STAT



The Dangers Within

STAT

In testimony before the Senate Permanent Investigations Subcommittee last week, Robert Cudak told how a crime ring had stolen millions of dollars from the U.S. mails. He described a \$21 million theft from Kennedy Airport in New York, one of 125 mail robberies the ring had committed across the nation. Some of the stolen mail, he said, included classified documents from the Defense Department, the Central Intelligence Agency, and the Federal Bureau of Investigation.

Cudak's testimony made front-page headlines, but it actually came as no surprise. For years, lax security in the postal service has resulted in wholesale thefts in the post offices, as well as at airports. Losses from these thefts range into the hundreds of millions of dollars — perhaps a billion or more — with private charities the main victims.

Of course, postal officials were quick to assure members of the Senate subcommittee that tighter security measures had been put into effect, and that airport mail theft had declined. Maybe so. That might reduce the opportunity for professional thieves to steal at will, but what of the opportunities for theft within the postal service?

The question arises from testimony given before the House Subcommittee on Internal Security almost at the same time that Cudak was appearing before the Senate subcommittee. Congressman

Richardson Preyer of North Carolina asked William J. Cotter, chief postal inspector, if the postal service employed persons who belonged to radical or subversive organizations, naming a few as examples.

"I do know we have, for example, some associated with the Black Panthers," Cotter replied. "I do know that we have some employees either presently or in the past with that organization. I am quite sure we have employees associated with some or all of the organizations, too."

The other organizations mentioned by Congressman Preyer included the Communist Party U.S.A., the Progressive Labor Party, and a number of other groups identified with Marxist or Leninist causes. Cotter added that the postal service could not dismiss subversives unless "there is cause for dismissal of the individual." He meant that postal employees are not considered to be in jobs relating to national security, and thus they can be fired only for poor work.

Cudak testified before the Senate subcommittee that members of mail theft rings usually burned secret documents instead of trying to sell them.

"I was afraid of them," he said. Postal employees who also may be members of radical or revolutionary groups may suffer no such qualms if they run across documents originating from the Pentagon, the CIA, or the FBI, especially if those documents serve their purpose of further disruption. Cudak's testimony was chilling enough, but Cotter's remarks, not so widely reported, offered even more shocking implications about the threat to national security from within the postal service itself.

In Brief

The Soviets say they're for a "peaceful moon." Right. Just the way they're for a peaceful Earth.

Ray Cromley / Supersecrecy



IT is not well known, but in the intelligence rule book overclassification is regarded as serious a violation of security as underclassification.

Overclassification, for example, is marking a document secret when it should be labeled merely confidential or declassified altogether.

It endangers national defense and harms the national interest because it destroys public confidence on which national security rests.

It tends to build disrespect for Top Secret, Secret and Confidential classifications and thereby endangers legitimate secrets essential to the safety of this nation and its combat forces.

THE evils of overclassification are clearly outlined in military regulations.

The regulations also provide that classified documents, with certain exceptions, shall be reviewed periodically and downgraded when their original classification is no longer justified in the national interest. (Some documents are listed for automatic downgrading).

But, as is well known within the military, the common-sense men who wrote the regulations are fighting a losing battle.

Overclassification has become the bugaboo of the military services. So much so that the story regularly passes around the Pentagon (whether true or not I have never been able to

discover) that it was only recently that certain details of Custer's last stand were declassified. Highly-accredited research men regularly complain they find it impossible to get some historically important World War II documents declassified.

ANY experienced officer can give his own personal horrible examples.

On one occasion when I, as an officer in World War II, was commanding a combined Army-Navy-Air Corps unit in the field in an area where the preservation of security in communications was most difficult, the Air general commanding back in headquarters requested that all communications to air headquarters be marked Top Secret.

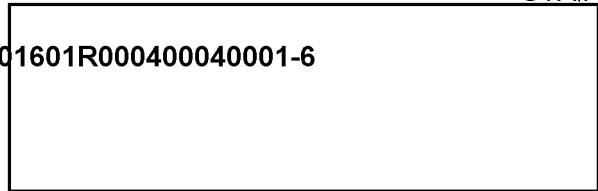
Asked why he made this strange request, the general explained that all his communications came thru the Army and a Top Secret marking speeded things up. His request was denied.

On another occasion, a number of field reports I'd sent from the field marked Confidential had been raised to Secret before reaching Washington. The answer to my objection read thus: Our operations seem more important if the reports are marked Secret.

There are legitimate secrets. They must be preserved if this nation is to be protected and if American fighting men are not needlessly to lose their lives.

But the abovementioned abuses of security within the government itself are what make high-ranking officials despair privately of being able to enforce the rules in protecting legitimately-classified documents.

29 JUN 1971



More Copies Are Sought

Hill Gets Secret Files on War

Two copies of the secret Pentagon study of the Indochina war were sent to Congress yesterday amid demands for more copies and predictions that members of Congress won't keep it secret either.

Rep. F. Edward Hebert (D-La.), chairman of the Armed Services Committee who took custody of the 47-volumes for the House, said when asked if he could prevent leaks:

"I don't think you can keep a secret in Washington if you told it to your mirror. If you could, this wouldn't be in the Supreme Court now."

This was a reference to the government's attempt to prevent The New York Times and The Washington Post from printing accounts of the papers.

Sen. Allan J. Ellender (D-La.), president pro tempore who received the papers for the Senate, also was asked if he believed senators would keep the secrets to themselves. "If I'm to judge from past experience around here, the answer is no," said Ellender.

Each set was carried to the Capitol in two cardboard cartons covered in brown wrapping paper. On top of each carton was a large label: "TOP SECRET."

With the blue-covered volumes came a letter of transmittal from Secretary of Defense Melvin R. Laird stating

that disclosure of the contents of the study of the causes and conduct of the war would lead to "grave and immediate danger to the national security."

Senate Majority Leader Mike Mansfield (D-Mont.) announced tentative agreement for a joint Senate investigation by its Foreign Relations and Armed Services committees on release of the study to newspapers and on the broader question of the executive branch's policies for classifying documents.

Meanwhile, the Senate documents were locked in a vault in the office of Frank Valeo, secretary of the Senate, until the Senate formally decides where to refer them.

Hebert said the House volumes would be locked in a committee room, cleared as secure by the Department of Defense, with a 24-hour guard. Only members of Congress will be permitted to read the papers. They will not be permitted to make copies or to take notes, said Hebert. The same rules will apply in the Senate so long as its papers remain in Valeo's office.

Meanwhile, seven members of the House Government Operations Committee sought to invoke a 1928 statute to obtain

copies from the Pentagon of both the 47 volumes and a separate study of the Gulf of Tonkin incident.

It was the alleged attack on two U.S. vessels in the gulf in 1964 which led to congressional passage of a resolution that was cited as legal justification for the Vietnam war. The resolution was repealed last year, and several members of Congress who have since voted against the war argue that there is no longer a legal basis for it.

The 1928 act requires any executive agency to submit "any information requested of it in relation to any matter within the jurisdiction of" the House and Senate Government Operations Committees. Rep. William S. Moorehead (D-Pa.), chairman of a subcommittee investigating government information policies, was joined by six other committee members in asking Laird to deliver the documents by Wednesday afternoon for use in their study.

Under the present arrangement, Moorehead's staff cannot look at the documents in Hebert's safe, and Moorehead can learn only what he can carry away in his memory.

Separately, The House Armed Services Committee rejected, 25 to 2, yesterday afternoon a resolution by Rep. Bella Abzug (D-N.Y.) that would make the 47-volume Indochina study available to the whole House in a more "meaningful" way.

Her resolution of inquiry, which will come to a House vote this week despite the committee disapproval, would demand that President Nixon provide Congress with several copies which members could take notes from and which staff members with security clearance could see.

A congressman must have an "elephantine memory" to make use of the study under present ground rules, she said.

She was supported on the committee only by Reps. Michael Harrington (D-Mass.) and Les Aspin (D-Wis.).

By late yesterday afternoon, only two senators and one House member had asked to see the documents. They were Sens. Charles H. Percy (R-Ill.) and Harry F. Byrd (Ind-Va.) and Rep. Robert R. McClory (R-Ill.). McClory said the House committee promised to tell him within 24 hours what the ground rules will be.

A matter of disagreement:

How secret were the secrets?

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By JERRY GREENE

Chief of The News Washington Bureau

The 47-volume Pentagon Papers—officially called "History of the United States Decision-Making Process on Vietnam Policy"—present a broken and admittedly incomplete documentary account of how four administrations carried the nation into war, not always with great foresight and sometimes with plans and decisions withheld from public view.

The history is incomplete because early records had disappeared. It falls short of a total picture because it presents mainly the Pentagon's record. And 3,000 words of it are a narrative analysis made by the 30-odd authors involved—a flawed record that often reflects their own biases and prejudices.

The harsh judgments are to be found in the narrative account by the analysts. To the confusion of the public, moreover, portions of the study published in newspapers have not always made a clear distinction between the quoted text of a document and the anonymous historian's view of it.

Yet as incomplete as the record is, and imperfect as it is, three major conclusions can still be drawn:

1. There is apparent evidence of deception and duplicity on the part of the government, during the administration of former president Lyndon B. Johnson.
2. Far from being kept in the dark, congressional leaders and appropriations committees on Capitol Hill were fully informed on most operations.
3. Many of the so-called "secrets" revealed by the Pentagon Papers actually were reported on fully, and with almost pinpoint accuracy, by the ever-zealous American press.

Among the presidents involved with the war, Dwight D. Eisenhower and John F. Kennedy came off lightly compared with Johnson, and Richard Nixon escapes entirely, since the study does not extend beyond 1968. Reportedly, however, unpublished portions of the papers may deal with Nixon's role when he was vice president under Eisenhower.

Lyndon Johnson, who is said to feel that the study is biased and distorted, comes under attack as a man who ordered an increase in army forces in Vietnam and a switch in the combat role of Marine Corps battalions with a directive that "premature publicity be avoided by all possible precautions." Evidence is to be found that there was evasion and even lying on the part of some officials about tactical matters.

Leslie H. Gelb, the former Pentagon official who was in charge of the historical compilation, has admitted some of the weaknesses of the final product.

In his covering letter with the final report, which was submitted to the U.S. district court here last week as an exhibit, Gelb wrote: "Of course we all had our prejudices and axes to grind and these shine through clearly at times, but we tried, we think, to suppress or compensate for them.

"Writing history, especially where it blends into current events, is a treacherous exercise. We could not go into the minds of the decision makers, we were not present at the decisions, and we often could not tell whether something happened because someone decided it, decided against it, or most likely because it unfolded from the situation."

Against that backdrop, these are the salient disclosures in the published portions of the Pentagon Papers:

◦ Former President Eisenhower in January, 1951, approved a National Security Council policy statement setting as a na-

The case of the Pentagon Papers and their publication in parts of the American press has created a good deal of confusion about Vietnam policy and how it was created. In a four-page special section today, THE NEWS reviews and evaluates what we have learned.

tional objective the security of Southeast Asia from communist domination.

◦ U.S. State Department officials played a vital, hidden role in encouraging the ouster by coup of South Vietnam President Ngo Dinh Diem in 1963. Diem and his shadowy brother, Ngo Dinh Nhu, were murdered.

◦ Former President Lyndon Johnson's aides were recommending bombing of North Vietnam and preparing contingency plans for attack during 1964 at the same time he was denouncing his GOP presidential opponent, Sen. Barry Goldwater (R-Ariz.), as "trigger happy."

◦ U.S. officials were cooperating in secret South Vietnamese sabotage attacks against North Vietnam in operation 34-A long before the Gulf of Tonkin incident. LBJ approved an 18,000 to 20,000 army force increase for South Vietnam and authorized Marine battalions there to change from a defensive to a "more active" mission. He demanded, however, that the actions "should be taken as rapidly as practicable but in ways that should minimize any appearance of sudden changes in policy...."

◦ LBJ, as had the late President Kennedy before him, received a steady stream of conflicting advice from the soft and hardliners on his staff, with Johnson getting warnings from the CIA that the planned bombing attacks would not achieve their purpose.

◦ Johnson advisers, particularly Defense Secretary Robert S. McNamara, regarded bombing pauses not as much help toward peace, but as a time to regroup and solidify public



BY STEWART ALSOP

'BREACH OF SECURITY'

STAT

WASHINGTON — It is interesting — and rather wryly amusing—to juxtapose a couple of editorials that have appeared in The New York Times. One appeared on June 16 after a Federal judge ordered the Times to suspend publication of the top-secret Pentagon studies of the U.S. role in Vietnam.

The Times called this “an unprecedented example of censorship,” which indeed it is. But then, the verbatim publication of great masses of top-secret papers is also unprecedented.

“What was the reason that impelled The Times to publish this material in the first place?” the Times asks rhetorically. “The basic reason is, as was stated in our original reply to Mr. Mitchell, that we believe ‘that it is in the interest of the people of this country to be informed’ . . .” The editorial continues on that lofty note: “We publish the documents and related running account not to prove any debater’s point . . . but to present to the American public a history—admittedly incomplete—of decision-making at the highest levels of government . . .”

The other editorial, which was even more righteously outraged, appeared in the Times some years ago. It was entitled “Breach of Security,” and it denounced an article “purporting to tell what went on in the executive committee of the National Security Council . . . The secrecy of one of the highest organs of the United States has been seriously breached.”

'MC CARTHY TECHNIQUE'

“What kind of advice can the President expect to get under such circumstances?” the Times asked, again rhetorically. “How can there be any real freedom of discussion or of dissent; how can anyone be expected to advance positions that may be politically unpopular or unprofitable? Does no one in Washington recall the McCarthy era and the McCarthy technique? . . . The various positions of the members of the NSC taken during deliberation must remain secret . . . The integrity of the National Security Council, and of the advice received by the President, is at stake.”

The article that inspired the Times to this burst of righteous indignation was a Saturday Evening Post piece on the Cuban missile crisis by Charles Bartlett and this writer. It too was an attempt “to present public a history—admittedly incomplete

—of decision-making at the highest levels of government.” Although the Times, fortunately, could not know it at the time, the article had been read in advance (and rather badly edited) by no less an authority on national security than the President of the United States. It contained no word from any NSC paper, or from any other secret document.

REASONS—AND REASONS

The writers’ reasons for writing the article were perhaps less lofty than those claimed by the Times in its recent editorial. They included a desire to do a good reportorial job (the account was later confirmed in detail in Robert Kennedy’s book on the Cuban crisis). They even included a desire to make a bit of money. But like most reporters, we also believed that “it is in the interest of the people of this country to be informed . . .”

No doubt a desire to inform the people was a major reason for the Times’s decision to publish the secret papers. But (to adopt the Times’s own rhetorical style) might there not have been other reasons too? Does it not matter a great deal to the Times who does the informing? Is it not the Times’s criterion that if the Times does the informing, that is in the national interest, and if somebody else does it, that is “a breach of security”?

And is the Times really indifferent to whether or not the information, which it is “in the interest of the people of this country” to publish, supports the views of the Times? The article that so enraged the Times pictured the late Adlai Stevenson, then a major Times icon, in a somewhat dubious light, and that perhaps had something to do with the rage. The Times has long passionately supported the cause that the leaking of the Pentagon papers was obviously intended to serve.

The purloined papers printed by the Times were first offered to Sen. George McGovern and Rep. Paul McCloskey, the leading doves in the Senate and House. Obviously, the purpose of the leak was to prove that this country became involved in Vietnam by a process of stealthy deception; and that therefore the United States should withdraw forthwith, leaving the South Vietnamese to their fate.

prove what they are intended to

prove. Allowing for the need for contingency planning, and allowing also for Lyndon Johnson’s well-known passion for concealment, there is less deception of the public in the documents than self-deception.

There is the ancient American illusion that wars can be won cleanly in the air, rather than bloodily on the ground, of course. But the basic self-deception was the illusion that, if the United States could only find the right combination of sticks and carrots, the Vietnamese Communists would (in Robert McNamara’s phrase) “move to a settlement by negotiation.” The unswerving goal of the Communists, then and now, was and is the imposition of Communist rule on all former French Indochina. There is no stick short of “bombing them back to the stone age,” and no carrot short of turning Saigon over to their tender mercies, that will divert them from that goal.

No American President who was also an honorable and humane man could hit them with that stick, or offer them that carrot. Yet the illusion that the North Vietnamese are capable of “reasonable” compromise is amazingly persistent, especially among liberal Democrats—its most recent manifestation is the “Clifford Plan,” strongly supported by the Times.

NONSENSE

Despite its ineffable self-righteousness, the Times is certainly a great paper, though not as great as when it had the Herald Tribune to worry about. Moreover, anyone who has been around Washington for some time knows that a lot of governmental nonsense has been perpetrated in the name of “security.” Most reasonably diligent reporters, including this one, have been investigated by the government for publishing information the government found it inconvenient to have published.

Yet surely there is a problem of security worth worrying about when “the various positions of the members of the NSC,” as well as National Intelligence Estimates and secret coded messages from foreign governments, are reproduced verbatim in great quantities. Indeed, the Times series, by the Times’s own standards, is the most serious “breach of security” in modern history. Yet those who wait to denounce this particular breach will have a long wait.

'Secret' Label Often Intended to Cover Up Mistakes, Chiles Says

By JOHN McDERMOTT
Herald Political Writer

Sen. Lawton Chiles said Saturday that government too often puts a "secret" label on official papers to cover up the mistakes of some of its officials.

The Florida Democrat told newsmen at the 77th annual convention of the Florida Bankers Association at the Americana Hotel that "most" information classified as secret should be declassified.

CHILES SAID there is sound reason for keeping secret confidential information dealing with foreign governments or codes used in transmitting confidential information.

However, he said he could see no reason for keeping "secret" labels on most of the controversial Pentagon



Sen. Chiles
... at bankers meeting

papers that deal with the background of how the United States got so deeply involved in Vietnam. Chiles said it is unfortunate that many of these vital decisions, including the escalation of the war, were "made by men in the basement" instead of out in the open where the public could see what its officials were doing.

"The people ought to realize how we got into the war and how it escalated," he said.

THE SENATOR added that he expects Congress will "take a hard look" at the controversial papers now that it has finally been given a copy of the documents.

Chiles also voiced a faint hope for some extension of the Cuban Airlift. He admitted though that chances are not bright.

He plans to confer Monday with Sen. Allen J. Ellender (D., La.), chairman of the Senate Appropriations Committee, who sponsored the cut-off move.

Trying to get a Senate chairman to back off from his own proposal is extremely difficult, Chiles said.

He added that he already has talked with Sen. William Proxmire (D., Wis.), who favored the termination of the airlift, and Proxmire agreed to listen to arguments for its continuation.

THE ENTIRE Senate is to take up the issue Tuesday.

The best argument for continuing the lift, Chiles feels, is that to do otherwise would damage the U.S. government's credibility.

"President Kennedy promised that we would provide the airlift to get Cubans wishing to leave out of Cuba," he said. "Thousands sold their properties and even went to work in the fields while their names were on the list."

He said the United States needs to live up to its commitment to continue providing a way out for those peo-

ple.

In his address to the Bankers Convention, Chiles called for increased participation by the state's top financial men in supporting the federally insured loan program to help college students.

"Only through the continued and re-emphasized cooperation in providing the necessary dollars through your lending institutions can we as citizens fulfill our desired and stated goals to make this state a better place in which to live," Chiles said.

27 JUN 1971

Classification of Documents Is Discussed at Hearing in the Supreme Court

WASHINGTON, June 26 — Following is a transcript of the oral argument held today before the United States Supreme Court in *The New York Times and The Washington Post* cases. Speakers were not identified in the official transcript, but unofficial identification has been made wherever possible.

Proceedings

Mr. Chief Justice Burger: We will hear arguments in Nos. 1873 and 1885, *The New York Times* against the United States, and United States against *Washington Post* Company.

Mr. Solicitor General, the Government's motion to conduct part of the oral arguments involving security matters in camera, as has been done in the District Courts in New York and Washington, and in the Courts of Appeals in the Second Circuit and the District of Columbia Circuit is denied by the court. Mr. Justice Harlan, Mr. Justice Blackmun and I would grant a limited in camera argument, as has been done in all of the hearings in these cases until now.

Under the order granting the writ yesterday, counsel may, if they wish, submit arguments in writing under seal in lieu of the in camera oral argument.

Mr. Solicitor General, you may proceed.

Oral Argument by the Solicitor General on Behalf of Petitioner

The Solicitor General: Mr. Chief Justice, may I say in respect of the announcement just made that all three parties have filed a closed brief as well as the open brief, and in addition, I have filed just within minutes two statements, one prepared by the State Department and one prepared by the Department of Defense, giving more detail about some of the items which are discussed in my closed brief. I believe that those will all be before the Court.

Q. Are you suggesting that these matters last filed are security matters, or they merely supplement?

A. The only ones that are security matters that I have filed are all marked "Top Secret."

Q. Thank you very much. I just wanted to be sure as to these last documents.

A. The items filed by *The Post* and *The Times* I do not believe are marked "Top Secret," but they are marked "Camera" in the caption of the items. I have no doubt that perhaps in other cases, because these have already attracted much attention, *The New York Times* and *The Washington Post* would have the resources to have the printed brief for this occasion.

I am told that the law students of today are indignantly opposed to final examinations because they say that no lawyer ever has to work under such pressure that he has to get things out in three or four hours. I can only say that I think it is perhaps fortunate that Mr. Glendon and Mr. Bickel and I went to law school under an earlier dispensation.

It is important, I think, to get this case in perspective. The case of course raises important and difficult problems about the Constitutional right of free speech and of the free press. We have heard much about that from the press in the last two weeks. But it also raises important questions of the equally fundamental and important right of the Government to function. Great emphasis has been put on the First Amendment, and rightly so, but there is also involved here a fundamental question of separation of powers in the sense of the power and authority which the Constitution allocates to the President as chief executive and as Commander-in-Chief of the Army and Navy.

Involved in that there is also the question of the integrity of the institution of the Presidency, whether that institution, one of the three great powers under the separation of powers, can function effectively.

The problem lies on a wide spectrum, and like all questions of Constitutional law involves the resolution of competing principles. In the first place, it seems to me that it will be helpful to make some preliminary observations. If we start out with the assumption that never under any circumstances can the press be subjected to prior restraint, never under any circumstances can the press be enjoined from publication, of course we come out with the conclusion that there can be no injunction here. But I suggest, not as necessarily conclusive in this case, but I suggest that there is no such Constitutional rule, and never has been such a Constitutional rule.

We have, for example, the copyright laws. My son was in Toronto earlier this week and he sent me copies of *The Globe and Mail* of Toronto, ten series of the story the Pentagon is trying to kill, each one headed "Copyright New York Times Service." I have no objection to that, but these stories which have been published have been copyrighted by *The New York Times* and I believe by *The Washington Post*, and I have no doubt that perhaps in other cases, because these have already attracted much attention, *The New York Times* and *The Washington Post* would have the resources to have the printed brief for this occasion.

or another they have obtained royalties because of their copyright on this matter.

But let us also consider other fields of the law. There is a well known branch of the law that goes under the heading of literary property. In the Court of Appeals I gave the example of a manuscript written by Ernest Hemingway, let us assume while he was still living, unpublished, perhaps incomplete subject to revision. In some way the press gets hold of it. Perhaps it is stolen. Perhaps it is bought from a secretary through breach of fiduciary responsibility, or perhaps it is found on the sidewalk. If *The New York Times* sought to print that, I have no doubt that Mr. Hemingway or now his heirs, next of kin, could obtain from the courts an injunction against the press printing it. Only this morning I see in the paper that a New York publisher is bringing a suit against *Newsday*, a New York newspaper, because *Newsday* has violated what the New York publisher considers to be its copyright in the forthcoming memoirs of President Johnson.

Next, we have a whole series of law, a traditional branch of equity, involving participation in a breach of trust. There cannot be the slightest doubt, it seems to me, no matter what the motive, no matter what the justification, that both *The New York Times* and *The Washington Post* are here consciously and intentionally participating in a breach of trust. They know that this material is not theirs. They do not own it. I am not talking about the pieces of paper which they may have acquired. I am talking about the literary property, the concatenation of words, which is protected by the law of literary property. Again I say I don't regard this as controlling or conclusive in this case. I am simply trying to advance the proposition that there are many factors and many facets here, and that there is no Constitutional rule that there can never be prior restraint on the press or on free speech.

Now, in our main brief in this case which I may say was largely prepared by my associate, Mr. Friedman, last evening and last night, we have cited one case which comes very close to being an injunction by this Court against publications in the press. That is *The Associated Press* case in I believe 215 United States. *The Associated Press* is a cooperative of newspapers, and there *The Associated Press* sought and obtained an injunction against the dis-

Classified:

You Can't Tell the 'Secrets' Without a Program

WASHINGTON—To readers of spy novels, the words "Top Secret" conjure up a number of visions: of windowless rooms far beneath the Pentagon where bespectacled men spend days and nights under heavy guard reading coded messages; of armed couriers and impenetrable vaults where reams of sensitive documents are forever shielded from the eyes of all but a very few.

Recent events seem to show that this picture, like most popular concepts of how the Government operates, is at least partly myth. It came as a surprise to many, for example, that until last week no fewer than four copies of the Pentagon's secret study of the Vietnam war were stored beyond the Government's immediate grasp. (One is in a safe in the Washington law offices of former Defense Secretary Clark M. Clifford. Two have been recalled from the Rand Corporation, a private research institute, and another is in the basement of the L.B.J. Library on the University of Texas campus in Austin.)

The Government says it keeps close tabs on the top secret material outside its purview (although it admitted that it had temporarily lost track of some of its own copies of the Pentagon report).

Everyone who has access to classified material, whether inside or outside the Government, must have received an appropriate security clearance.

The clearances are not handed out like nickel cigars at a county fair. Restricted documents are classified either Top Secret, Secret or Confidential, and an individual whose job involves a "need to know" only "Confidential" material does not receive a higher clearance.

When someone with a security clearance, whether a Government or private employe, retires or resigns, he is "debriefed"—reminded of whatever sensitive information he has had access to, then told to forget it.

The documents themselves are supposed to go through a painfully slow declassification procedure. Executive Order 10501, issued in 1953, instructs all Government agencies to downgrade classified information automatically every three years. Thus, a report marked Top Secret in 1959 should have been downgraded to Secret in 1962 and to Confidential in 1965. By 1971—12 years later—it should have then been declassified and made available to anyone who wants to see it.

But there are a number of exceptions and exemptions to this rule that senior Government officials may and do arbitrarily use to keep information out of

the public domain for as long as they think necessary. Some secret materials dating from World War II have not yet been declassified.

This is the way it is all supposed to work, but theory and practice in Washington often differ. There are hundreds of examples of secret information going astray, whether by clumsiness or design, dating back to the infamous 1941 "leak" of the "Rainbow Papers"—this country's secret war plans for Germany, Japan and Italy—to The Chicago Tribune.

"Without the use of secrets," wrote Max Frankel, The Times's Washington correspondent, in a court affidavit last week, "there could be no adequate diplomatic, military and political reporting of the kind our people take for granted." Moreover, he said, "Presidents make 'secret' decisions only to reveal them for the purposes of frightening an adversary nation, wooing a friendly electorate [or] protecting their reputations."

Government officials who participate in the "informal but customary traffic in secret information" that Mr. Frankel described as an everyday element of Washington journalism normally don't run afoul of the espionage laws, which stipulate that the Government must prove an individual's intent to "injure" the interests of the United States before he can be found guilty.

—JOHN CREWDSON

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Letters To The Editor

Secrecy and the Press: More Comments on

the Vietnam Documents

The fact that The Washington Post would publish U.S. government top secret documents that could possibly be detrimental to our national security is something that I cannot tolerate even under the stated justification of "freedom of the press." I'm sure the drafters of our Constitution did not intend to give you the right to harm or perhaps eventually destroy our government by using this coveted constitutional right as a pretext to print illegally obtained classified U.S. documents.

GEORGE T. BEACOCK.

Falls Church.

4th Paper Enjoined In Series

By Stuart Auerbach
Washington Post Staff Writer

The government yesterday stopped a fourth paper from printing articles based on a secret Pentagon history of the Vietnam war.

U. S. District Court Judge James H. Meredith issued a temporary restraining order stopping The St. Louis Post Dispatch from publishing its second article based on the secret Dispatch from publishing its second article based on the secret documents. The order was issued just as the Post Dispatch's Saturday edition going to press.

The judge's ruling came while the U. S. Supreme Court was hearing arguments on whether The Washington Post and The New York Times should be barred from printing their stories based on the secret documents.

Although Judge Meredith's restraining order remains in effect until 10 a.m. July 5, when a hearing is scheduled, he said any prior Supreme Court decision "may have a bearing on this order."

Because of the Supreme Court hearing, The Post Dispatch decided not to appeal Judge Meredith's order immediately.

"It's silly to appeal," said assistant managing editor David Lipman. "The issue is to get before the Supreme Court, and it's already there."

So far 18 newspapers, including the members of the Knight chain, have written articles they say are based on the secret Pentagon documents.

But the Justice Department has only moved against four papers—The Times, The Post, The Boston Globe and now The Post Dispatch—to stop them from printing—articles based on the documents.

Government officials maintain that the other papers either do not have the secret documents or have written articles in such a way so as not to violate national security.

"It would appear to us that other papers sought to get into the act and they have assigned their writers to write what they can, but we have not been able to find new disclosures of previously unpublished material in these other articles," U. S. Solicitor General Erwin N. Griswold told the Supreme Court yesterday.

"It has now become fashionable and proper, and you are not a good newspaper unless you have got some of this stuff," he continued.

No New Disclosures

"They have put out articles with all kinds of window dressing, probably well written, but not containing new disclosures."

The Post Dispatch published its first article Friday, quoting former Defense Secretary Robert S. McNamara as saying the pacification program in South Vietnam was "a bad disappointment."

McNamara was quoted as giving President Johnson a bleak assessment of the U. S. war effort privately—saying there is "no reasonable way to bring the war to an end soon," at a time when both he and the President were taking optimistic public posture.

The Post-Dispatch originally had not planned to publish an article based on the Pentagon papers yesterday because of the Saturday paper's small size and circulation. It would have resumed the stories today.

But when the Justice Department in Washington said Friday night that the Post-Dispatch had decided voluntarily to stop publishing the series, the paper changed its plan. It told U.S. Attorney Daniel Bartlett in St. Louis that it would print its second article Saturday.

"In the interest of our reputation and our responsibility to the public," said Lipman, "we felt we had to move up publication."

Security Label Missing

In its article Friday, the Post-Dispatch said it had received Xeroxed parts of the Pentagon study which bore no security classification. But each page had a blank space along the bottom, indicating, the paper said, that a strip of

paper had been laid over the place where the security label is normally stamped.

In Boston, the Justice Department said it will seek a federal court order allowing it to inspect The Boston Globe's copy of the Pentagon report.

The Globe, which last week fought a move to force it to turn its documents over to the government, has them locked up in a bank vault. The Times and The Post have also refused to let the government inspect their documents, contending that such an inspection would jeopardize their sources.

Other papers that have printed stories based on the Pentagon papers are The Los Angeles Times, The Chicago Sun-Times and The Baltimore Sun.

Criminal Charge Hinted

At yesterday's Supreme Court hearing, Griswold said

that newspapers could face criminal prosecution for publishing classified information.

But, he added, "I find it exceedingly difficult to think that any jury would convict or that an appellate court would affirm a conviction of a criminal offense for the publication of materials which this court has said could be published."

"I find it difficult to think that such a case should be prosecuted or could effectively be prosecuted."

In Rochester yesterday, Herbert G. Klein, the White House director of communications, said publication of the Pentagon study has triggered protests from Australia, Canada and Britain.

He said foreign powers will be reluctant to serve as intermediaries between the United States and foreign powers if they fear their roles will become public knowledge.

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Costly Secrets

One picture that emerges from the argument over "classified" information in Washington is that of a government standing guard over countless files of papers which are marked "confidential" or "secret" or "top secret" but, in fact, are nothing of the kind. William G. Florence, who retired only last month after some 25 years of service as an Air Force civilian classification specialist, estimated before a House subcommittee that it costs the government—meaning the taxpayers—\$50 million a year to protect classified defense papers, and he estimated further that not more than one-half of 1 per cent of the documents could properly be "classified."

"I would guess," Mr. Florence said, "that there are at least 20 million classified documents, including reproduced copies, in existence today. I sincerely believe that less than one-half of 1 per cent of the different documents which bear currently assigned classification markings actually contain information qualifying even for the lowest defense classification."

This is a ridiculous waste of public money. The unfunny aspect is that this has been going on for years, and that it is known to be ridiculous by anyone familiar with the operations of the federal government. The statutory rules for classifying government papers are within reason, but the fact is that they are commonly stretched and thus violated in effect by the government employees entrusted to administer them. What needs to be done, quite obviously, is to tighten up the procedures so that information which is labeled "secret," for example, is in fact secret and should be kept so.

Keeping Secrets in Washington

Isn't it time for the government to declassify documents from World War I?

By William Anderson

Mr. Anderson is The Tribune's national news correspondent.

WASHINGTON—It is easier to make a secret in the federal government than to keep one.

At least 20,000 persons in the Pentagon alone have the legal authority to produce confidential documents. Thousands more in nearly 50 other government agencies—ranging from the Tennessee Valley Authority to the post office—have the same rights.

The federal paper factory has and is grinding out so much secret material that the National Archives measures its deposits of microfilm in cubic feet rather than by volumes.

Even with Congress and the executive branch probing its own product, investigators have so far found only the top of the secret iceberg.

It is known, for example, that some documents from World War I remain classified. Some suspect that papers from the Civil War remain buried under an extremely large legal cloak.

Secrets in Many Warehouses

There are warehouses in and around this city full of volumes of "classified" information from World War II, Korea and Viet Nam, not to mention details of how we developed the weapons for a nuclear war force.

Some of this same information is legally in the possession of contractors all over the United States, at the North Atlantic Treaty Organization headquarters in Europe, and in universities and colleges doing research for the government.

In addition, an untold number of Americans, and in some cases, foreigners, have officially been cleared to possess or read top secret matter.

Who knows what and when in and out of the government has been controversial since the birth of the nation. Some of the biggest debates have centered on whether foreign nations knew more of

United States government activities than the American public, and in some cases, its elected leaders.

In earlier periods, classification was a relatively simple affair. Diplomats liked to keep their conversations private. The military was concerned about numbers of troops and their movements.

With the advent of World War II, the expansion of technology and its applications to the weapons of war, secrecy was intensified. Congress appropriated money for many projects kept secret from most members.

The atomic bomb was manufactured in large plants by thousands of people who didn't know what they were working on. Vice President Harry S Truman was kept in the dark about the bomb until he became President.

Altho most of the people involved in the project were cleared for access to top secret information, a "need to know" rule was applied to keep them from learning all of the details.

Three Types of Classified

It is this "need to know" theory that has much application thruout the government today, even tho the statutes primarily deal with classifying documents as [1] top secret, [2] secret, and [3] confidential.

The essential authority for this kind of legal classifying of papers lies in a document known as Executive Order 10501—an order issued on Nov. 5, 1953, in the first term of the late President Eisenhower.

The order eliminated an old classification known as "restricted" on the grounds that as the lowest grade of secret it was being abused by bureaucrats who wanted to protect individual interests with a legal secret kind of stamp.

This executive order also had a preamble. It read:

"It is essential that the citizens of the United States be informed concerning the activities of their government."

However, it then continues to state that some information should be placed

and graded under secret covers if that information should or could cause:

- Exceptionally grave damage to the United States. Top secret.
 - Serious damage to the United States. Secret.
 - Prejudicial damage to the United States. Confidential.
- The executive order, as "clarified" and amended under the succeeding administrations, from that point on has grown to the size of a small book.

Some of the books distributed thruout the government include a clarification. It reads:

"The attorney general of the United States on April 17, 1954, advised that defense classifications may be interpreted, in proper instances, to include the safeguarding of information and material developed in the course of conduct of foreign relations of the United States whenever it appears that the effect of the unauthorized disclosure of such information or material upon international relations or upon policies being pursued thru diplomatic channels could result in serious damage to the nation. The attorney general further noted that it is a fact that there exists an interrelation between the foreign relations of the United States and the national defense of the United States."

Some of the examples cited for possible classification in this amendment to the executive order were listed as:

- "Intelligence or information relating to intelligence operations which will assist the United States to be better prepared to defend itself against attack or to conduct foreign relations."
- "Political and economic reports containing information, the unauthorized disclosure of which may jeopardize the international relations of the United States or may otherwise affect the national defense."
- "Information received in confidence from officials of a foreign government whenever it appears that the breach of

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Tribune Writer Tells How He Studied Secret Paper in 1962

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BY WILLARD EDWARDS

[Chicago Tribune Press Service]

WASHINGTON, June 26—On a sweltering day in July, 1962, this reporter was laboring at his typewriter in the Senate press gallery when he was interrupted by a visitor.

He was an old friend and a valued news source. As the occupant of a key post in the Pentagon, he had often supplied exclusive items worthy of publication.

Looking at the array of papers on the desk, he inquired: "What are you doing?"

Headed Council

"I'm trying to write an analysis of what must be the contents of the secret Rostow policy guideline," was the answer. "I've collected everything Rostow has ever written or spoken on the subject of foreign policy and using this material for a 'dope' story on what he may have drafted."

There was intense interest at the time in a classified State Department document compiled under the supervision of Walt W. Rostow, chairman of the State Department's policy Planning Council.

Prepared for the guidance of President Kennedy and the National Security Council, its existence had become known a month earlier.

Testifying June 7, 1962, before the Senate armed services subcommittee, Undersecretary of State George W. Ball was asked about the new foreign policy guide reportedly prepared by Rostow.

Ball was shocked by the suggestion that the public should see this paper. It was a working draft, he said, representing the views of a number of persons in government, and not intended for inspection by Congress or anyone else.

Reports Are Leaked

In the following days, newspapers supporting the administration published some obviously leaked reports on the Rostow paper. Few details were furnished but it was hailed as a precise, balanced and complete master plan for global strategy which would replace old, discredited policies.

My Pentagon informant agreed that

an attempt to suggest the nature of Rostow's guidelines, based upon his known opinions, might make interesting reading.

"But wouldn't it be even better to study the Rostow paper itself?" he asked, with a straight face. "If you'll come to the Pentagon tomorrow, you can see it."

On the following day, I met him in a Pentagon office lined with cabinets, many of them bearing red warning signs indicating the confidentiality of the files.

A document with a blue cover, containing several hundred typewritten pages, was placed in my hands. I spent an hour taking notes. No one showed any curiosity about my presence.

Two Stories Result

Two long stories, totaling some 2,000 words in length, were written on the basis of those notes. Before they were published, an intelligence expert of unassailable position screened the stories to insure that no detail, by any stretch of the imagination, would be revealed which might be regarded as a violation of security.

As finally cleared, the two stories bore only on the one all-important question: what kind of thinking was animating the government's policy planners in considering future negotiations with Russia?

There were sections in the Rostow report dealing with military matters. These were not even read in a scrupulous regard for possible violations of security.

Storm Is Caused

Publication of the stories created something of a storm in Congress. The late Sen. Dirksen of Illinois demanded an interrogation of Rostow, and the Foreign Relations Committee summoned him to a closed session.

Chairman J. W. Fulbright [D., Ark.] said a transcript of Rostow's testimony would be released after "editing." It was never made public. It was learned that he had invoked "executive privilege" when asked by Dirksen to confirm the theme stressed in the published stories.

This theme, to use Rostow's words in the secret policy draft, was that "the Soviet Union's domestic and foreign policies have mellowed in the post-Stalin period." The picture painted was of a worried and irresolute Soviet Union which, moved by self-interest, was ready to substitute good faith for the treachery of the past. It could be trusted as an honorable partner in any agreements designed to reduce world tensions.

In the belief of this reporter, both Congress and the public were entitled at that time to know that this type of thinking

was popular in the State Department. Publicly would strengthen rather than injure national security. Nine years later, this conviction remains firm.

Chance Is Rejected

Some years earlier, however, there was an opportunity to inspect top secret documents which was rejected.

Early in the '50's, this reporter was visited in his office by three employees of a sensitive Defense Department agency. They were convinced of lax security in their office and charged that secret documents were being removed.

No story could be published on the basis of their words alone, they were told. There would have to be some substantiating evidence.

"Be sure to stay home tonight," the reporter was told. "We'll be in touch."

At 9 o'clock that night, the three employes knocked at the door. Asking for a private

room, they dumped upon a table a stack of documents, each one of them stamped "top secret" and carrying the warning that their inspection or use by unauthorized persons was subject to punishment by imprisonment.

"You wanted proof of bad security," the reporter was informed. "We tucked these papers under our belts and walked past the security guard. Anyone can do it and it is being done."

Papers Returned

The documents were not inspected. Even reading them was barred by law to anyone not cleared for security. The employes were told to return them promptly. This was done and a later investigation did discover the potentiality, at least, of espionage in the agency.

Every working newspaperman with contacts in government departments may have such experiences. He knows that many government papers are "over-classified," stamped secret for political, not security reasons. In the first instance above [the Rostow case], this was obviously the motive for its classification. In the second case, there was no excuse whatever for unauthorized scrutiny of the documents.

Newsman given classified data at high levels in Washington

Two affidavits filed by the *Washington Post* in its Pentagon Papers case described to the court how the "leaking" of classified information is a common practice in the Government.

The executive branch of the government "normally, regularly, routinely and purposefully" makes classified information available to reporters and editors, according to Benjamin C. Bradlee, executive editor of the *Post* since 1968 and a journalist for 20 years.

He related that the information is made available in two ways—in private conversations originated by the reporter or by the government official, and in the "infamous backrounders" normally, but not exclusively, originated by the government.

Volunteered leaks

In a second affidavit, Murrey Marder, a *Post* reporter, cited several examples of "volunteered leaks" which provided him with information for stories on critical government activities and policies.

He told the court: "If the press should no longer be able to secure classified information from the American Government, the press will still secure it—but from foreign sources."

"It is a prime function of the press in a non-totalitarian society to cross-check and try to balance this volunteered classified information with other classified information not volunteered by the government," Marder stated. "This is the process through which the widest possible spectrum of information is brought into the market place of public knowledge

to compete in the struggle for truth."

Bradlee's affidavit detailed some conversations with the late President Kennedy and with former President Johnson in which classified information was made available to him.

He recited the following:

"I have received classified information from officials of the executive branch of the Government on literally hundreds of occasions. On virtually all of these occasions the information was made available to me in the knowledge that I would cause the information to be published and it was published. On rare occasions the information was made available to me with the proviso that it not be published and it was not published. On virtually all these occasions the information was made available with some proviso that made identification of the source forbidden—then and now.

JFK read secret memo

"I can testify that President John F. Kennedy once read to me portions of a highly classified memorandum of conversation between him and Nikita Khrushchev in Vienna in 1961. I received his permission to use this material, which is still highly classified, and it appeared in *Newsweek*. His stated purpose was to convince the American public that the Soviet Union was taking an extremely hard, belligerent line on Berlin.

"I can attest that I attended a background briefing in the White House theater in April, 1965, in which classified information on the status of American negotiations with Hanoi was disclosed by two high-level Gov-

ernment officials with the purpose of having it printed—without attribution to the briefers. The stated purpose of that briefing was to create a climate of public opinion to better understand a major policy speech by President Johnson later that day.

"I can attest that I was present at a session with President Johnson in May, 1968, in which classified information on the war in Vietnam was made available on the proviso that this information could not be made available without his specific permission. That permission has subsequently been sought and denied. It has not been published."

How lawmakers kill bills

Bradlee mentioned how the legislative branch also makes classified information available to reporters—often to defeat legislation they don't like.

"For example," he stated, "I was present in the office of a Congressman in 1958 or 1959 when he gave me a 'secret' State Department document about foreign aid. Before he handed the document over he took a pair of scissors from his desk and carefully removed the 'secret' label from each page. His stated purpose for giving me this document was to kill the foreign aid bill."

Bradlee concluded by saying: "If there is one fundamental in the principle of freedom of the press, it is that the press cannot be limited to reporting only what is advantageous to the government. The press must be free also to report what may embarrass, displease, or annoy the government."

Shirer: *History as the Loser*

By WILLIAM L. SHIRER

LENOX, Mass.—Long before the Attorney General turned on *The Times* to try to suppress publication of classified documents, historians had suffered from the Government's denial of access to confidential records without which they could not write serious history.

By coincidence, at the very moment *The Times* began publishing its revelations, more than one hundred American historians were meeting in Washington with some of their European colleagues and with officials of the Pentagon and the State Department in an effort to pry loose too-long-classified documents going back to World War II. Not surprisingly, the historians were given the polite run-around to which they have long been accustomed. Many of them hoped *The Times* would be more successful.

What we have seen in Washington is a conspiracy of officials from Presidents on down to keep the public from learning about what they really did. It was easy to do. Documents were simply "classified" secret. No argument was permitted—or at least listened to. Historians have howled against this evasion for years and been rebuffed unless they were writing books pleasing to Government officials.

Consider the roadblocks thrown up in the path of the plodding historians. At the Pentagon, after being fingerprinted, he must swear that he has never belonged to Communist or Communist-front organizations and submit to a security check which can take as long as six months.

Once cleared, the historian is not allowed to make notes of classified material. He may review it only for "background purposes." These notes must be cleared, a lengthy process. Worst of all, the historian must submit his finished manuscript for clearance—a humiliation for a serious historian and one to which I myself have never submitted.

The State Department is somewhat less rigid. Its principal problem is the time-lag in making documents available. Generally they are not open to inspection until published in the department's series on "Foreign Relations of the United States." A department spokesman informed the meeting of historians last week that the publica-

tion of this series would continue to be 25 years behind events. Thus no confidential papers are available for the Korean war, the Vietnam war, the Cuban missile crisis and other events the public might like to know about.

But even the "Foreign Relations" volumes, good as they are, omit many important documents. I found, for example, that many of the most revealing dispatches of Ambassadors Joseph Kennedy and William Bullitt from London and Paris were not published in the volumes covering 1939-40.

Based on my own experience here and abroad of trying to get at the truth in writing history, I have been forced to conclude that governments deny access to secret documents not because publication endangers "national security" or "national interests" (what crimes have been committed in their name!) but because governments are afraid of letting the people know the facts.

Though I'm not recommending it, the overthrow of regimes is a great aid to historians in learning what governments have been up to. We would know much less than we do about the origins of World War I and the conduct of the Great Powers had not the Governments of Republican Germany and Soviet Russia made public the secret documents of the regimes they replaced.

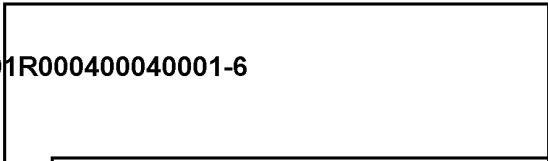
We have escaped the experience of having our documents published by a conqueror. But the scandal is that officials and bureaucrats, out of fear or whim, classify them and keep them from the citizenry long after there is any justification for it. To declassify takes more courage than most of our officials seem to possess.

Should *The Times* case fail, history will be the loser. General Taylor said last week that the disclosures of *The Times* "were laying a foundation of bad history." I think most historians believe just the opposite. Any history of our involvement in the Vietnam war which left out the documents so far published by *The Times* would be bad history.

Good history can only be based on the truth.

William L. Shirer, journalist and historian, is author of "The Rise and Fall of the Third Reich."

26 JUN 1971



Newsmen at House Hearing Accuse U.S.

of Attempting Censorship

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By MARJORIE HUNTER
Special to The New York Times

WASHINGTON, June 25—Representatives of the nation's news media accused the Government today of attempted censorship in blocking publication of the Pentagon study of the Vietnam war.

Except in time of declared war, the news executives told Congress, the Government has no right to exercise "prior restraint" to prevent publication of information in the public interest.

The panel of newsmen appeared before a House Government Operations subcommittee to defend The New York Times, The Washington Post and other newspapers that have published parts of the Pentagon study and to criticize what was termed the Government's excessive secrecy.

J. Edward Murray, president of the American Society of Newspaper Editors, testified that the editors who decided to publish the secret data "are just as loyal, just as patriotic, as any man in this room or in the White House."

Defends Record of Press

Declaring he felt that newspapers have been "under unjust assault" in recent weeks, Mr. Murray said that he was appearing before the House subcommittee "to defend the rights of the newspaper editor, which, not at all incidentally, are the rights of every American citizen."

He said he felt that the record of the nation's newspapers in reporting the war in Vietnam "is better than that of the executive branch" of the Government.

He noted that the newspaper editors' society as early as

1967, had begun to criticize the Government for "excessive secrecy." He said that the society's Freedom of Information Committee had reported in 1967 that "President Johnson continues to hurt his image and his credibility by consistently trying to make the news sound or seem better than it is."

Mr. Murray said he hoped that one by-product of publication of the secret study "will be to restore public confidence in the traditional axiom that you can believe what you read in your newspapers."

Guild Head Testifies

Until recently, Mr. Murray was managing editor of The Arizona Republic. He jokingly told the subcommittee that the place of; his next job was "classified for the moment."

Charles A. Perlik Jr., president of the American News-

paper Guild, testified that he felt that the constitutional guarantee of freedom of the press "faces its most serious challenge in memory, if not, indeed, in our history as a nation."

He said that the guild, representing 35,000 news and commercial employes, and many of its principal local unions unanimously supported publication of the Pentagon study.

He said that "once the public's right to know is abridged by government censorship of the press," the credibility of both the press and the government are destroyed.

Richard Kleeman, Washington correspondent for The Minneapolis Tribune and chairman of the Freedom of Information Committee for Sigma Delta Chi, a journalism society, suggested that further threats

to freedom of the press could be in the offing.

"How soon will the next one occur, and the next, and the next?" he asked.

John R. Callahan, vice president of McGraw-Hill Publications Company, representing the American Business Press, Inc., suggested the need for more periodic or continuing review of classified material by an independent agency or group, not the agency that did the original classifying.

Others criticizing the Government's attempt to block publication of the study were W. Bradford Wiley, president of John Wiley and Sons, Inc., representing the Association of American Publishers; and J. W. Roberts, Washington bureau chief of Time-Life Broadcasting, chairman of the Freedom of Information Committee of Radio-Television News Directors.

26 JUN 1977

Secrecy loses its secrets

NO matter what else it does, the leak of the Pentagon papers has focused attention on how the bureaucracy classifies (and misclassifies) so-called secrets.

At the State Department and Pentagon some officials are now conceding that they sometimes stamp "secret" on messages to make them seem more important so they will be read by higher-ups.

And some classified cables to the State Department and Central Intelligence Agency are reported to contain material that already has been published in newspapers available to any spy with 10 cents.

The most useful information on the subject has come from William Florence, who recently retired after 23

years as a Pentagon expert on security classification. He told a House subcommittee looking into government secrecy that:

"The disclosure of information in at least 99.5 per cent of those classified documents could not be prejudicial to the defense interests of the nation."

Mr. Florence thinks there are "at least 20 million" classified documents floating around or in storage in the Defense Department alone. He estimated that the taxpayers pay unnecessary costs of \$50 million a year because of the classification system. Some time ago, Mr. Florence testified, one of the service chiefs wrote to his opposite numbers that too many papers were being marked "Top Secret" and recommending that the classification be used less.

"Believe it or not," Mr. Florence said, "that note itself was marked 'Top Secret.'"

We believe it. We also believe that Congress should stick with the issue, even after its publicity value fades, until the nonsensical system is reformed.

The goal should be a minimum number of real secrets protected from the nation's enemies, not a maximum number of inconsequential facts withheld from the public.

Television

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Desecretification

By Martin Kitman

Broadcasting last week was stunned by the results of the latest Pete Hamill Poll, published by New York Post columnist Pete Hamill: 9,261, or 81.4 per cent of his readers who responded to his survey said their prime source of news was newspapers; 1,171, or 10 per cent, said it was television. It could be argued that a poll taken by an equally important television commentator would say something different. I prefer to go along with the television industry's belief that statistics never lie.

Since so many people seem to be turning to newspapers for their information these days, it occurred to me that the place to break secrets like those Pentagon documents may be on television instead of in The New York Times.

That way the public's right to know will be protected. At the same time the dissemination on TV will fulfill the government's need for the public not to know. By running such documents opposite a show like Marcus Welby, MD, it can be virtually guaranteed that the government's secrecy requirements will be only slightly compromised.

A reliably informed source told me yesterday the government is exploring the principle of protecting its secrets by overexposing them. The secret government study, prepared by the Richard Lingeman Foundation in 1963, is code-named "Open Files Plan."

The government is spending millions to protect classified information, the Lingeman study found. "They spend it for safes, locks, filing cabinets, barbed

wire, fences, guards, background investigations, the FBI, CIA, ASA, CIC and free lance spies. Despite this vast apparatus and the eternal vigilance of J. Edgar Hoover, we know that reporters are constantly penetrating our security system and stealing our secrets.

"The Open Files Plan solves the security problems by eliminating it—and saves the American taxpayer millions of dollars in the bargain.

"Under the Open Files Plan," the secret study continues, "all classified information would be declassified and our files thrown open to journalists. The beauty of this is that it would thoroughly confuse the enemy. No longer will the government help the reporters do their jobs by stamping 'Top Secret' on the most important information.

"Thousands of man-hours would be consumed in wading through mountains of government documents looking for a secret. Publishers wouldn't stand for that kind of wasted money.

"Even when a reporter does find a secret," the Lingeman report explained, "he can't be sure it really is a secret. Thus he would be haggling constantly with his editors over whether the text of the massive document was worth reprinting."

"Of course all those reporters running around government offices and digging through the files would cause congestion," the Lingeman report concludes, so eventually it might be wise to put all the government documents—the memoranda, mash notes, expense accounts, every piece of government paper—in one large clearing house, called a Public Information

25 JUN 1971

WASHINGTON

The Secrecy Tangle

By JAMES RESTON

WASHINGTON, June 24—The partial disclosure of the Pentagon Papers has already produced two important developments. It has forced the Administration to turn over all the documents in the McNamara study to Congress for analysis, and it has started a powerful movement to reform the present system of distributing and classifying official information.

Even before the invention of the Xerox copying machine, the Government regulations for dealing with official documents was disorganized and capricious. Since that invention, which enables many more officials to make and retain copies of classified papers, the "system," if that's the word for it, has become chaotic.

For example, William G. Florence, a recently retired Pentagon security expert, has just estimated for Congress that the Government now has "at least twenty million classified documents, including reproduced copies," on file. These include, he said, published commercial information and even newspaper clippings, which never should have been classified. Disclosure of information in at least 99½ per cent of these classified documents, he said, "could not be prejudicial to the defense interests of the nation."

There are rules under Executive Order 10501 on who can classify official information and how it should be classified, but the higher up the executive ladder you go, the greater the confusion over who can retain copies of classified material.

Some officials, like former Secretary of State Acheson, were so scrupulous about abiding by the rules that they even lost many valuable private letters which contained official information. Similarly, some officials who have been criticized for their contributions

to the Pentagon Papers—McGeorge Bundy, for example—find themselves in the awkward position of not having copies of their own memos which are now the object of public criticism.

Examples of the confusion abound. Former Secretary of Defense McNamara, who ordered the Pentagon study in the first place, was advised that he did not have authority to declassify the Pentagon Papers, but former Secretary of State John Foster Dulles personally declassified the top secret Yalta papers and gave them to this reporter.

It is not at all clear what papers officials are permitted to take away with them when they leave office, what is regarded as a private paper and what a public paper. Ever since Herbert Hoover, Presidents have tended to take whatever papers they like and to keep them secret, even when they are the only record available.

Another problem is the selective release of historical documents to scholars noted for their professional skill and sometimes for their sympathetic natures.

During the first Eisenhower Administration, Sherman Adams asked Robert Donovan, then of The New York Herald Tribune and now of The Los Angeles Times, to write a book on the first Eisenhower term. He agreed to do so on the conditions that he should have access to the relevant secret documents and that his manuscript not be edited. These conditions were met, he was granted a "Q clearance" to see the documents not available to others, and wrote a very fine book.

There is, then, a difference between

the public reaction to the publication of "secret documents" and the reaction of many men and women here, who know how unpredictable, personal and disorganized the classifying and declassifying procedures are.

Documents are released sometimes for political reasons, sometimes to promote or block policies, sometimes to keep the whole record from being distorted by selective documents taken out of context.

This is not an everyday occurrence, but it is common, always condemned by those who want a better system both for classifying and declassifying confidential information or by those who get hurt by the "leaks," but usually practiced by those who stand to gain by disclosures.

So while there are undoubtedly distortions and even misleading interpretations coming out of the Pentagon Papers, even many officials here who decry so massive a disclosure concede that something good may come out of the controversy.

At least the Senators and Congressmen elected by the people are now to have the information available to many officials and newspapermen who were not elected by the people, and if a well-balanced committee or committees of the Congress now take time to analyze the material, some of the lessons of the past will eventually come out, which was what Robert McNamara had in mind in the first place.

Beyond that, the organized confusion of the rubber-stamp brigade may now be reformed by new Congressional or Executive regulation. It will never be quite brought under orderly control, not with a photocopying machine in every bureaucratic closet; but it will be changed and it cannot possibly be changed without being improved.

STAT

Secrecy Labels Used Too Often By Pentagon, Ex-Aide Testifies

By RICHARD HALLORAN

Special to The New York Times

WASHINGTON, June 24—disclosure of a secret Pentagon study on the war in Vietnam. A recently retired civil servant who spent many years in the Pentagon reviewing the classification of sensitive documents asserted today that only one half of 1 per cent of them contained genuine secrets that should be kept from the public.

William G. Florence told a House subcommittee investigating secrecy in Government that "the disclosure of information in at least 99½ per cent of those classified documents could not be prejudicial to the defense interests of the nation."

Mr. Florence, who retired on May 31 as a senior aide in the Department of the Air Force, said that the practice of stamping papers "Top Secret," "Secret," or "Confidential" had become "so widespread that the defense classification system is literally clogged with material bearing classification markings."

Mr. Florence estimated that "there are at least 20 million classified documents, including reproduced copies," either in circulation or in storage in the Department of Defense alone.

He testified before the Subcommittee on Foreign Operations and Government Information, which is headed by Representative William S. Moorhead, Democrat of Pennsylvania, in the second day of hearings stimulated by press

disclosure of a secret Pentagon study on the war in Vietnam.

Representative Paul N. McCloskey Jr., Republican of California and a member of the subcommittee, deferred his planned testimony until he has had a chance to compare the 600 to 700 pages of the Pentagon study in his hands with the complete 47-volume project, which is scheduled to be handed to the Speaker of the House, Carl Albert, on Monday.

Mr. McCloskey said today he doubted there was any information in the documents he has that should remain secret, other than the names of Central Intelligence agents involved in the coup against President Ngo Dinh Diem of South Vietnam in 1963.

Mr. Florence, a slender man with close-cropped red hair and a diffident manner, indicated that the cumbersome classification system led to some "utterly ridiculous" practices, unnecessary costs to taxpayers of \$50-million a year, and was the cause of constant wrangles within the Pentagon.

He said that one of the service chiefs wrote a note to the other service chiefs some time ago suggesting that too many papers marked "Top Secret" were being circulated. He recommended that the use of that classification be reduced.

"Believe it or not," Mr. Florence said, "that note itself was marked 'Top Secret.'"

STAT

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JUN 25 1971

Top Secret Archives Are Loaded With Classified Papers That Don't Tell Much Leaks Can Be the Best Way To Declassify Documents, Some Say; 100 Million Pages Secret Request for Potatoes

By RICHARD J. LEVINE

Staff Reporter of THE WALL STREET JOURNAL
WASHINGTON--The 7,000 pages of the Pen-

tagon's top-secret Vietnam study leaked to the press may seem like quite a heap of secrets. But alongside the military's remaining hoard it's next to nothing.

For instance: Today, almost 26 years after the end of World War II, U.S. archives still hold some 100 million pages of classified war records that remain beyond the public's reach.

Most of the material is probably of little interest to anyone except historians. But the staggering volume of state secrets still under wraps symbolizes an old and thorny issue that is getting new attention as a result of publication of parts of the Vietnam papers. The issue: how and why the government keeps information secret.

One debate in the current controversy centers on the question: "What right does the New York Times have to declassify documents?" But observers in and out of the government say that if you look at past and present government practices it becomes clear that the Times' action is far from unique. The government process of declassification is haphazard and cumbersome, these people say, and they cite many past instances in which high and low officials have leaked various documents as the most practical way to declassify them.

How to Downgrade

Downgrading and declassification are the responsibility of the official or office that originally classified the document. Current regulations provide for "continuous" review of classified material for these purposes and also call in certain cases for "time-phased" automatic downgrading and declassification.

But Townsend Hoopes, former Under Secretary of the Air Force, maintains that the "vast turnover" of personnel in the upper reaches of the Pentagon means that some classified documents get overlooked because the originator of the material is long gone. Others agree. "If I write a paper and it's classified 'secret,' it will

probably lie there for years," says a Pentagon insider. The Vietnam study, he suspects, "would have been filed away and no one would have looked at it for 20 to 25 years" if the New York Times hadn't laid hands on it.

And the automatic system has gaping loopholes. Under it, each classified document is placed in one of four groups. Two of these categories lead to eventual downgrading or declassification. But the other two groups, often favored by cautious bureaucrats, are exempt from the automatic procedure.

Kennedy and Johnson

One thing is certain: The present secrecy arrangements do not prevent deliberate leaks that tend to make a mockery of the system. In an affidavit filed in the Washington Post's court struggle against an injunction halting its publication of some of the Pentagon papers, executive editor Benjamin Bradlee recalls that in 1952 when serving as press attache at the U.S. Embassy in Paris, "I was instructed by a superior to leak the contents of a secret cable dealing with a Soviet note to the American government. And I did so, to a correspondent of the United Press."

Early in the bombing campaign of North Vietnam, when the North Vietnamese were claiming that civilian targets in Hanoi were being hit, Cyrus Vance, then Deputy Secretary of Defense, held a lengthy briefing for reporters. During the briefing he described in detail the routes that Navy fighter-bombers were ordered to fly over and around the city, in an effort to prove that civilian targets hadn't been bombed. The routes were classified secret, because they obviously were of interest to North Vietnamese anti-aircraft crews.

The Post's Mr. Bradlee says that when he was a correspondent for Newsweek Magazine, "President John F. Kennedy once read to me portions of a highly classified memorandum of conversation between him and Nikita Khrushchev in Vienna in 1961. I received his permission to use this material."

That's not all. Mr. Bradlee, who has seen the galley proofs of President Lyndon Johnson's forthcoming memoirs, maintains that the book contains considerable amounts of classified information on the Vietnam War. "There's no question about it," he says. "There are several quotations from documents" that are among the parts of the top-secret Vietnam study published in the New York Times.

In many cases, according to the critics, the trouble can be traced to overclassification at the start. One congressional expert, who has tangled repeatedly with the Executive Branch on the problem, insists "the only way things are going to be changed is to make overclassification 'bureaucratically dangerous'"—that is, set tough penalties for officials who err on the side of caution.

On Capitol Hill, an effort is on to reform the labyrinthine process by which documents are classified and, sometimes, declassified. Sponsoring legislators would like to make it easier for Congress and the public to get its hands on government records. This week a House Gov-

ernment Operations subcommittee began six days of hearings on the subject. "Everybody's been complaining about the problem of classification for years," says an aide of Pennsylvania's Democratic Rep. William Moorhead, who is chairing the hearings. "Now we're really trying to do something about it."

The Muskie Plan

One solution is offered by Sen. Edmund Muskie of Maine. He's proposing creation of an independent board empowered to make government documents public after a two-year period. The board would also be authorized "at any time" to "send relevant documents to the appropriate committee of Congress," the Senator says.

Acknowledging the possible adverse impact of disclosure on the government's foreign relations and on the flow of candid advice to the President, a Muskie staffer says a way must be found to insure that "action papers" containing policy decisions are made public while "advisory papers" remain private.

At this point, it's far from certain that any basic reforms will be made in the classification process. Mr. Nixon's decision to make the Pentagon study available to Congress could take some of the steam out of the legislative effort. Congressional insiders see no signs of pressure for change from the influential Appropriations and Armed Services committees. Furthermore, a former Senate staffer says, "a majority of Congressmen don't want to get involved. There's little to be gained politically, and there are dangers in being a guy accused of wanting to 'leak' documents."

Yet if the classification procedures do survive intact, officials concede, it won't be because of the system's efficiency. Administration men admit that both classification and declassification methods could stand improvement. Critics charge that under the current system there's a pervasive tendency to overclassify documents and there's little impetus for declassification.

A Judgment Matter

Though a 1953 Executive Order attempts to set guidelines for classifying material variously as top secret, secret or confidential, both defenders and critics of the system stress that classification of documents is, in the end, "a judgment matter." And the critics maintain that the judgment usually goes in favor of overclassification because of various pressures at work within the bureaucracy.

For one thing, a desire to avoid trouble with superiors prompts many officials to classify a document that could be safely left unclassified or else give a paper too high a classification.

Frequently, critics charge, information is classified because it is "politically sensitive" and not because its unauthorized disclosure would endanger national security. Thus a veteran Pentagon reporter complains that lists of military bases scheduled for closing have often been classified secret—"until the Pentagon chooses to announce it."

WASHINGTON POST
25 JUN 1971

'Top Secret': Easy, but Not Cheap

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By Richard L. Lyons
Washington Post Staff Writer

A retired high-ranking Pentagon security expert testified yesterday that the government is spending \$50 million a year to guard classified defense documents that never should have been kept from public view.

William G. Florence also said he believed that less than one-half of one per cent of about 20 million classified defense documents contain information that justify their being kept secret.

Florence said the defense classification system "is literally clogged" with classified documents because most Pentagon officials take the view that "information is born classified" and should only be made public upon proof that it would not be of interest to another country.

Florence retired last month after nearly 25 years as an Air Force civilian security classification policy expert. He testified before a House subcommittee investigating executive branch information policies, especially the secret Pentagon Indochina war study, whose publication the administration has sought to suppress.

Florence said none of the published accounts on the Pentagon papers he has read deserve any form of classification now, three years after the study was made.

The intent of the classification program as stated in an executive order of 1953, Florence said, was to make public any information unless it was demonstrated that its release

would prejudice the national security.

Only 300 or 400 defense officials have been given "original authority" to classify documents, Florence said. But "something called derivative classification authority" is given to "any individual who can sign a document or who is in charge of doing something."

As a result, Florence said, "Hundreds of thousands of individuals at all echelons in the Department of Defense practice classification as a way of life. . . . To them, classifying a document is like putting a period at the end of a sentence."

Florence said one big reason for overclassifying was that he "never knew of anyone disciplined for classifying information regardless of how much it cost for unnecessary security protection." But he has seen "how rough a person can be treated" by superiors for not classifying a document.

Florence gave the following examples of the Pentagon classifiers at work:

- The Navy recently classified some newspaper clippings, until this proved embarrassing.

- A service chief of staff proposed to his colleagues in a memo that they should cut down on classifying documents "top secret. His memo was marked top secret.

- One Air Force division used a stamp that warned: "Although material in this publication is unclassified, it is assigned an overall classification of confidential."

- In correspondence to Florence, the Air Force Systems

Command objected to declassifying documents unless it could be proved that this "would actually benefit the Air Force."

Florence urged Congress to pass legislation to control classification of information precisely defining the military information that should be kept secret.

Meanwhile, the Pentagon announced that two sets of the 47-volume Pentagon study of the war will be delivered to the House and Senate Monday after storage rooms for them have been made secure. They will be available for members to read but not to copy. The department is preparing an edited version for congressional staff members, Pentagon spokesman Jerry W. Friedheim said.

Rep. John E. Moss (D-Calif.), member of the Foreign Operations and Government Information Subcommittee, before which Florence testified, protested that this would be "practically worthless."

If Congress really wants to use these documents, Moss said, the House should pass a resolution to print copies for all members. Moss also said he would not feel bound by executive regulations to keep secret anything he read in the study.

Moss called it "outrageous" that more than a week has gone by since The New York Times was enjoined from publishing articles on the Pentagon papers and the

courts have not yet permitted it to resume.

"If the courts have to go on a 24-hour (work) basis, so be it," Moss said. "They have no more important business before them."

Rep. Paul N. McCloskey (R-Calif.) said he had intended to give the subcommittee a summary of war papers he has obtained. But the subcommittee decided it would receive them only in closed session. He may testify Monday.

In other developments related to the Pentagon papers:

- Several Senate Republicans introduced a resolution to create a commission to review classification practices. Sen. William V. Roth (R-Del.) said the commission should find out why copies of the Pentagon papers were given to the private Rand Corp., but not to Congress.

- Sen. Robert Taft Jr. (R-Ohio) said published accounts of the papers showed that the Johnson administration "engaged in a conscious policy of deception in an attempt to keep the American people from knowing the extent of and reasons for our Vietnam involvement."

- Rep. William R. Anderson (D-Tenn.) former career Navy officer, said "not one iota" of security had been violated by publishing the articles.

- Rep. Michael J. Harrington (D-Mass.) called for a joint House and Senate committee to investigate the government's document classification procedures, according to United Press International.

In testimony before the House Foreign Operations Subcommittee, Harrington said Congress was no longer "an equal partner in the American democratic process on a par with the executive and the judiciary.

"We have become political eunuchs in matters of foreign policy and defense," he said.

Harrington called the publication of the Pentagon study on the history of U.S. involvement in Indochina "a great public service."

State Department Moving On Declassification Unit

STAT

By Marilyn Berger
Washington Post Staff Writer

The State Department, prodded into action by the massive leak of secret information in the Pentagon papers, has speeded up moves to form a committee to authorize disclosure of classified documents.

It was learned yesterday that plans are being discussed to create a review council, staffed by top departmental officials to review methods of declassification and to authorize foreign service officers to give out information they consider to be in the public interest.

The council is expected to be headed by an official at the level of assistant secretary or deputy under secretary.

Leisurely consideration was given to the creation of such a council after the Jan. 15 order by President Nixon to review government procedures for classifying documents. The idea has been under more active review this week. It was suggested that such a council could clear current information for release to newsmen, congressmen or the public if its members decided that disclosure would not be contrary to national security and would not affect foreign governments or intelligence sources.

At best, such an institutionalized procedure could help erode the ingrained reluctance on the part of State Department officials to provide information about current diplomacy, even when such dis-

closures would not affect security interests.

It was not expected that such a council would significantly cut down on the selective release of classified information by those officials who do "leak" classified information, sometimes on orders and sometimes because they believe the disclosure would be useful for any one of a number of purposes.

The council could pass on release of information requested by anyone and could also consider suggestions from foreign service officers who wish to disclose the contents of classified documents in the belief that the advantages of such disclosure outweigh the disadvantages.

Besides this council the State Department is also looking into ways of speeding up declassification of historical documents. A State Department official also said members are still to be appointed to the interdepartmental task force dealing with the Pentagon documents that have been distributed to a number of newspapers.

A State Department official said yesterday that in declassifying documents foreign governments are not normally contacted, even when they are involved as a subject of the papers. If it is a joint agreement that is being declassified, the official said, the government will be contacted. But if the paper is a telegram from a U.S. embassy abroad that contains information provided by another government, that government would not be approached for clearance.

This official said that

foreign governments involved in the Pentagon documents would not be approached.

The British government, meanwhile, said yesterday that it was informing the United States of its "concern" about revelations of diplomatic discussions through publication of the Pentagon papers.

The Foreign Office announced that Lord Cromer, the British ambassador in Washington, "has been instructed to express to the U.S. government the British government's concern at the threat to the confidentiality of diplomatic exchanges in the light of the publication of the papers."

The announcement added, "We are concerned at the status of exchanges of an intergovernmental nature. The point we have made is that there is a general problem which we would like the U.S. government to bear in mind."

Paul C. Warnke, former assistant Secretary of Defense for International Security Affairs, Wednesday said the portions of the Pentagon papers dealing with diplomatic exchanges were of a sufficiently sensitive nature to warrant prior restraint against publication.

The Chinese ambassador to Washington, James C. H. Shen, said yesterday that publication of the documents hampered diplomatic conduct.

"As a government official," Shen said, "I would feel very happy knowing that what I say today in negotiations with American officials would not be published."

Newsmen to Give Views On Classification Policy

United Press International

Representatives of the news media were to give their views today on classification of government documents.

Newspaper and broadcasting spokesmen were called to testify before the traditionally friendly House Freedom of Information subcommittee.

The panel is studying federal classification policies to determine whether the government is improperly using national security as a means of keeping information from the public.

Scheduled to testify today were Pete McKnight, editor of the Charlotte, N.C., Observer and president of the American Society of Newspaper Editors; Richard P. Kleeman, Washington correspondent for the Minneapolis Tribune and chairman of the Freedom of Information Committee of Sigma Delta Chi, the journalism society; Charles A. Perlik, president of the American Newspaper Guild; W. Bradford Wiley, chairman of the board of the Association of American Publishers, and J. W. Roberts, Washington bureau chief for Time-Life Broadcasting and chairman of the Freedom of Information Committee, Radio-Television News Directors Association.

For two days the subcommittee has focused much of its attention on the top secret 1968 Pentagon history of the Vietnam

war. Most members appear at least sympathetic with efforts to pry the study out of the government and publish it.

Yesterday, an ex-Pentagon official who helped develop the policy for protecting security information said 99½ percent of classified government material—including published portions of a top secret history of the Vietnam war—could safely be made public.

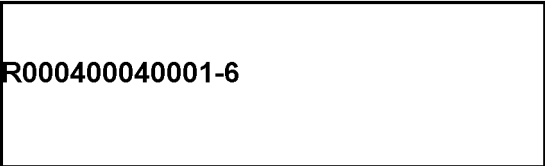
William G. Florence, who retired May 31 after spending 23 years as a security classification policy expert, told the panel "hundreds of thousands" of federal employes have managed to classify an estimated 20 million government documents.

All but a maximum of one-half of one percent, he said, should be declassified.

Anderson for Publishers

Rep. William R. Anderson, D-Tenn., former commanding officer of the nation's first nuclear submarine, the Nautilus, said yesterday "not one iota" of national security had been violated by newspaper publication of the Pentagon study.

In a speech in Concord, N.H., Anderson charged the government with deception in handling the war and said the public has the right to know the full contents of the report.



STAT

Mail Thefts Discounted by CIA, FBI

By ROBERT GRUENBERG
Miami Herald-Chicago Daily News Wire

WASHINGTON -- Despite claims by a convicted thief that he stole military secrets and FBI data, along with \$100 million in loot from the mails, officials of major defense and security agencies still have faith in the postal service.

They have no intention of changing their procedures for sending secret and confidential messages, reports and other material through the mail, they said.

They have no intention, either, of even reviewing their mail operations to see if such thefts can be avoided.

THE PENTAGON, the Central Intelligence Agency and the FBI were all named as government units whose secrets fell into the hands of Robert F. Cudak, according to his testimony here before a Senate investigating subcommittee.

Cudak, 29, was arrested in November 1968, at a Rosemont, Ill., motel, near Chicago's O'Hare International

Base, Fla., defenses, FBI reports on Cuban nationalist agents in Florida, and CIA documents.

They were taken from registered mail along with securities, diamonds and other valuables, he testified.

THE CIA would not discuss its use of the mails, in line with its policy that public comment on its operations might be harmful to U.S. interests.

However, government sources said that the super-secret agency hadn't lost anything in the mail -- despite Cudak's contrary testimony -- and therefore, saw no reason to be concerned.

The FBI would only acknowledge that it used the mails to transmit some classified communications, but was always aware of "security considerations" on what other delivery methods might be used.

A spokesman refused comment when asked if a check would be made on what may have disappeared in the mails, in light of Cudak's testimony.

He also refused comment on whether a review would be considered to detect possible gaps in the delivery of classified reports, or why the FBI continues to use the mail system if it suffered losses of confidential material.

THE AGENCY has been sensitive to publicity over the recent disclosures of names of persons under investigation, as well as informants' identification, after the FBI office in Media, Pa., was burglarized.

The FBI employs code numbers for identifying sources, thus reducing the security vulnerability inherent in mail robberies, but Cudak testified that the report on Cuban agents listed their names and addresses.

The Justice Department, according to a spokesman, sends very little secret and confidential communications through the mail because these classifications are mostly in connection with criminal and internal security matters.

But the department has not lost anything so far, and plans no review of its operations, he said.

THE PENTAGON has a 60-page book detailing executive orders and directives on the handling of messages classified "top secret," "secret" "confidential" and "restricted."

Messages marked "top secret" never go through the mail, a spokesman explained, but are delivered by couriers who frequently chain the pouch containing the secret papers to their wrists, State Department diplomatic pouch, armed forces couriers, and "other methods" approved by the assistant secretary of defense for administration.

Asked if "other methods" include mailing, the spokesman responded: "I'm not going to speculate on that."

"Secret" documents are sent in double envelopes by registered mail, as well as by any of the methods used for "top secret" delivery.

The outside envelope bears the name and address of the person for whom it is intended, while the sealed inside envelope bears the same information plus the "secret" classification.

BEING REGISTERED MAIL, receipts are given upon delivery, and a "chain of custody" system is employed. Under this arrangement, a person must sign for

receiving, for example, "copy No. 4 of 20 copies."

The Pentagon spokesman belittled Cudak's assertion that he found "plans" on ballistic missiles and Eglin Air Force Base missiles.

"These might be little bits of information," he said, acknowledging they could have been classified "secret" or "confidential."

"People assume he (Cudak) pulled out (from mail bags) the Anti-Ballistic Missile system," the military aide said. But anything Cudak may have seen "would have to be added up to a lot of these things to make sense," he said.

If commanders in the defense establishment have lost confidential material in the mails, it was their responsibility to move to correct the matter, he added, explaining that it was virtually impossible for the Pentagon to know of such details here.

No orders have gone out asking for a check of such possibilities, nor is any review contemplated, he said.



Robert Cudak
... stole documents?

Airport, and is now serving a seven year prison term for robberies at O'Hare and in New York.

He told the subcommittee that he stole Air Force documents on ballistic missile systems and Eglin Air Force

SYRACUSE, N.Y.
 HERALD-JOURNAL
 E - 129,656
 HERALD-AMERICAN
 S - 251,294 1971

Secrets guarded by NSC

By DON BACON
 Our Washington Bureau

WASHINGTON -- The National Security Council (NSC), which perhaps handles more highly sensitive documents than any other government agency, has taken elaborate precautions to avoid the kind of security breach that stunned the Pentagon last week.

The principal forum for presenting national security issues to the President, the NSC receives some 800 documents a month for information and action.

These papers, most carrying the highest security classification, come primarily from the departments of State and Defense, the Central Intelligence Agency and other security-related government offices, as well as private research organizations working under contract with the NSC.

Few Breaches

"We have very few security breaches and we discipline rather severely for that," said Mrs. Jeanne Wilson Davis, director of the NSC secretariat, in testimony last month before a House appropriations subcommittee. Her testimony, given behind closed doors, was made public recently.

Speaking prior to The New York Times' publication of a "top secret" Pentagon report on Vietnam, Mrs. Davis described some of the "drastic changes in our physical security" undertaken by the NSC in the last two years.

Constant Battle

Security, said Mrs. Davis, "is a battle we wage constantly."

The NSC, which has offices in the White House west wing, has "created a new specially protected area," she said, where most documents are now kept, "with some very elaborate precautionary devices."

"Fortunately," she added, "we are located in a rather compact area so that we are not spread out all over a building, so it makes it a little bit easier to control our access. Security is never perfect but I think we do a pretty good job."

Didn't Have Report

Until last week, the NSC had no copy of the 47-volume Pentagon report. The Defense Department gave a copy to the council in 1968 but, according to the White House, President Lyndon Johnson acquired it for the LBJ library at the completion of his term. After The New York Times began publishing the documents June 13, President Nixon requested a new copy for the NSC's files.

Mrs. Davis told the subcommittee that all NSC personnel are screened with extreme care before hiring, even those who have previously received security clearances from other government agencies. Clearances must be renewed every three years. A former agent of the Federal Bureau of Investigation serves as the NSC's personnel security officer.

Mrs. Davis said "we have disciplinary measures available to us if we should need them for security violations." She did not elaborate.

The amount of important papers handled by the NSC each month has risen from an average of 150 under previous administrations to about 800 under Nixon.



Passion for Classifying

STAT

DURING the Korean War, this writer served as special assistant to the Secretary of Defense (then Gen. Marshall) and also as director of the Office of Public Information (OPI). From that experience one impression in particular stands out: The passion of the military to "classify" everything in sight.

Hardly a week went by —if that—without some wringing of hands over the publication of information which the military regarded as a breach of security or a

violation of restrictions on classified material. The pressure was always for ever tighter censorship and for crackdowns on enterprising reporters, columnists and others who got their hands on "classified" information that the Pentagon wanted to keep out of circulation.

The classification of a document (secret, top secret, confidential and so on) is largely a matter of arbitrary judgment, as is the question of classifying it at all. It is a privilege that is easily abused. Fortunately for the public, Gen. Marshall and his successor, Robert Lovett, were sensible, civilian-minded defense secretaries. During the Korean War they consistently supported a policy of maximum disclosure.

IN THAT PERIOD, when much of the time of OPI was taken up with censorship problems, there were countless "leaks" in the press that agitated the Pentagon, but in retrospect it is now clear that, despite all the official clamor, none of the leaks ever really threatened the security of the United States. It was usually much ado about very little.

This is brought to mind by the effort of the government to force the New York Times to suppress further publication of a 47-volume Pentagon study into the origins of the Vietnamese war on the grounds that it would cause "irreparable injury" to the United States.

It may, it is true, injure the reputations of the officials who are shown to have misled and deceived the public while secretly planning escalation of the war, but it is not going to damage the country. Indeed, if it whets public demand for ending the war promptly, it may, in fact, do a lot of good.

In any case, the material goes back over 20 years, the most recent disclosures being at least three years old. There is no conceivable military security involved. The enemy, we see now, being kept from the American people.

Nobody, for instance, told

the U.S. public that its government was sending secret threats to North Vietnam, but Hanoi knew it. Americans did not know about secret U.S. bombing and secret naval action against North Vietnam, but the object of this attention did. So, while the U.S. people may be surprised by The Times expose, most of it won't come as a revelation to Hanoi.

WHAT IS NEEDED is not less of what The Times has been reporting, but more of it. At his latest press conference, Secretary of State Rogers said, "We hope that when the study is made of this administration, it will be entitled 'How President Nixon Got the United States Out of War in South Vietnam.'" Meanwhile, however, the public might be more interested in a study on how President Nixon got the United States into Laos and Cambodia.

It is reassuring that Sen. Mike Mansfield (D-Mont.), the majority leader, intends to see that the inquiry will be pursued through Senate hearings. "I'd like to see the whole story laid out," Mansfield says. "Congress and the American people are entitled to know all the elements related to this tragedy."

As for the political aspects of the disclosures, it is impossible not to sympathize with Sen. Barry Goldwater, the GOP presidential candidate against LBJ in 1964, when he says, "See, I was being called trigger-happy, warmonger, bomb-happy, and all the time Johnson was saying he'd never send American boys. I knew damn well he would."

Nevertheless, the first order of business is not 1964 but 1971. The advice of Sen. George McGovern (D-S.D.) is: "We would make a serious mistake to assume the kind of deception revealed in these documents began and ended with the Johnson administration."

He ought to know. He has been attacking both Democrats and Republican Presidents over Vietnam for years.

24 JUN 1971

The White House And the Documents

Following is the announcement yesterday by White House press secretary Ronald L. Ziegler regarding the secret Pentagon documents on the origins of the Vietnam war.

The President met Sen. Mansfield this morning from 8 to 9 for breakfast. At the meeting, the President volunteered to make available to the House and Senate the 47 volumes of the Kennedy-Johnson administration report on Vietnam as well as copies of the 1965 study of the Tonkin Gulf incident.

The documents, which are top secret, have not previously been made available to either house. As I announced yesterday, the President has directed the declassification review of these documents pursuant to his Jan. 15, 1971, order instituting a review of the classification of such documents.

President Nixon told Sen. Mansfield that the unauthorized publication of portions of the documents created a situation in which Congress would necessarily be making judgments in the meantime on the basis of incomplete data which could give a distorted impression of the reports' contents.

For that reason the President feels it is only fair to Congress and to persons mentioned in the document that the full report be made available. Since the documents relate primarily to the Johnson and Kennedy periods, President Nixon pointed out that he is not in a position to vouch for their accuracy or completeness.

Despite the publication of some portions of the documents, they will retain their

top-secret classification pending a complete review of the declassification review and will be made available to the Congress on the understanding they will be subject to existing congressional rules and regulations covering the handling of classified material. President Nixon reiterated to Sen. Mansfield that his primary continuing concern has been to protect the secrecy of government documents in cases where disclosure could harm the national security or impair negotiations with other nations. President Nixon also emphasized that the decision to offer the documents to the Congress does not represent any change of policy, but merely reflects the special circumstances created by the recent unauthorized disclosures. The documents will be delivered to the President of the Senate and the Speaker of the House for such disposition as the joint leadership of each body shall determine."

24 JUN 1971

Memo to NSC
Remains Secret

The White House yesterday declined to make public a directive President Nixon sent to the National Security Council on Jan. 15, 1971, ordering a study of the declassification process.

The White House had announced Tuesday that the President sent such a memo to the NSC. Press Secretary Ronald L. Ziegler said in reply to a request by the Washington Post for a copy that it was "an internal paper" and would not be released.

24 JUN 1971

Nixon Gives Hill Access to Studies

By Carroll Kilpatrick and Richard J. Lyons

Washington Post Staff Writers

President Nixon announced yesterday that he will make available to the House and Senate the secret Pentagon study on American involvement in Vietnam and the special study on the Tonkin Gulf incident. The documents would not be made public.

House and Senate leaders promptly began arrangements to receive the documents and the Senate reached tentative agreement to conduct a full-scale public investigation into the documents and related material.

Senate Foreign Relations Committee Chairman J. W. Fulbright (D-Ark.) said a proposal by Senate Democratic Leader Mike Mansfield (Mont.) for a special investigation by eight members of Foreign Relations and eight members of the Armed Services Committee was tentatively approved.

Before the full-scale public investigation is held in the fall, Fulbright said, his committee will seek \$250,000 for a closed-door investigation of its own into Southeast Asia policy. The study would be valuable preparation for the public investigation, Fulbright said.

The secret documents sent to the Senate will be deposited in the office of the secretary of the Senate, Fulbright said.

They will be available to Foreign Relations Committee members and to staff. Other senators are expected to be allowed to see the papers later.

In the House, Rep. F. Edward Hebert (D-La.), chairman of the Armed Services Committee, said a special office would be made secure to house the papers. He said he would not accept the papers until the Department of Defense pronounces the office secure.

"I want them to tell us it's secure," Hebert said. "I don't want any monkeyshines."

The two sets of documents will presumably come in the eight sets the Pentagon has, two of which were pulled

back from the Rand Corp. earlier in the week. No specific date for delivery to the Hill had been set last night.

Under House rules, all members may read the papers because once a document has been received by a committee it becomes the property of the House and open to all members.

Speaker Carl Albert (D-Okla.) indicated, however, that while members may read to their heart's content they not be allowed to copy or take notes on the documents.

After the White House announcement that two copies of the papers would be sent to Congress, Secretary Laird went to the Capitol to work out security measures for storing, handling and protecting the documents.

White House press secretary Ronald L. Ziegler said that Mr. Nixon made his decision regarding the documents over the weekend in Key Biscayne, Fla., and communicated it to Mansfield at a breakfast meeting yesterday.

The President emphasized to Mansfield that the decision to offer the documents to the Congress does not represent any change of policy but merely reflects the special circumstances created by the recent unauthorized disclosures," Ziegler said.

Members of Congress had asked for the 47-volume Pentagon study and for the 1965 special Pentagon report on the Gulf of Tonkin incident.

The latter involved the 1964 attack by North Vietnamese torpedo boats on an American destroyer and led to the congressional resolution which President Johnson maintained empowered him to take offensive action against North Vietnam.

"President Nixon told Sen. Mansfield that the unauthorized publication of portions of the documents created a situation in which Congress would necessarily be making judgments in the meantime on the could give a distorted impression of the reports' contents," Ziegler said.

For that reason the President feels it is only fair to Congress and to persons mentioned in the documents that the full report be made available.

"Since the documents relate primarily to the Johnson and Kennedy periods, President Nixon pointed out that he is not in a position to vouch for their accuracy or completeness."

Ziegler said that the top secret classification will be continued on the documents and that they will be made available to Congress on that basis.

"President Nixon reiterated to Sen. Mansfield that his primary continuing concern has been to protect the secrecy of government documents in cases where disclosure could harm the national security or impair negotiations with other nations," the press secretary said.

Pentagon spokesman Jerry W. Friedheim explained that, as a rule of thumb, it is assumed that once a person is elected to Congress he or she has a top-secret clearance.

The White House announced Tuesday that the President on Jan. 15, 1971, had ordered a review of procedures and policy relating to the classification of documents.

Mansfield told reporters after the breakfast meeting that the President has long been concerned by the overclassification of papers and thinks there is too much classification even in his administration.

Publisher Pleased

In New York, Times publisher Arthur Ochs Sulzberger said that he was "pleased" with the President's action to give the papers to Congress. "The next step should be to release the documents to the American people," Sulzberger said.

Publisher Marshall Field of the Chicago Sun-Times said he felt his paper was "morally justified in showing the people where an arm of the government may have stepped beyond the bounds of our Constitution."

On Capitol Hill, Arthur J. Goldberg, former Supreme Court justice and Secretary of Labor, proposed that a special joint congressional committee conduct an investigation of "the causes and conduct" of the Indochina war. He said the present impasse between the executive branch and newspapers that have pub-

lished portions of the Pentagon papers makes such a study "imperative" to preserve public trust in the candor and competency of our officials."

Goldberg was the leadoff witness at a series of hearings by the house subcommittee on foreign operations and government information into whether the need of the public and Congress to obtain information from the executive branch is being thwarted.

Goldberg also proposed that Congress pass legislation defining what sort of documents could be classified as secret by the administration and thus kept from public view.

He conceded there was need to preserve national security secrets, but he said the executive branch should not be permitted to use the classification stamp to hide mistakes and prevent political embarrassment. An independent review board should be set up decide whether documents have been properly classified, he said.

Goldberg said it would have been far better for everyone if the executive branch had submitted the Pentagon papers, minus security material, to Congress when it was prepared. He said it made no sense to him that even though much of the contents of the papers had been published by newspapers, Congress still could not get copies of the report.

A few minutes later, Rep. Ogden Reid (R-N.Y.) announced that President Nixon was sending both the House and Senate a copy of the 47-volume Pentagon study.

Reid and Rep. John E. Moss (D-Calif.), former chairman of the subcommittee, filed suit in U.S. District Court here yesterday morning asking that Secretary of Defense Melvin R. Laird be ordered to give them copies of the papers for their use. They said they were entitled to the papers under the Freedom of Information Act of 1966, of which the two were principal sponsors. No court action was taken on the suit yesterday.

Moss and Reid said they would press the suit, despite the President's action in sending Congress two copies, because they want full access to them.

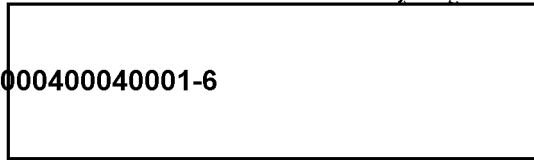
Protest by Moss

Moss protested the decision that the papers would be referred to the House Armed

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23 JUN 1970



Leaks of Secret Study Frustrate Government

Questions of Theft, Distribution Remain in Addition to Publication of Documents

BY DAVID KRASLOW
Times Washington Bureau Chief

WASHINGTON — The staggered leaks to various newspapers of portions of a top-secret Pentagon study on the Vietnam war are bedeviling the government in its effort to prevent further publication of the documents.

And this so far successful strategy also is circumventing court orders against single newspapers to temporarily halt publication until judges can decide the government's requests for permanent injunctions.

While the source or sources of the leaks appear well on their way toward achieving their objective of making public the significant content in the Pentagon report, the resulting historic confrontation between a free press and governmental authority has not been reduced to a moot episode.

Called a Theft

Wholly aside from the constitutional struggle, an Administration official noted Tuesday, is the relatively simple question of solving what the Justice Department has alleged was the theft and distribution of highly classified government property.

And he said the possible prosecution of newspaper reporters and executives under the espionage and censorship statute for receiving and publishing state secrets had not been foreclosed.

Whether the staggered leak strategy simply evolved or was the preconceived plan of an individual or a group of antiwar critics acting in concert has not been disclosed.

So far only one suspect has been named—Daniel Ellsberg, faculty member at the Massachusetts Institute of Technology and former Defense Department official who apparently worked on the Pentagon study.

A Justice Department spokesman confirmed Tuesday that the FBI had been searching for Ellsberg since last week, but he said no warrant had been issued for his arrest. He said at this point Ellsberg was merely wanted for questioning.

Named as Source

Ellsberg was named last week by Sidney Zion, a former New York Times reporter, as that newspaper's source for the Pentagon documents. And Rep. Paul N. McCloskey Jr. (R-Calif.) disclosed that Ellsberg had given him papers on Vietnam policy that bore no classified markings.

When two FBI agents went to McCloskey's office Tuesday to question him about the papers and his dealings with Ellsberg, they were confronted by a television camera crew and 10 other reporters and photographers. They apparently had been notified by McCloskey's staff after the agents asked to see the congressman.

"I wanted to start this meeting in public, but if you can convince me it ought to be private, I'll be glad to honor it," McCloskey told the agents.

"Under the circumstances," an agent said, "I think our conversation should be confidential."

At a 15-minute private

meeting, McCloskey said, the agents told him they were investigating the "unauthorized disclosure of confidential documents." McCloskey said he told the agents he considered his conversations with Ellsberg as confidential.

Even in the unlikely event that the leaks to newspapers are plugged, McCloskey's actions and a statement Tuesday by Chairman J. William Fulbright (D-Ark.) of the Senate Foreign Relations Committee suggest Congress will be in a strong bargaining position in seeking to make more of the Pentagon papers public.

Fulbright disclosed that the committee had for some time some of the material published last week and said he felt that the Administration should supply the entire report to the panel.

"They have grossly abused their assumed right of classification," Fulbright said.

Faced with newspaper publication of numerous documents and building congressional pressure for additional disclosures, the Administration announced Tuesday it had ordered a review of all 47 volumes in the Pentagon study to determine what material can be declassified.

Secretary of Defense Melvin R. Laird said the decisions would be made within 90 days.

And on the eve of the opening today of congressional hearings on classification procedures, White House Press Secretary Ronald Ziegler revealed that President Nixon last Jan. 15 ordered several agency heads to review such procedures.

Ziegler said that in a National Security Council directive the heads of the Central Intelligence Agency, Atomic Energy Com-

fense and Justice Departments were instructed to study whether more information can be made public through less original classification and speedier declassification procedures.

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WASHINGTON POST

Approved For Release 2006/01/03 : CIA-RDP80-01601R000400040001-6

23 JUN 1971

Secrecy Rule Review Was Sought by Nixon

By Michael Getler
Washington Post Staff Writer

Early this year, President Nixon ordered a top-level review of all government procedures for classifying documents, the White House revealed yesterday.

Presidential press secretary Ronald L. Ziegler said that ordinarily such presidential directives to the National Security Council — the government's top security advisory body — are not made public. But, he said, public interest in the current fight over publication of the top secret Pentagon study of the Vietnam war now made the disclosure of the President's move on Jan. 15 appropriate.

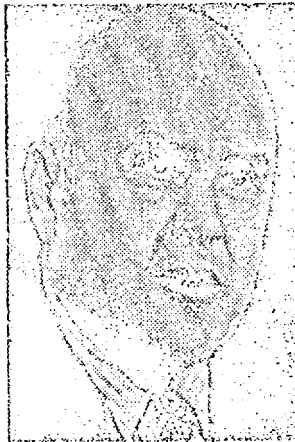
Ziegler said the presidential directive called for broader and speedier declassification procedures and for a continuing review of the process.

Ziegler said the purpose was "to enlarge the American people's right to know by making more information available to the public not less."

Ziegler said that Defense Secretary Melvin R. Laird was following the President's directive yesterday when he spoke on Capitol Hill about the Pentagon study.

Laird, earlier yesterday, told newsmen he had ordered Pentagon censors to speed up work on declassifying as much of the controversial Vietnam war papers as possible.

Laird — not mentioning the White House directive — indicated that his move was prompted by disclosure of portions of the top secret papers in three newspapers.



MELVIN R. LAIRD
... pledges classification review

23 JUN 1971

Secrecy Study Attributed to Nixon Order

The White House says Defense Secretary Melvin Laird's announced speedup in declassification of the secret Pentagon study on the Vietnam war resulted from an order issued by President Nixon early this year.

Nixon last Jan. 15 ordered the National Security Council to "review current classification procedures to enlarge the American people's right to know more, not less," press secretary Ronald L. Ziegler said yesterday.

Ziegler said the January order to the Secretary of Defense, Attorney General, Central Intelligence Agency and the Atomic Energy Commission from President Nixon "looks to broader and speedier reclassification procedures."

The review "has been underway since January. This is what Laird referred to. The secretary of Defense is being responsive to this directive, he added.

Ordinarily Ziegler said, NSC orders are not made public. But over the weekend in Key Biscayne, he added, the President decided to make the fact known that he had directed the NSC to make this declassification study.

Uncertain of Action

Asked what declassifications had been accomplished since January as a result of the order to the NSC, Ziegler replied that documents are being declassified all the time. He said he was unable to say which declassifications have taken place since the order.

Laird, who has refused demands from senators and congressmen to provide them with the full 47-volume study of U.S. involvement in Indochina from World War II to May 1968, said yesterday that he had ordered that declassification be speeded up. He estimated that a declassified version of the study, already published in part by newspapers, may be made public in about 90 days.

Ziegler said he regarded 90 days as an outside limit. There he said.

Fulbright Has Parts

On Capitol Hill, meantime, Sen. J. William Fulbright, chairman of the Foreign Relations Committee, said yesterday that it has had parts of the study "for some time." He refused to say where the committee had obtained the material. He said he has been rebuffed twice in the last 18 months in efforts to get complete copies from the administration.

Asked why he had not turned over the classified information to the executive branch, Fulbright replied:

"We're all cleared for top-secret here. We're not only cleared, we're entitled to such information."

The Foreign Relations Committee was to decide today whether to conduct its own investigation of U.S. involvement in Indochina. Fulbright said he thought his committee was the proper forum for such hearings.

He said the Nixon administration had "only itself to blame" for the furor created by the publication of the Pentagon study.

"The documents would not have created as much of a splash if the administration had taken the proper course and turned over the documents to the committee," Fulbright said.

WASHINGTON STAR
28 JUN 1971

Two Congressmen File Suit Asking Disclosure of Study

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The two congressmen who were chief architects of the 1967 Freedom of Information Act today filed suit in District Court seeking to force full disclosure of the secret 47-volume Pentagon study on the origins of the Vietnam war.

The suit, filed by Reps. John Moss, D-Calif., and Ogden Reid, R-N.Y., names Secretary of Defense Melvin R. Laird as a defendant.

The suit seeks to force disclosure by the Pentagon of the study under a provision of the act which requires agencies challenged for information to prove in court that withholding of the information is justified.

An attorney for the two congressmen, Benny L. Kass, asked that the suit be sent to Judge Gerhard A. Gesell as a matter related to the federal government's suit seeking an injunction against publication by the Wash-

ington Post of articles related to the Pentagon study.

Gesell has refused twice since Friday to enjoin the Post. A decision on the government's appeal of Gesell's decision was pending today in the U.S. Court of Appeals.

It is up to Gesell to determine if the congressmen's suit is in fact a related matter. Kass said he would ask for an expedited hearing in the case, and it was possible that one could be held as early as tomorrow.

Laird yesterday said he had ordered that declassification of the study be speeded up.

His action resulted from an order issued by President Nixon early this year, the White House said later.

Nixon last Jan. 15 ordered the National Security Council to "review current classification procedures to enlarge the American people's right to know more, not less," press secretary Ronald L. Ziegler said yesterday.

Ziegler said the January order to the secretary of Defense, attorney general, Central Intelligence Agency and the Atomic Energy Commission from Nixon "looks to broader and speedier reclassification procedures."

Uncertain of Action

The review "has been underway since January. This is what Laird referred to. The secretary of Defense is being responsive to this directive," he added.

Ordinarily Ziegler said, NSC orders are not made public. But over the weekend in Key Biscayne, he added, the President decided to make the fact known that he had directed the NSC to make this declassification study.

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Laird estimated that a declassified version of the study, already published in part by newspapers, may be made public in about 90 days.

Ziegler said he regarded 90 days as a task force at work on it, he said.

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Approved For Release 2006/01/03 : CIA-RDP80-01601R000400040001-6

WASHINGTON STAR

23 JUN 1971

NIXON TO GIVE VIET STUDY TO HOUSE, SENATE

President Nixon announced today he will make available to the Senate and House the 47-volume Pentagon study on Vietnam and a report on a 1955 study of the Tonkin Gulf incident.

The President informed Senate Democratic leader Mike Mansfield of his decision at a breakfast at the White House today, said White House press secretary Ronald L. Ziegler.

Ziegler emphasized that the documents will retain their top secret classification and will be made available to Congress on the understanding that they will be subject to existing congressional rules and regulations covering the handling of classified materials.

22 JUN 1971

Public 'Secrets'

An important aspect of the debate over the publication of the Pentagon papers on Vietnam deals with the laws, rules and practices under which certain government information is "classified" and thus marked as secret information not to be generally published or otherwise made public. The intent supposedly is thus to withhold from enemy powers, or potential or possible enemies, information the disclosure of which would be harmful to the security of the United States. But the practice of government officials, under cover of the laws and rules, is to over-classify in two ways: to apply secrecy restrictions to information which cannot be shown to affect national security, and to raise the classification to higher categories, as from "secret" to "top secret."

There is a critical difference, in fact, between information the disclosure of which would be merely embarrassing in some ways to a government official or agency, and information which would be of help to an enemy or potential enemy. The classification process is misused when it is employed to withhold, from the American public, information which figures in decisions or policies but which, for any number of reasons other than actual national security, the officials concerned do not want the public to know. Mistakes, miscalculations, impetuous decisions, for example, can be swept from sight under a "secret" label even though the national security is not at issue. Judge Gurfein's opinion in the *New York Times* case, excerpts from which are published elsewhere on this page, illuminates this point.

What is badly needed is some rule of reason in the "classifying" of government information. As

things are, government officials too often "classify" information merely to suit their own purposes, and "declassify" it, or parts of it, when this suits their purposes. With respect to the Pentagon papers, the federal courts now are being called upon to decide whether the national security would be affected by their general publication, and also of course whether the federal government has constitutional authority in advance of publication to prevent a newspaper from publishing these papers.

The matter is not one of patriotism, or loyalty, or betrayal of secrets, or of treason, and the flinging about of these highly charged words diverts public attention from the real question. The question is whether in fact this information should be "classified" or whether it should be part of the general body of knowledge, about the war and our involvement in it in this instance, which the public should have in order to fill its proper function in the development of governmental decisions and policies.

22 JUN 1971

Excerpts From the Government Brief

Following are excerpts from the Government brief submitted yesterday to the United States Court of Appeals for the Second Circuit, seeking to prevent publication by The New York Times of further articles in its series on Vietnam:

The authority and responsibility of the President for the protection of official information affecting the national security has been delegated by Executive Order 10501.

Pursuant to Executive Order 10501, the Secretary of Defense has classified the documents involved in this case as top secret. Defendants have not been authorized either to possess or disclose the contents of those documents.

In dealing with the Executive function to say who may have access to secret military information, we are dealing with the most vital interests of the nation. In no area is the constitutional responsibility of the Executive branch any greater or any clearer; if any powers of the executive are demanding of judicial enforcement, they must surely include the power to exercise effective control of classified defense information.

By denying the relief requested in this case, the District Court has sanctioned a disclosure of defense information in violation of the Freedom of Information Act and the Espionage Act.

Jefferson's View Cited

The exception to the free press doctrine which the Government argues for today is precisely the type of exception our forefathers had in mind when the doctrine was first put into operation in the early days of the Republic. Julian P. Boyd, the distinguished editor of the Papers of Thomas Jefferson

at Princeton University, has called our attention to the following statement made by President Thomas Jefferson on June 17, 1807, to Federal Attorney George W. Hay of the District of Virginia:

"...All nations have found it necessary that, for the advantageous conduct of their affairs, some of these proceedings, at least, should remain known to their Executive functionary only. He of course, from the nature of the case, must be the sole judge of which of them the public interests will permit publication."

Appellee has conceded that some information is so prejudicial to the national defense that its publication should be enjoined. The example frequently discussed in oral argument, derived from *Near v. Minnesota*, is the date of sailing of a troop ship. We believe the record abundantly demonstrates that the information in the possession of The Times falls within the exception recognized in *Near* in that its publication would gravely and irreparably damage the defense of the United States. In many specifics, the damage that might be done in terms of human lives far exceeds the number of troops carried on any troop ship.

The documents in question are, in large part, classified "top secret--sensitive" pursuant to the provisions of Executive Order 10501, entitled "Safeguarding Official Information in the Interests of the Defense of the United States." That Executive Order reserves the "top secret" classification "for defense information or material which requires the highest degree of protection." It provides that the "top secret" classification "shall be applied only to that information or material the defense aspect of which is paramount, and the unauthorized disclosure

of which could result in exceptionally grave damage to the nation."

'Recently Reviewed and Retained'

It is hardly proper to ignore the "top secret" classification so recently reviewed and retained by officials at the highest level of government who have intimate and detailed knowledge of the facts on which the defense of this nation rests. Great deference must be accorded their considered judgment that disclosure would so damage the national defense that the "top secret" classification is proper. Surely they are in a better position than The Times, however well-intentioned it is, to judge whether "unauthorized disclosure . . . could result in exceptionally grave damage to the nation." As Judge Learned Hand pointed out many years ago, "The services must be trusted to determine what information may be broadcast without prejudice to the 'national defense.'" "The function of determining whether secrecy is required in the national interest is expressly assigned to the executive. What is desirable in the interest of national defense and foreign policy is not the sort of question that courts are designed to deal with." *Eptain v. Resor*, (1970).

The Government has carefully determined that the information presently in The Times's possession is highly prejudicial to the national defense. Its "top secret" classification, reasonably made in the first instance and buttressed by recent review, is highly persuasive, if not conclusive of that fact. This decision whether the classified document should be published does not rest with the newspaper. In Jefferson's phrase it is the Executive who "must be the sole judge of which of them the public interests will permit publication."

2 2 JUN 1971

CAPITOL STUFF

By JERRY GREENE

Washington, June 21—The issue of what is a government secret, and when and why is destined for faster attention in Congress than had been expected when the Pentagon papers broke into print, with a House subcommittee slated to zero in on this titillating topic Wednesday.

Rep. William Moorhead (D-Pa.), chairman of the impossibly named subcommittee on foreign operations and government information of the House Government Operations Committee, had scheduled a general inquiry by his group before the secret Vietnam report surfaced.

Full Speed Ahead on Secrecy Issue

What the chairman had in mind was a review to see if overclassification of documents had diminished in the wake of persistent congressional efforts to lift the lid. Now it appears that the Pentagon war documentary will draw primary focus. It is, indeed, the Moorhead subcommittee that Rep. Pete McCloskey (R-Calif.) had in mind as a possible depository of the Vietnam report given to him by Daniel Ellsberg, the Massachusetts Institute of Technology professor and one of the authors.

Thus the House subcommittee could be jumping the gun on Sen. Edmund Muskie (D-Maine) in his plans to seek creation of an independent board to declassify government papers generally.

Muskie's idea is that a seven-man board would be given authority to lift secret labels from government documents, and could at any time "send relevant documents to the appropriate committees of Congress." Furthermore, this dream board would include one man from the press, one from government and five from private life.

It is quite probable that the Maine senator could pick up a few pointers from the Moorhead subcommittee, that he spoke hastily and without too much research. For the Moorhead outfit, more widely known as the "freedom of information" subcommittee, has been struggling with the government classification chains for many a year and is only too well advised that herein nestles a real keg of worms.

The issue of secrecy in government, of which almost everybody concedes there is exceedingly too much, is one of the oldest and most complicated in the republic, and not one that will go away at the threat of a politician's irritation.

There are more kinds of secrecy here than there are agencies of the government; large gobs of it are no less than idiotic. It isn't so much that the bureaucrats try to conceal their errors.

One must remember in considering these matters that bureaucrats, civilian or military, whether from the White House or the Agriculture Department, do not think that they make errors. Many of them simply like to feel their own importance in handling affairs of state much too worthy for dissemination to the common people.

But of course there are some items of more or less legitimate secrecy to protect not only the national security but the internal welfare of the country.

The Treasury Department has its little secrets deemed necessary for financial integrity, domestic and international. The Department of Commerce has a batch of affairs considered best kept private—industrial and economic reports. STAT

The Internal Revenue Service probably has the most secrets, or at least they are supposed to be, in income tax returns, personal and corporate.

Censorship by Congress

The Atomic Energy Commission, under the law which set it up and on its own motion, can classify most of what it has and does about weapons as "restricted data." Messing around with AEC "restricted data" can result in the death sentence upon conviction therefor.

Then of course there is the Pentagon, with contingency war plans and operational plans; there are the FBI and the CIA, and the State Department with its flutterings in the diplomatic arena.

At one time or another, almost every President has had a fuss with Congress about over-classification and the revelation of secrets. Congress doesn't classify—it must maintain the classification fixed by executive departments—but it does surely censor. Committees go "off the record" with witnesses who have anything really interesting to say, and each member of Congress can "edit" his own remarks, either in committee or on the floor, before a comment goes into the Congressional Record.

Back in 1953, President Eisenhower sought to tidy up the situation when he issued an executive order withdrawing the authority to classify from 29 agencies, and limiting it to 16.

Goes Back to George Washington

That didn't help much, so far as getting out to the public word of significant developments in government operations and policy that were of prime interest to the tax-paying customers. So it follows that almost every exclusive news story out of Washington of any importance through the years has had its origin one way or another in a classified document. The pursuit thereof will never cease, not in these precincts, anyhow.

Let one think this business of secrecy in government is of recent issue, it may be recalled that in 1787 a delegate named George Washington chided members of the Constitutional Convention for being careless and leaving copies of the proceedings lying around the meeting hall.

"I must entreat the gentlemen to be more careful," Gen. Washington scolded the delegates, "lest our transactions get into the newspapers, and disturb the public-repose by premature speculations."



Rep. William Moorhead
Inquiry to begin

22 JUN 1971

STAT

Top Secret: A Former Cryptographer Leaks All

By ALFRED L. MALABRE JR.

The government's effort to stop publication of the Vietnam war documents is based in large part on the fact that the material is classified information. Accordingly, the argument runs, its publication is highly detrimental to U.S. interests. Indeed, there has even been criticism that the published material could enable an enemy to break U.S. codes. Maybe so.

But pardon a former cryptographer if he experiences a twinge of skepticism about the government arguments. During the early and mid-1950s this writer served as a so-called top secret control officer attached to the staff of the top U.S. naval command for the eastern Atlantic, the Mediterranean and Europe. The job chiefly involved enciphering, deciphering and carefully disseminating classified messages to and from the command.

It was an exciting time—because the command happened to be located in London; which in those days was a wonderfully fascinating and absurdly inexpensive place for a young American naval officer, with his sought-after U.S. dollars, to live. The job itself, however, top secret messages and all, was strictly dullsville. The reason simply was that with one or two rare exceptions, the classified messages flying back and forth between Washington and London and London and other places were trivial, long-winded and generally boring.

For the most part, they would have produced a big yawn on the face of any enemy managing to sneak a peak.

A few illustrations from those London days would hardly jeopardize national security in 1971 and might just shed some light on the current charges against The New York Times and The Washington Post.

Perhaps the most remarkable message, for its insignificance, that springs to mind actually involved The New York Times. The precise phraseology cannot be recalled, but the content will never be forgotten: A notice from Washington to the London command informing it that Mr. Hanson Baldwin, military affairs editor of the Times, was planning a trip to London and elsewhere in the area, and please be nice to him.

Another memorable classified correspondence occurred shortly before a change of command at the London headquarters. There was an exchange of coded messages between the incoming and outgoing admirals (each had four stars) to discuss whether or not they should retain each other's stewards. (These were sailors, black or Filipino, who performed domestic-type work for admirals and other high-ranking officers; the jobs included cleaning shoes, waiting on table, making beds and so on.)

A prime example of the long-winded variety of classified message was a weekly report to Washington, encoded and often classified "secret," yet usually composed wholly of excerpts from local newspapers. Often, a cryptographer would have the task of putting into code an editorial that had appeared three or four days earlier in the Manchester Guardian or London Times. Sometimes the weekly reports to be encoded would run half a dozen single-spaced typewritten pages.

The fondness for classifying messages that involved such things as the abilities of a particular admiral's steward or the travels of Hanson Baldwin, it appears on reflection, was not only stupid, making unnecessary work for cryptographers among other things, but also somewhat dangerous.

The danger can be illustrated by recounting events in the message center during the 1956 Suez Canal crisis. Because so many messages were transmitted in code during the heat of the crisis, and therefore required extra time to handle, many reports were not

being routed to the proper people in anything like a reasonable period. During the peak of the crisis, when the message flow was extremely heavy, many messages designated for "priority" handling were being deciphered two days after receipt. Some "routine" and "deferred" reports were not handled for more than a week after receipt.

Even some urgent messages were not decoded for many hours. (The highest designation—"flash"—was supposed to be reserved for enemy contact reports and never to be in code on the ground that the urgency would allow no time for cryptographic handling. During the Suez crisis, however, "flash" was frequently used—in code and not involving enemy contact—as a means of trying to ram a report through the traffic jam at the London message center.)

In a year and a half of top-secret message work, handling dozens of classified reports daily, this writer can recall only one message that seemed truly vital. It was a report from sources in Turkey during the early stages of the Suez crisis, when British and French forces were staging at Cyprus. It stated that "unidentified" jet bombers had overflown Turkish airspace, heading toward Cyprus. (A subsequent message reported that the planes had turned around and headed back to the northeast, a maneuver that personnel in the message center at the time felt may have averted World War III.)

The criticism in recent days that the publication of the Vietnam papers may somehow endanger U.S. codes may have validity, but just where that validity lies is difficult to fathom.

Even a decade and a half ago, codes became obsolete daily or in weeks. The time tapes held only by the particular sender and receiver. It is impossible to imagine how the publication of the Vietnam papers could possibly jeopardize and

Classifying, De-classifying of

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Papers

Affidavit of George MacClain, presented in open session in U.S. District Court. Most of the government's affidavits were presented in closed session.

I, George MacClain, Director of the Security Classification Management Division, Office of the Deputy Assistant Secretary of Defense (Security Policy) (Administration), being duly sworn, depose and say:

1. That I have held my present position since 1963. I have been employed in the Department of Defense continuously since 1955.

2. That under the general direction of the Assistant Secretary of Defense (Administration), my Division is responsible for the development, promulgation, and administrative oversight of the rules and regulations of downgrading and declassification of official information over which the Department of Defense (DoD) has original classification jurisdiction vested in the Secretary of Defense by Executive Order (EO) 10501; Safeguarding Official Information in the Interests of the Defense of the United States, December 15, 1953, as amended, or over which the DoD has derivative classification authority by reason of having been placed in custody thereof by some other United States Government agency, foreign nation, or international organization exercising original classifying jurisdiction. A copy of EO 10501, as amended to date, is attached hereto.

3. That the principal regulations of the DoD for security classification, downgrading and declassification consist of DoD Instruction 5210.47, Security Classification of Official Information, December 31, 1964, and DoD Directive 5200.10, Downgrading and Declassification of Classified Defense Information, July 26, 1962. These regulations specifically implement those portions of EO 10501, as amended, which pertain to security classification, downgrading and declassification of official information. Copies of these regulations, as amended to date, are attached hereto.

4. That as originally issued in 1953, EO 10501 provided guidance for security classification at three levels, TOP SECRET, SECRET, and CONFIDENTIAL, and further provided for the downgrading and declassification of information when the same level or no level of classification was no longer required. Under the original EO 10501, downgrading and declassification were to be accomplished upon the basis of the results of review and reevaluation from time to time more or less on continuous basis. On September 1961, EO 10501 was amended by EO 10964 for the purpose of providing for a system of time phase automatic downgrading and declassification to supplement the on-going review and reevaluation process. This automatic system was derived from a similar system earlier created by the DoD for its own use. DoD Directive 5200.10 implements EO 10501 as amended by EO 10964.

5. Under EO 10501, as amended, as implemented by DoD Instruction 5210.47 and DoD Directive 5200.10, the following are some of the basic concepts of the system.

a. The basis for original security classification is that the unauthorized disclosure of the information involved could or would be harmful to the national defense interests of the United States. The judgment whether to impose an original classification is derived from considerations of the immediate present and future. The considerations include, without limitation, the following: The international posture of the United States as related to other nations in those respects which affect, directly or indirectly, United States national defense interests. The technological state of the art in respect to those systems and equipments by which the United States is enabled to preserve its security including, without limitation, systems and equipments; weapon systems; systems and equipments for

supply, maintenance and operations of military forces, systems and equipments for command and control of military forces; systems and equipments for the exercise of effective diplomatic relationships with other nations. The extent to which the information involved is already publicly known either domestically or in foreign countries. The extent to which a United States lead time advantage is deemed absolutely necessary in the interests of United States national defense, and whether in order to achieve and maintain this lead time, security classification is indispensable. The extent to which a United States national defense, and whether in order to achieve and maintain this lead time, security classifications indispensable. The extent to which a United States lead time advantage can be forgone in the interests of net overall advantage to the United States from unclassified use of the information. The extent to which the information can in fact be safeguarded against unauthorized disclosure. The extent to which the costs of effective safeguarding would or could defeat the purposes of the program to which security classification would be applied.

b. The question as to whether the level of classification should be TOP SECRET, SECRET or CONFIDENTIAL is determined by the extent of possible damage to the current and future United States national defense interests if the information were disclosed without authority. If the damage could or would be exceptionally grave, TOP SECRET (TS) would be the required level. If the damage could or would be serious, SECRET (S); if prejudicial, CONFIDENTIAL (C). The safeguarding measures for the information subsequently applied would vary according to the level of classification.

c. Downgrading means to reduce the level of classification. Downgrading is appropriate when, on the basis of a current judgment of the present and future United

States national defense interests, the degree of possible harm to those interests would change from exceptionally grave to serious or prejudicial, or from serious to prejudicial.

d. Declassification means that information is appropriate when, on the basis of a current judgment of the present and future United States national defense interests, the degree of possible harm to those interests is less than prejudicial.

e. The factors applied to downgrading and declassification are the same as those used for classification in the first instance. With the passage of time, changes in the state of the art, and other changes in the circumstances which justified the original classification or a later reduced level of classification, a new current judgment is made in the light of the now current situation, all relevant things considered.

f. The passage of time, in and of itself, is not in any case a completely sufficient reason for downgrading or declassification. On the other hand, the passage of time is always important because of the inevitable connotation that during the passage of time the circumstances and conditions originally justifying classification, or reduced classification, have themselves changed.

g. It has always been a policy that at the time of original classification, the original classifier would endeavor to visualize a future situation in which downgrading or declassification could and should occur. The purpose would be to try to bring about downgrading or declassification at the earliest reasonable and feasible time, and to achieve this result if per chance the action did not earlier result from review and reevaluation. In other words, if a specific event, or date, or period of time can be identified, the downgrading or de-

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Approved For Release 2006/01/03 : CIA-RDP80-01601R000400040001-6

Post Viet Series Upheld, But U.S. Wins 2d Delay

Arguments On Security Set Today

By Sanford J. Ungar
Washington Post Staff Writer

A federal appeals court yesterday extended for another 24 hours its temporary ban on publication of a series of articles in The Washington Post based on a secret Pentagon study on the origins of the war in Vietnam.

Acting on the government's appeal after a lower court ruled for the second time that the newspaper was free to publish the series, the U.S. Court of Appeals for the District of Columbia voted to hear the Post case in a full-court session at 2 p.m. today.

The appellate court order against continuation of the Post series runs out at 5 p.m.

Today's hearing, like another one scheduled before the Second U. S. Circuit Court of Appeals in New York involving a similar series in The New York Times, will focus on the government's contention that the articles are dangerous to national security.

The Post has published two installments and the Times three, all based in a 47-volume document entitled "History of U.S. Decision-Making Process on Vietnam Policy."

Washington's federal appeals court, referring the Post case to all nine of its judges rather than a standard three-judge panel, acted at 6:50 p.m. to extend a ban originally imposed during a midnight session last Friday. The directive was signed "By the Court" and carried no individual judges' names.

Two hours and 20 minutes earlier, U.S. District Court Judge Gerhard A. Gesell declared that the Justice Department had failed to prove its contention that the Post series might endanger the nation's defense interests.

"The public interest makes an insistent plea for publication," Gesell said, refusing to stay his decision even for 20 minutes to facilitate the government's appeal.

He ruled at the end of a day-long hearing, much of it held in secret at the government's request.

Rejecting the government arguments developed during the hearing through the testimony of officials from the Departments of State and Defense, Gesell said:

"There is no proof that there will be a definite break in diplomatic relations (as a result of the articles), that there will be an armed attack on the United States, that there will be an armed attack on an ally, that there will be a war, that there will be a compromise of military or defense plans, a compromise of intelligence operations, or a compromise of scientific and technological materials."

Once before, when the government initially filed suit last Friday night, Gesell refused to issue an injunction against The Post, citing "a raw issue of freedom of the press."

theme again yesterday in a 12-minute oral ruling from the bench.

"The First Amendment in this case prohibits a prior restraint on publication," he said. "There is not here a showing of immediate grave threat to the national security . . . the First Amendment remains supreme."

Gesell's new hearing yesterday was held at the order of the Court of Appeals, which ruled 2-1 at 1:20 a.m. Saturday that the government should have a full opportunity to prove its allegations against The Post.

Deputy Assistant Attorney General Kevin T. Maroney, of the Justice Department's Internal Security Division, argued in court that the judge should accept the Pentagon's classification of the Vietnam study as "Top Secret—Sensitive."

"A Few More Days"

He urged the judge to give the government at least "a few more days" to present still further testimony showing the damage that might be done by the series of articles.

Maroney also stressed that a review of the 47-volume study is currently being conducted "for the purpose of determining which parts of the documents should be declassified."

Attorney William B. Glendon, representing the Post, cited the earlier decision in The New York Times case by U.S. District Court Judge Murray I. Gurstein in New York that articles drawn from the secret study do not prejudice the nation's security.

"Eight or nine days have passed" since The Times published its first article, Glendon said.

Deriding the government's classification system for such

documents, he complained that "these gentlemen—as all of us are—are inured in their own particular world. They are unaware of the larger issues."

Gesell also heard from Rep. Bob Eckhart (D-Tex.), speaking for himself and 26 other congressmen who intervened as amici curiae in the case on behalf of their own "right to know." Eckhart said government should not be permitted to pick and choose amongst information what they will censor.

After the hearing convened at 8 a.m. yesterday, Gesell heard testimony in open session from two government witnesses who sought to explain the "Top Secret—Sensitive" classification on the study and all of its parts, including public speeches, newspaper clippings and other material in the public domain. The Justice Department said it had been unable to locate the person who originally put that label on the document.

But George MacClain, a Defense Department specialist on classification and declassification of sensitive material, said the entire study had received a single classification, thus elevating some of the public material to the level of "top secret."

This procedure, he said, is known as "derivative classification."

Dennis J. Doolin, Deputy Assistant Secretary of Defense for International Security Affairs, said he had only recently reviewed the study and determined that it should remain strictly classified.

His review was conducted after Sen. J. W. Fulbright (D-Ark.), chairman of the Senate Foreign Relations Committee, renewed a request to Defense Secretary Melvin Laird for a full copy of the study.

When The Post's attorneys requested to see the memo Doolin had written to Laird urging that Fulbright not receive the study, the Defense Department official refused.

It too, he explained, is classified "Top Secret—Sensitive" because it contains quotations

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continued

The Classification Game

The loud debate over the significance of the Pentagon Papers seems destined to last at least through the 1972 elections. The government's legal assault on freedom of the press promises to be rattling around the courts for some time as well. But even before the political and juridical questions are finally resolved, there is at least one tangential issue that can be settled now.

The process by which official documents are classified and stay that way can be seen for what is: An unholy mess.

Abuse of the classification is no new thing. It has existed at least since the invention of the rubber stamp and has been the subject of periodic protests in Congress and the press. The present controversy has, however, focused public attention on the classification game as never before and has produced the best hope for ending the practice of sweeping political dirt under a security rug.

Few would deny the government's need to carry out many of its military moves and some of its diplomacy in secrecy. Nor is there any serious questioning of the government's obligation to protect its legitimate secrets for as long as the national security is involved. But the method by which documents are now classified carries with it a virtual guarantee of misuse.

No one, government officials included, likes to have a past mistake paraded in public. But unlike the run-of-the-mill goof-off, the upper-level government type can arrange to have the documentary evidence of his errors hidden from public view until the heat is off. And there is more at fault with the present system than the common human inclination to keep skeletons hidden. There is the common human disinclination to invite trouble.

The original decision as to how a given document is to be classified is, generally speaking, left up to a low or middle-echelon officer. The obvious way to invite trouble is to stamp a really hot secret "Confidential." The instinct for survival dictates that the highest classification possible is the one that will be chosen.

The same rule applies to declassification: When in doubt, keep it hidden. Theoretically, the classification is supposed to have a set life span designated by a number code signifying automatic declassification by a certain date. But again, that system depends on a government agency's desire to follow its own guidelines as to when the security blanket should be abandoned. It doesn't work.

There are alternatives to the present system. One that deserves serious consideration has been suggested by Senator Muskie, who proposed that all classified material should be reviewed by an independent board after two years. The board could declassify the material and release it to the public. It could also at any time make classified documents available to appropriate committees of Congress.

It might be advisable to change the proposed legislation so that all documents would automatically be declassified after two years, unless an independent board should approve a government request for an extension. In any event, some such system of review would constitute a major improvement over the present setup. It would insure eventual public exposure. And such assurance would tend to curb the excessive use of the Top Secret stamp as a cloak for wrong-doing, incompetence or political embarrassment.

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More on the Vietnam papers

SO FAR, the Justice Department has made a weak case in contending that publishing the "Pentagon Papers" on Vietnam would severely damage the national interest.

Thus, U.S. District Judge Murray Gurfein seems correct in refusing to stop The New York Times from continuing to print the embezzled secret papers on the origins of the Vietnam War.

It may be that in appealing the ruling to higher courts the Justice Department will be able to show how publicizing the documents covering 1954 to 1960 threatens national security. But until then we go along with The Times' (and the Post's) right to print them and with Judge Gurfein's decision.

He rightly held that the First Amendment guarantee of freedom of the press should not be limited by censorship except in matters "absolutely vital to current national security." The Pentagon study, he found, consisted of "historic" documents more likely to embarrass officials than to threaten the nation.

In an impressive decision for a judge who had been on the bench only a week, he wrote:

"If there be some embarrassment to the government . . . we must learn to live with it. The security of the nation is not at the ramparts alone. Security also lies in the value of our free institutions.

"A cantankerous press, an obstinate press, a ubiquitous press must be suffered by those in authority in order to preserve the even greater values of freedom of expression and the right of the people to know."

Altho the government thus appears to lack constitutional grounds to keep stolen, strayed or borrowed papers out

of print, we sympathize with its motives in bringing suit.

The Pentagon study was misappropriated by a faithless ex-official and slipped to The Times because he disagreed with Vietnam policy. President Nixon allowed the lawsuit because he feared setting a precedent — that every time an official disagreed with the government, he'd sneak secret papers to the press in hopes of changing policy.

To discourage such chaos, Mr. Nixon might do well to prosecute The Times' leaker. The administration may not be able to prevent newspapers from printing stolen documents. But it can enforce the law against individuals who steal and illegally disclose classified material.

Also, the government should thoroly review the present system of classifying everything short of toilet paper as "top secret." Many of the Pentagon documents were not sensitive and should not have been classified.

A policy of leveling with the public is long overdue. Only genuine secrets affecting national security should be withheld. And these, being fewer in number, should be easier to hang on to.

Finally, we feel sorry for Mr. Nixon, who is an innocent victim of the Case of the Purloined Papers. Their thrust was to underline the duplicity with which President Johnson led the nation into Vietnam.

But their effect is to increase mistrust of all government, including the present one. This quite unfairly makes it harder for Mr. Nixon to lead the country out of Vietnam in an orderly way.

If so, The Times' scoop and the victory for freedom of the press in Judge Gurfein's court could leave bitter aftertastes.

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The Secret Glut; or, Pentagon Surplus

By RUSSELL BAKER

In Washington classified documents are piling up in the corridors of the Pentagon, the State Department and the White House, and the men who are supposed to leak them to the press are in despair.

At the Pentagon yesterday, for example, reporters and famous syndicated columnists were going out of their way to avoid the Office of Overt Graduated Document Leakage. The man in charge there, whose code name is Bill, was standing in the hall buttonholing complete strangers.

"Listen to this," Bill said, flipping open the classified document which he was trying to leak. "This is the latest secret report about the Russian missile buildup. I'm willing to leak it right away. It's all yours, my friend, in the national security."

"Not a chance."

"If this document isn't published by tomorrow afternoon," Bill argued, "we won't possibly be able to panic the Congress in time to get it to vote us another \$5 billion for an American missile buildup, and then there will be a missile gap."

"That would be bad."

"It certainly would," Bill said. "You wouldn't want to be responsible for damaging the national security by not taking a little leaked document, would you?"

His lower lip was trembling. It was hard to give him the truth straight out, perhaps because this was the Pentagon. Still--

"I'm not a reporter, Bill."

"That's all right," Bill said. "You must know somebody who is a reporter. Give it to him."

He was still holding out the document for leaking when two strong men approached him pushing wheelbarrows loaded with the latest classified documents.

"These are to be leaked immediately," the first wheelbarrow pusher told Bill.

"In the national security," the other explained.

"What do they reveal?" Bill asked. He was near collapse.

"That America's enemies everywhere are moving ahead in every conceivable kind of armament and that Congress should therefore vote us more money at once," said the first wheelbarrow pusher.

OBSERVER

"In the national security," said the other.

Bill was weeping now. "What am I going to do?" he cried. "Since the Justice Department started taking people to court for possession of leaked documents, the press won't take them any more."

"Why don't you declassify them and issue them as press releases?"

"Don't talk nonsense at a time like this," Bill blubbered. "No editor in his right mind would believe any of this stuff if we didn't put 'classified' labels on it."

Suddenly, down a mile-long corridor, Bill recognized a famous syndicated columnist, scooped up an armful of documents and ran full speed to intercept him.

"Moe, baby," he laughed. "Look what I've got for you. A whole truckload of captured documents from North Vietnam proving once again that there is a wind-down at the end of the tunnel."

The famous syndicated columnist winced. "Not interested, old boy," he told Bill.

"But they're classified, Moe! Classified! Look at these labels! Secret. Super-secret. Hyper-secret. Feel them, Moe. The ink is still wet."

"Out of the question," said the fa-

mous syndicated columnist. "If the Justice Department takes me into court next week I won't be able to get away on my summer vacation."

Back at his office Bill's phone was ringing. It was a very loud general. "Why haven't you leaked those documents yet proving that Communism will take over Samoa if Congress doesn't buy me a new jet?" the general was demanding.

In front of the White House special assistants for White House leaks were trying to hustle documents among the sightseeing buses.

"Classified, you say?" asked a woman tourist.

"Hush-Hush and Upper-Level Secret," the document leaker replied. "Proves indisputably that nothing can save the country but the re-election of the present Administration in 1972. Take it and pass it on to a friend who knows a reporter."

The woman refused. She said it would be treasonous to be a party to publishing a document labeled "Hush-Hush and Upper-Level Secret." The bus took her away while the special assistant for leaks was explaining the difference between good leaks, which were patriotic, and bad leaks, which let people in on what was going on in Washington.

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White House Says It Aims to Back Law, Not Aid Democrats

By Carroll Kilpatrick
Washington Post Staff Writer

KEY BSCAYNE, Fla., June 19 — The White House said today that the administration's interest in stopping the publication of Pentagon papers dealing with the Vietnam war is not to defend a previous administration but to enforce the law.

Press Secretary Ronald L. Ziegler, questioned about the court cases against The New York Times and The Washington Post, said that President Nixon's concern "goes to the legalities of the matter and then to what appears to be highly improper handling of highly classified material."

The administration has a responsibility to enforce the law against unauthorized handling of classified material, Ziegler said. He insisted that the President believes in freedom of the press and full disclosure of information consistent with national security.

From the beginning of the controversy over publication of documents from the Pentagon study, Ziegler has tried to disassociate the Nixon administration from the policies of the Johnson administration.

The papers cover the record of the Johnson administration, Ziegler has stressed almost every day this week when questioned about the matter. The Nixon administration adopted different policies after its own examination of the record, he has said.

"Our purpose is not to defend the record of the previous administration or to defend the presidential advisers of past administration or the content of the memoranda which has been published up to this point," Ziegler said today. "But we do have a responsibility and an obligation to enforce the law of the land and that is what we are doing."

Ziegler would not say how the administration feels about congressional moves to change the laws on declassification of documents. "Congress established the law under which we are proceeding," he said, add-

ing that there may be honest disagreement on how particular documents are classified.

"But disagreement with a particular classification, in this case, as I said earlier, is beside the point," Ziegler said. "There has been improper handling of classified material, apparently, and unauthorized disclosures which are specifically prohibited by the law. We have an obligation to move as we are moving."

Ziegler emphasized two points made earlier in the week by Secretary of State William P. Rogers when he said governments must be able to deal with one another confidentially and that presidential advisers must be able

to speak candidly without feeling everything they say will be printed.

Unless confidentiality is preserved, Ziegler said, there would be an inhibition on "the candid appraisals and suggestions and points of view that are essential in the conduct of foreign policy, and, indeed, the conduct of the presidency."

Mr. Nixon has tried to move toward "openness and full articulation of our policies," Ziegler said. "We feel very strongly that the American people have a right to know, as the Secretary of State said the other day, a good deal, consistent with the national security."

Herbert G. Klein, the administration's director of communications, reportedly told a group of reporters in a background meeting Thursday that the President also is concerned that a precedent might be set for future disclosures of secret documents.

Klein called about a dozen newsmen to his office to defend the administration's action against The Times. The meeting was held before The Post began publishing a series on the Pentagon documents. Neither The Times nor The Post was invited to the Klein meeting.

When asked about it today, Ziegler said Klein "gets together with newsmen from

time to time" to discuss issues and did so in this case.

Klein's office was set up, Ziegler said, "to assist in opening up government. I think great strides have been made in that area."

Mr. Nixon flew here late Friday after addressing editors and publishers from 13 eastern states in Rochester, N.Y. He is expected to remain here until Tuesday, when he is to go to Atlantic City, N.J., to address the House of Delegates of the American Medical Association. He will return to Washington after the speech.

In his Rochester talk, Mr. Nixon said that if general revenue sharing is passed it will help check the rise in local

property taxes. He said that experts estimated it could result "in a reduction of property taxes across the country, of course varying, depending upon the situation in each state and local government unit, a reduction of approximately 30 per cent."

Ziegler said that Mr. Nixon intended to indicate that the revenue sharing paid to local governments on the average would equal "30 per cent of the average annual increase in property tax revenues" and not that a net reduction would be possible in those taxes.

The President and Mrs. Nixon will celebrate their 31st wedding anniversary here Monday.

Threat to Security Is Cited As Judges Bar Post Series

By **BETTY JAMES**
Star Staff Writer

Publication of stories based on secret documents on the Vietnam war "may possibly threaten national security," U.S. Appeals Court judges who temporarily barred a series of articles in the Washington Post said yesterday.

Appellate Judges Spottswood W. Robinson III and Roger Robb declared in an opinion that while the courts always should hesitate to restrain free expression, injury to the Post caused by a temporary restraining order "is clearly outweighed by the grave potential of injury to the national security."

The government must be given a chance to show at a hearing whether all the documents are essentially historical in character or whether any have a present impact on vital matters affecting national security, the judges said.

They asserted that U.S. District Court Judge Gerhard A. Gesell had acted "improperly" Friday by denying the government's request for a temporary restraining order, and said, "in the first place, freedom of the press, as important as it is, is not boundless."

Security at Issue

The judges said the law permits an injunction against publication of material vitally affecting the national security. The government is making precisely that claim, they said.

Judge J. Skelly Wright, the

third member of the appellate panel, dissented. In a separate opinion, he said, "Today, for the first time in the 200 years of our history, the executive department has succeeded in stopping the presses.

"It has enlisted the judiciary in the suppression of our most precious freedom. As if the long and sordid war in Southeast Asia had not already done enough harm to our people, it now is used to cut out the heart of our free institutions and system of government.

"I decline to follow my colleagues down this road, and I must forcefully state my dissent," Wright said.

Wright asserted that the restraining order was imposed before the judges read the offending material — "imposed quite literally in the dark. The weapon of the prior injunction is a weapon long unused, but potentially deadly."

Wright said that the argument that a temporary restraining order suppresses free speech only for a few days "cheapens the First Amendment."

'No Allegations'

Conceding that "clearly, there are some situations in which a prior restraint on speech or press might be conceivably allowable," Wright said, "in this case, the executive department has made no allegations — to say nothing of convincing showings — that troop movements or recruitment are threatened."

The appeals court judges overturned Gesell at 1:20 a.m. yesterday and issued their written opinions at 5:30 p.m.

Gesell, in ruling against the government's request for a temporary restraining order, had said, "A raw question of preserving the freedom of the press was involved."

In his written opinion, issued Friday night, Gesell contended that there was "no possible way, after the most full and careful hearing, that a court would be able to determine the implications of publication on the conduct of government affairs or to weigh these implications against the effects of withholding information from the public."

Hearing Tomorrow

In reversing Gesell, the appeals court ordered him to complete a hearing on the government's request for a preliminary injunction to keep the Post from running the articles by no later than 5 p.m. tomorrow. Gesell said yesterday he will hold the hearing at 8 a.m.

The government's suit against the Post was virtually identical to that filed against the New York Times in New York.

The Post was not asked to list the material on which it based its stories, as the Times was. It is understood that the Post was given a summary of the full Pentagon study and does not have the complete study that the Times has.

WANTED SECRECY LIFTED

LBJ Still Believes Policy Was Right

By DON BACON
 Newhouse News Service

According to those who have gotten close to Lyndon Johnson since he left the White House—and very few have—he has become a man obsessed with defending his role in the Vietnam war.

The only journalist who has been able to interview the former president, Walter Cronkite of CBS, said that Johnson has developed "a real fixation on the Vietnam war."

Cronkite filmed nearly 100 hours in interviews with Johnson in 1969 and 1970, as part of a \$1 million contract between LBJ and CBS.

'Fails to Understand . . .'

"He believes he was right," Cronkite told a reporter. "He fails to understand the credibility gap.

"Usually, in men of his nature, retrospect brings candor, and they admit that not every step they took was right, though they did the best they could, et cetera.

"With Johnson it's none of that. He finds others to blame for the failures, not himself. It surprised me very much."

Surrounded by at least a million security classified documents that he took with him from the White House, the former president has been passionately constructing his own history of the war.

Top secret messages, cablegrams, memos and studies — such as the Pentagon report

that fell into the hands of the New York Times — are the foundation upon which the LBJ version of the war has been built.

The Johnson explanation of Vietnam is now ready to be published this fall as six chapters of his first book on the Johnson presidential years.

From the beginning, Johnson has believed that Vietnam documents would clear away the confusion over his role in escalating the war and would vindicate him. He has said that if the public could only study the secret papers, as he has, it could then understand how and why the United States got so deeply and tragically involved in Southeast Asia.

Sought to Lift Lid

When Johnson got back to Texas, he even tried to speed up the removal of security restrictions on documents of his administration. He wanted scholars and the public to have access to those papers now — while the important histories of his reign were being written — not 20 to 30 years from now.

"He just was not sure in his own mind that it was necessary to keep all these papers under wraps for so long," said Harry J. Middleton, director of the LBJ Library, where a vast horde of war-related documents is stored in a guarded vault.

"One of the first things that President Johnson did when he came down here (to Austin),"



LYNDON JOHNSON

said Middleton, "was to ask the new administration to send down a team of experts from (the Departments of) State and Defense to look at some of the papers and see if there wasn't some way of beating the rules about keeping classified papers classified.

Under existing regulations, the departments or agencies most directly involved determine when security-related documents can be declassified.

On most such documents, classification is automatically lowered at intervals of three to 12 years, but usually cannot be removed entirely without the express consent of the agency or department most affected. In practice, the departments have generally taken a conservative approach, keeping documents from public view for 20 years and even longer.

"They came up with the judgment that the classification rules should not be tampered with," said Middleton, "and that it would not be in the national interest to modify those rules at all."

Nixon's Concern in Case Said to Be Future Leaks

Special to The New York Times

WASHINGTON, June 18—A high Administration spokesman says that President Nixon is more concerned that a precedent might be set for future disclosures of secret documents than he is over whether The New York Times endangered national security by publishing a Pentagon study.

The President's position was outlined to a small group of newsmen yesterday by Herbert G. Klein, Director of Communications for the Administration.

Mr. Klein told the newsmen that the President's principal concern in The Times case is to discourage officials opposed to the Vietnam war from giving other classified documents to the press.

The Administration has obtained a temporary court injunction—and is seeking a permanent one—to prevent The Times from publishing further articles and documents of a secret Pentagon study on United States involvement in the war. Three installments of the series were published early this week.

Times Not Invited

The Klein briefing—to which The New York Times was not invited—was held on a "background basis," with those present told to attribute the remarks to "White House officials."

The dozen or so newsmen were called about noon by a member of Mr. Klein's staff and invited to a "backgrounder" on The Times case in his office in the Executive Office Building.

One newsman present said that the briefing had lasted two and a half hours, with the first

part of it devoted to a discussion by Administration officials of the President's proposed drug-abuse program submitted to Congress earlier yesterday.

"After what seemed an eternity, we finally get around to what we went there for, The Times case," the newsman said.

Several of those present confirmed that Mr. Klein stressed the President's concern over encouraging future disclosures of classified documents.

Mr. Klein repeatedly described the material on which The Times based its series of stories as "stolen goods."

Later in the briefing, however, John W. Dean, counsel to the President, suggested that it might be more appropriate to say that The Times had "unauthorized possession" of the documents.

Mr. Klein told newsmen that the attempt to halt publication of the Pentagon study in The Times should not be considered an attempt to stifle freedom of the press.

Meanwhile, Lieut. Gov. Lester G. Maddox of Georgia, in a statement yesterday, said that he felt The Times series should be resumed if it "proves that our political leaders have not been honest with the people."

He added, however, "If there is no dishonesty and the re-

lease of the information could jeopardize national security, then not another word should be printed."

George E. Reedy Jr., who was press secretary to President Lyndon B. Johnson; today defended the right of The Times to print the information in the Pentagon study.

Mr. Reedy said that he was unaware of any plans by the Johnson Administration to escalate the war in 1964, as reported by The Times, although he knew that something was going on. He was told to maintain the line that there had been no change in policy, he said.

"That's when I suddenly found life unbearable for me," he said.

Senator Henry M. Jackson, Democrat of Washington, said

yesterday in Sacramento, Calif., that the publication of the Pentagon study might jeopardize the effectiveness of the nation's intelligence system.

But the Senator, a potential candidate for the Democratic Presidential nomination, said that The Times case indicated a need for a review of the nation's methods of classifying and protecting secret information so that only truly sensitive information is kept secret.

Senator Robert W. Packwood, Republican of Oregon, said yesterday that the Government's "embarrassment" over the publication of the study did not justify censoring the articles.

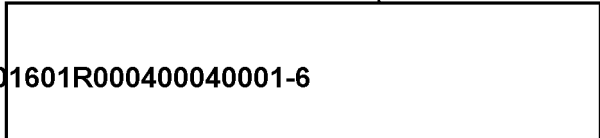
He termed the publication of the articles and the Government's attempt to halt it "one of the 10 biggest" events of the century.

In another development, Senator Stuart Symington, Democrat of Missouri, introduced a resolution today to authorize \$250,000 for a two-year study by the Foreign Relations Committee of the policies of the United States in Southeast Asia.

In a letter to Defense Secretary Melvin R. Laird, Representative John E. Moss, Democrat of California, demanded access to the 47-volume Pentagon study "in accordance with provisions of the Freedom of Information Act."

Mr. Moss said that under that act, which he helped draft, the burden for justifying withholding of government information rested "squarely on the agency seeking to withhold, and, in my opinion, your department has not offered any legitimate justification to date."

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NEXT STEP TODAY

Gurfein Decision Due Before the Expiration of Curb at 1 P.M.

Excerpts from the arguments and an affidavit, Page 10.

By FRED P. GRANHAM

Federal District Judge Murray I. Gurfein refused yesterday to permit The New York Times to resume publication immediately of its material from a secret Pentagon study on Vietnam although The Washington Post began publishing a series of articles based on the study in its Friday issue.

In Washington, a Government move for a court order to halt The Post's series was rejected by a Federal District Judge.

Alexander M. Bickel, a lawyer for The Times, told the court here that "the readers of The New York Times alone in this country are deprived of this story." He insisted that the temporary restraining order imposed on Tuesday be lifted so that The Times could resume publication.

Wide Distribution Noted

The Washington Post article was distributed by The Washington Post-Los Angeles Times News Service, which has 345 publications as clients, and was also described at length in dispatches by The Associated Press and United Press International, which reach almost all the daily newspapers in the country as well as radio and television stations.

Judge Gurfein declined to act on the motion after the Federal Government gave assurances in open court that legal action would also be taken against The Washington Post if necessary to prevent further publication. Within hours Justice Department lawyers moved in Federal District Court in Washington to enjoin The Post.

The restraining order against The Times is scheduled to expire at 1 P.M. today, which would free the newspaper to

put the next installment in the series in Sunday's issue. Before the deadline Judge Gurfein is expected to hand down his decision on the Justice Department's action to enjoin The Times indefinitely.

The Times published the first three installments on Sunday, Monday and Tuesday, at which time the temporary order halted publication. The articles and documents printed covered events surrounding the Tonkin Gulf incident in 1964, the decision to bomb North Vietnam and the first use of American soldiers in ground combat in South Vietnam.

The effort by The Times to dissolve the restraining order came at the beginning of a day-long series of open and secret hearings. The Government insisted on secret "in camera" testimony by three Washington officials on the ground that they would explain how further publication could damage national interests and that open testimony would itself cause harm.

In open arguments earlier, in a courtroom jammed with approximately double its capacity, Whitney North Seymour Jr., United States Attorney here, told the Court that The Times had violated United States law and Presidential orders by illegally "declassifying" top secret documents by publishing them. That, he said, has "compromised our current military and defense plans and intelligence operations and has jeopardized our international relations."

The Times, in a legal brief and affidavits filed last last night, asserted that the Government's security classification system was a sham in which documents were routinely overclassified and that officials used to hide embarrassing information while "leaking" other sensitive material.

In any event, The Times argued, the First Amendment forbids either the Executive branch or the courts to use "national security" grounds to prevent the news media from publishing any article except in such extreme situations as threatened publication of troop movements or battle plans in wartime.

In the abbreviated open testimony by the Government's witnesses, an attempt was made to show that the system of classifying documents "top secret" "secret" "confidential" administered to avoid abuses.

'Entwined' Information

Dennis J. Doolin, Deputy Assistant Secretary of Defense for Internal Security Affairs, said he had reviewed the Pentagon study on Vietnam on several occasions to see if it should be declassified because Senator J. W. Fulbright, chairman of the Senate Foreign Relations Committee, had asked to see it.

Mr. Doolin said that his staff considered the "universe" of security interests affected by the entire 47-volume study and

concluded that it could not be declassified. It would be impractical to declassify certain nonsensitive portions, he said, because the information was "entwined."

William B. Macomber, Deputy Under Secretary of State in charge of administration, testified that the three articles already published by The Times had damaged the United States' international relations. "It is absolutely essential to the conduct of diplomacy that governments be able to deal in confidence," he said, without fear that communications will appear in print.

The Vice Chief of Naval Operations, Vice Adm. Francis J. Blouin, testified that "it would be a disaster" to publish all the documents in the 7,000-page Pentagon archive. "Any intelligence organization would derive a great deal of benefit from the articles that have already been published," he asserted.

The Government's final witness, George MacLain, holds the title of director of the Security Classification Management Division in the office of the Assistant Secretary of Defense for Administration. He explained the intricate procedures by which documents become classified and, in some cases, lose their classified status years later.

The major answer by The Times came in an affidavit by Max Frankel, the Washington correspondent of The Times and the head of its Washington bureau, who called the Government's view of secrecy "antiquated, quaint and romantic." In practice, he said, it serves to mask a "traffic in secrets" in which officials peddle "secret" information for their own ends and journalists publish it in wholesale amounts.

Affidavits From Newsmen

That view of the secrecy system was supported by affidavits from journalists from The Times and other publications, which included stacks of clipped information or documents.

During the morning session the Judge referred repeatedly

to the duty of a "patriotic press" and suggested that disputes such as the spreading legal confrontation over the Pentagon study could be avoided if journalists would clear sensitive articles with the Government "from a security point of view" before publication.

"It seems to me that a free and independent press ought to be willing to sit down with the Department of Justice," he said, "and as a matter of simple patriotism determine whether the publication of any of them [classified documents] is or is not dangerous to the national security."

Mr. Bickel, who is a professor of law at Yale, replied that the suggestion was "utterly inconsistent with the First Amendment." He said it would lead to self-censorship by the press or censorship by government.

Other Affidavits Filed

Affidavits supporting the position of The Times position were filed by Theodore C. Sorenson, who served as special counsel to President John F. Kennedy; Sanford Cobb, president of the Association of American Publishers, Inc.; Col. Augustus McKnight, president of the American Society of Newspaper Editors; Adrian S. Fisher, former deputy director of the United States Arms Control and Disarmament Agency and dean of the Georgetown University Law Center; Francis T. P. Plimpton, former Ambassador and Deputy United States permanent representative at the United Nations and a former president of the Bar Association of New York City; James McGregor Burns, Pulitzer-prize winning presidential biographer and historian; Eric F. Goldman, former special consultant to President Johnson and now Rollins Professor of History at Princeton University; Barbara W. Tuchman, Pulitzer-prize winning historian; Neil Sheehan and Hedrick Smith, who are co-defendants in the suit, and four other reporters of the Washington bureau of The Times.

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Secrets and Security

By LLOYD C. GARDNER

Historians Must Be Freed From the Chains Of Government Censors

No historian regards the present situation regarding access to American archival materials from the World War II period to the present as satisfactory. The chief villain usually cited is the State Department; but I hasten to add that not all scholars agree on the source of their troubles. Since most diplomatic historians working in this area sooner or later (generally sooner) seek out State Department records, the brunt of criticism has fallen on that agency. In my opinion, deservedly so.

However favorably it might compare with that of other countries, the record of the State Department in its dealings with scholars does not constitute a happy chapter in the history of American diplomacy. I am perfectly aware of all the explanations (past and present) given by the department for not granting access to records in the so-called "closed period," from 25 years back to the present.

I find them self-serving on several levels, and at odds with any serious definition of an open society. Moreover, I suggest they are of dubious legality under American law.

I have heard some diplomatic historians make the argument that general access to post-war archival materials will provide ammunition to refute the most recent wave of Cold War revisionism. I don't happen to share that view, nor the curious notion that by making new sources available one reduces the number of possible interpretations; but if it persuades the guardians of the archives, fine. I'm all for it! I hardly think their past efficiency in keeping records closed would lead one to believe them quite so naïve, however.

From its origins until after the turn of the century, the volumes in the Foreign Relations series were published within a year or so of the actual events; they were attached to the President's Annual Message as House Document No. 1. As America rose to world power, the volume of documents naturally grew. So, too, did the secrecy surrounding diplomatic doings.

President Franklin D. Roosevelt once expressed doubts about the publication of Wilson's Big Four conferences at Versailles, on the grounds that statesmen could not speak freely if their doings were to be open to all at some future date. Himself involved in the process of wartime diplomacy, Roosevelt's position was perfectly understandable, but not acceptable to historians in a free society. It is a *sine qua non* of such a society that policy-makers must be held accountable to the people, and their representatives in Congress.

The very fact that the publication of diplomatic documents pertaining to World War I had been so long delayed should have been a warning signal to the profession and the public. I am not here making the argument that by giving historians access to nearly contemporary documents, we add another quasi-constitutional check or balance on the excesses of governmental power. I will make the argument that long-term secrecy promotes excesses. The New York Times documents offer new proof, if any is still needed, of that proposition.

A twenty-five year moratorium is simply too long a time for the welfare and continued vigor of political democracy. We may regret that policymakers have to run the risk of public criticism, and that their views may be thrown up against them by old enemies, and so on. Be that as it may, it is a lesser price we all must pay than the present and future expense of mistaken policies, continued and propelled by the force of inertia through a secrecy-sealed tunnel to some safe landing place 25 years hence.

I am speaking now as a citizen (as well as a historian) concerned about the welfare of the nation, and not simply with the publication of historical interpretation. That will take care of itself, with or without access to recent documents in the archives. I am convinced that a full memory is important to nations, as well as to individuals.

I don't know when the objectionable practice of requiring security clearances for scholars working in even 25-year-old records began, but it should be ended as a first step toward freeing the historian from the chains of governmental censorship. Can it really be argued that access to such records—even by severe critics—imperils the nation's security? Presumably, the record of American diplomacy (as opposed to the nefarious activities of the Soviet Union and other powers), has been a search for a world order based on the creation and maintenance of honorable agreements. We cannot assess that record so long as the documents remain closed to legitimate scholars.

Since the Department of State already retains the research notes of scholars granted access to its records in the "restricted" period, in order to clear whatever material has been taken from foreign documents, one would think that the Government has an adequate check on the flow of information potentially embarrassing to other nations, without insisting that all documents on the day-to-day development and implementation of foreign policy must remain secret for so many years.

Fortunately, (or perhaps unfortunately) one of the worst features of restricted access seems to have disappeared in recent years. I refer to the practice of granting certain historians special privileges to restricted materials.

The opposite practice, of denying certain historians access to all records in the "restricted" period, also seems to have disappeared. When it was done, it was done with discretion, and so written records may not exist of all instances of this abuse.

I said that perhaps it was unfortunate that this practice has been abandoned. For one thing, if it were still being carried on today, the uproar would be so great that the walls might come tumbling down. A second reason is that it could be argued that even a few snippets of the record, gathered from a re-reading of "official" volumes, is better than nothing at all. That there was not a greater protest against this practice by the profession at the time is unfortunate, because it set a bad precedent.

In years past diplomatic historians often found some of the materials they were seeking in other collections in the Library of Congress or in private libraries. The private papers of Ambassadors and Secretaries of State are prime examples. Recently, something of a foot race takes place every time a new collection is deposited in a research library.

If the historian gets there first, he is rewarded by access to records elsewhere closed. If the department gets there first, it seeks to persuade the library to close its holdings in conformity with its own time-frame regulations, regardless of whether the papers included non-classified or personally classified items. Moreover, the Historical Office of the Department of State will then undertake to determine what the individual himself intended when he classified a document, e.g., how long it was to remain "secret" or "confidential."

The Historical Office also seeks to extend its control over records physically located in other Government

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Classifying for Security, Web of Complexity

Special to The New York Times

WASHINGTON, June 18 — Brrp, brrp goes the high-speed teletype and on the page appears, "TOP SECRET/NODIS—HARVAN/CRITIC. GP 2."

The code clerk at the Defense Department — or State Department or other agency—springs instantly into action. He is galvanized by a four-layer system of classification and distribution for the millions of words a day that flow in and out of the vast national security establishment.

It is this complicated and often cumbersome system that has drawn critical fire from members of Congress and appears to be leading to a searching review.

Representative William S. Moorhead, Democrat of Pennsylvania and chairman of a Government information subcommittee, said today that he hoped to begin open hearings next Wednesday with officials of the Executive branch and legal experts called to testify.

The security system, as described by present and former Federal officials, is considerably less dramatic and more complex than the limited accounts in spy thrillers. And it is one that results in anomalies like orange peels in the "burn bag" where secret documents are placed for destruction and nightly inspections of typewriter ribbons.

The system consists of four basic parts. One describes the importance of the document, another relates only to who shall see it, a third to the urgency of the message, and the fourth to how quickly it can be declassified.

All four purposes are clear, but the four systems overlap. Some obsolete and secondary terms often get in the way and

individual agencies add their own variations. The result is that few persons who regularly use the system fully understand it.

The basic component is classification. A document is either unclassified or is labeled Top Secret, Secret, or Confidential. Top Secret refers to information that, if disclosed, could result in "exceptionally grave" damage to the nation. The other terms refer to lesser levels of importance.

Even if a document is not classified, however, its distribution might have to be strictly limited. Years ago, this was attempted with phrases like "Eyes Only" for "Literally Eyes Only," meaning for the eyes of the addressee only.

But in 1964, a more rational system was developed. It also has three parts—LIMDIS, EXDIS, and NODIS—referring to Limited, Exclusive, and No Distribution. These terms define the rank of the officer who decides who gets copies of a document.

EXDIS and NODIS documents routinely are veiled under colored cover sheets.

Theoretically, one former official says, a document could be absolutely unclassified and still be NODIS. "In fact, I can remember such a document," he recalls. "It was for the President and I think it said something about a foreign diplomat being a drunkard."

System Uses Colors

Despite development of this system, vestiges of the old "Eyes Only" method survive. One former State Department official recalls a NODIS message from a major ambassador to the President also labeled "For the President's Eyes Only."

Sometimes for special pro-

jects like the Paris peace talks, a code name, or "slug" is also added. This defines a set distribution list for messages about the project. Thus, "HARVAN"—an acronym for (W. Averell) Harriman and (Cyrus R.) Vance, who were the United States negotiators—was devised for the 1968 Paris peace talks.

In the Johnson Administration, secret peace initiatives were slugged with the names of flowers, like "Marigold." The last in this flower series was applied wryly to the worldwide inquiries of two Los Angeles Times reporters, David Kraslow and Stuart Loory. This set of messages was slugged "Poppycock."

The third level of the system, referring to the urgency of the message, has five parts. "Critic" would, in fact, never be used in a negotiations message, since it means imminent enemy action. "Flash," "Immediate," "Priority," and "Routine" refer to progressively less urgent information.

The fourth level of the system, designated for shorthand, by group number, refers to a set schedule for declassification. One group number might mean a document can be declassified in two years, another might mean six years.

This system was intended to speed up sluggish declassification procedures, said one State Department official. "But it has never worked worth a damn because no one can ever remember which group is which," he commented.

Beyond these levels are several other categories of restrictions, some of which themselves are so secret that their names are classified. These refer to special intelligence categories, and documents bearing their odd labels may go only to offi-

cialists who have been specially cleared.

One example came to light during the Kennedy Administration when McGeorge Bundy, Presidential national security advisor, was photographed with a bundle of documents under his arm. Barely legible on one were the words "DINAR—Top Secret."

When the photograph was published in a magazine, the name was immediately replaced.

Many Federal offices routinely handle security information and in these a double trash system is frequent. Ordinary waste goes into trash cans; classified waste goes into special "burn bags" which are collected nightly and burned or shredded.

Oops, Wrong Can

One former official recalls having been reprimanded for putting classified trash into the ordinary can. He decided to avoid the problem in the future by putting all trash in the "burn bag."

"I couldn't put it all into the trash can, and I could never remember which can to put things in, so I decided to put it all in the burn bag, orange peels and all."

Secretaries in these offices have extra chores. They often are responsible for scooping up all classified papers and locking them into file-cabinet safes. And if they have carbon-paper typewriter ribbons they must, each night, tear off the used part and deposit it in the "burn bag."

Some agencies have a still more complex system, bringing additional terms to the classification scheme of Top Secret, Secret, and Confidential. For example, "No Forn," often used on lower-level papers, means no foreign dissemination.

18 JUN 1971

'Security'

The Pentagon's first reaction to the New York Times's publication of portions of what may be called the Vietnam Papers was to express concern over the disclosure of "highly classified information affecting national security." This raises important questions. What is "security"? How widely may, and how narrowly should, "security" be interpreted? What is the purpose of classification of official documents? What are the proper uses of classification, and what is the improper?

In the strictest sense, security is violated when plans for present or future military operations are revealed to an enemy in time of war. For example, if those who knew of the atomic bomb before its use in World War II, or those who knew the exact date and place of the Normandy landings, had made their knowledge public, security would have been breached. This of course is obvious; and similarly with present and future military operations smaller in scope, of a tactical nature. It is obvious also that to make public detailed information on military contingency plans could work to the benefit of a possible future enemy, and be detrimental to the national security.

Diplomacy too has its strategies and its tactics and its contingency plans, and the same rules may be applied also to diplomatic circumstances, but in less strict a sense. Complex as the question of national security is, a broad guide is not impossible: The national security is affected by revelations of "classified" information specific in character and having to do with clear and present matters, or with future

matters judged to be more than merely possible.

It is in light of these requirements that the theories and practices of "classification," from top secret on down, should be viewed. Classification has its uses, indeed its imperatives, when it is employed to serve the genuine purposes of security. Again the general test should be whether the use of classification of official documents involves the clear and present or the somewhat-probable future, or whether it does not.

In a world of secrets, it is hardly a secret that in the past no such test has been rigorously adhered to, nor is it today. At high levels and low, classification has all too often been, and still is, a method of protecting persons and reputations. An awareness that this is so is an element in the complicated reactions and the elaborate differences of opinion that the current affair has given rise to.

18 JUN 1971

Excerpts From Latest Editorial Reaction in U.S. and

Abroad to Publication of Documents on Vietnam War

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Following are excerpts from the continuing editorial reaction in this country and abroad to the publication by The New York Times of secret documents dealing with the origins of the United States' involvement in the Indochina war:

NATIONAL

LEWISTON [ME.] SUN—

The Times acted in the best tradition of free American journalism in publishing this special series of articles. The stories are revealing, to an alarming extent. But since they deal with matters and decisions reached three and four years ago, it is difficult to accept the angry claims of the Administration that national security is being jeopardized. The Times also demonstrated its good citizenship by suspending publication of the series in accordance with a court order.

HARTFORD COURANT—

The merits of the case are still to be spelled out in court. But it is fair to say that the constitutional issue is a grave one. Whether it is being raised for the first time in this form, as attorneys for The Times and the Department of Justice allege, or not, the Government has assumed a tremendous responsibility to prove the "irreparable harm" that could have resulted had publication of The Times articles not been suppressed. There is ample precedent to the effect that the national interest may supersede even constitutional rights. But the proof of the need must be overwhelming.

AMSTERDAM NEWS (Harm)

We agree with The New York Times. . . . The right of a newspaper to publish without governmental interference is a cornerstone of a free press and free speech in a democracy. It seems to us that the message from the Attorney General is very clear: No news publication—white or black—is secure or safe from governmental censorship. Several years ago, Sinclair Lewis described the fictional forecast of the rise of fascism in the United States in his book entitled "It Can't Happen Here." Today, we are not so sure.

PHILADELPHIA INQUIRER

The damage that the substance of the Pentagon papers has done to the confidence the American people can place in their own Government is compounded by the attempt to suppress their publication. . . . The real danger in this situation is that the truth to which the American people are entitled can be suppressed in the name of national security. It is that danger The Times is courageously resisting in what has now become a historic chapter in the fight for a free American press.

VIRGINIA PILOT (Norfolk)

The disclosure of the Pentagon study raises many serious questions. But the public's right to know is a compelling reason to publish the stories, and an additional motive is surely to be found in the failure of The New York Times to print what it knew of the Bay of Pigs fiasco in 1962. In any event, the cat is now out of the bag, and the efforts of the Nixon administration to halt the publication of the series won't add to the credibility of the Government.

RICHMOND TIMES-DIS-

PATCH—Whatever the ultimate effect of publication of the Pentagon's Vietnam War Study, its unauthorized release to The New York Times raises some profoundly disturbing questions about the security of all highly sensitive Government information. Events may validate the newspaper's argument that publication of the report will not endanger "the life of a single American soldier" or threaten "the security of our country or the peace of the world." But this is irrelevant here. The point is that a report bearing a "top secret" label has been clandestinely and illegally transmitted to The Times for release, in effect, to the whole wide world.

CHARLOTTE [N. C.] OB-

SERVER—The 7,000-page report, for all its gaps due to the unavailability of private Presidential papers, shows that, in the last years especially, the Executive branch people or their elected representatives. For that reason, if for no other, we are grati-

fied that the classified document . . . has been brought to light. The law says that anyone will be prosecuted who divulges classified material "prejudicial to the safety of interest of the United States." This information, in our judgment, does the opposite. We, the people, needed to know its contents—and we needed to know them a long time ago.

CHATTANOOGA TIMES—

The absence of prior restraint—that is a governmental order for a newspaper not to publish certain material in the future—has always been at the heart and soul of America's boasted freedom of the press. No longer can this be said. . . . Two important issues are at stake. The first is a better understanding of the origins of the war, which has proved so divisive in America. The second is the cherished right of the people to know what a free press can learn in print. Both can be served by the judge's dismissal of his temporary injunction.

ARKANSAS GAZETTE—

The constitutional right to a free press has been challenged frontally by the Nixon Administration. . . . The scandal revealed in the Pentagon studies belongs on the doorstep of the Lyndon Johnson Administration. But the Nixon Administration has become accessory after the fact in attempting to squelch publication of the scandal. If the Nixon Administration, which is to say the U.S. Government, can impose in peacetime its own will on the publication of material which is (or once was) reported to be "top secret," then there arise the instant question of how much suppression of vital news about war and peace lies in store for all of us in the future.

TULSA WORLD—It can be

argued, with some merit, that the American people should have all pertinent facts that led to this bloody and protracted war. But isn't it equally true that the secret processes of government—if they are sensitive enough to be classified—can be released only at the risk of embarrassing the nation and possibly harming its foreign relations?

ST. LOUIS GLOBE DEMOCRAT—No newspaper should be sued or threatened with prosecution for publishing stories involving the government's action. . . . Freedom of the press is the fundamental cornerstone of our democracy. If that freedom van-

ishes with fear of a Government crackdown on reporters and editors, democracy itself will die. . . . The Government would appear to be on very shaky ground indeed in trying to prove the American people do not have the right to know the contents of a Pentagon report on what went on in Vietnam prior to 1967.

CLEVELAND PLAIN DEAL-

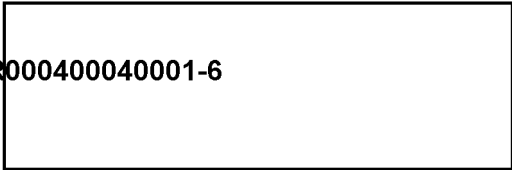
ER—Faith in the word of the executive has been badly shaken. First, the documents and Pentagon analyses so far printed by The New York Times this week show that the American people were deceived, misled, lied to and slyly sold on the war in Indochina. Second, the present Administration, not itself touched by the documents—which end in mid-1968—now goes to unprecedented lengths to stop the printing of a U.S. Government study done under former Defense Secretary Robert S. McNamara. By its drastic action the Government shows that it feels the winds of opinion are running against it.

DETROIT FREE PRESS —

No matter how legitimate official concern may be . . . it is overridden in our opinion by the necessity of protecting the people's right to know the people's business. Certainly publication now does not endanger the life of a single American soldier, threaten the security of the United States or world peace. The documents, The Times pointed out, belong to history. . . . The Pentagon study reveals the decision-making process at its highest levels, and how that process is used and abused.

INDIANAPOLIS NEWS —

The exact legal status of the document we shall leave to the specialists, and would of course insist that the relevant law be obeyed until, if in 1967, it be changed through orderly procedure. But on the general principle



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Suspect in Thefts at Airports Pleads Fifth at Senate Inquiry

By RICHARD HALLORAN

Special to The New York Times

WASHINGTON, June 17—An alleged leader in an organized crime syndicate in Brooklyn invoked the Fifth Amendment 36 times today before a Senate subcommittee investigating massive thefts of securities and other valuables.

Cosmos (Gus) Cangiano, testifying nervously in a barely audible voice, stated that certain allegations were "untrue." Beyond that, he refused even to say whether he was married or has children.

Three other alleged criminals named in testimony yesterday along with Mr. Cangiano failed to appear in response to subpoenas. They became subject to citations for contempt of Congress. The four were named by Robert F. Cudak, who told the subcommittee he had committed nearly 200 airport thefts of goods worth more than \$100-million.

Those who did not appear were Frank Mannarino, a Valley Stream, L. I., contractor said by Cudak to be a thief and a "fence," or disposer of stolen goods; Vincent Pisano, also of Valley Stream and said to be a thief and fence; and Albert De Angelis, of Woodside, Queens, a jeweler on Canal Street identified as a major "fence" for stolen diamonds.

A fifth witness, Samuel Weiss, also named as a fence, appeared but was granted a delay in testifying until next Wednesday so that he could be accompanied by his attorney.

One of Cudak's accomplices, James A. Sanatar, testified in corroboration of the statements Cudak made yesterday. Mr. Sanatar, dressed informally in a red sweater and black trousers, said that he had received from \$35,000 to \$40,000 over three months as Cudak's "drop man," picking up mail bags stolen by Cudak at John F. Kennedy International Airport.

Senator Charles H. Percy of Illinois, senior Republican on the Permanent Subcommittee on Investigations, said he wanted to use the hearings to determine whether Government agencies were "overclassifying" documents.

Senator Percy noted that Cudak had testified to having

seen such secret papers about 20 times among his mail thefts. The Senator said that might be evidence that the Department of Defense, the Federal Bureau of Investigation and the Central Intelligence Agency were stamping documents secret when they did not deserve it.

Spokesmen for the Defense Department and the F.B.I. confirmed today that their agencies use the mails to transmit sensitive documents, although the Defense Department does not use mail for "top secret" papers. The C.I.A. had no comment.

Mr. Cangiano, who appeared without his attorney, was advised several times by the subcommittee chairman, Senator John L. McClellan, Democrat of Arkansas, that he would be within his constitutional rights, under the Fifth Amendment, not to testify if he thought it would incriminate him.

A subcommittee staff investigator, William Gallinaro, read excerpts from Cudak's testimony and other evidence of Mr. Cangiano's alleged criminal activity, after which the witness was asked to comment.

On one occasion he said "it's true and I respectfully stand on the Fifth Amendment." The rest of the time, he merely repeated his statement on the Fifth Amendment.

Among the allegations made against Mr. Cangiano were the following:

¶ That he and his brother Frank, are "made men," or persons with authority in organized crime.

¶ That he was used by Cudak as a fence for about \$35-million in securities taken from stolen mail.

¶ That he was associated with Joel Rostau, another alleged fence used by Cudak. Mr. Rostau was found murdered in the trunk of an automobile at Kennedy Airport in October, 1969.

¶ That he furnished fraudulent identification documents to Cudak and others.

In addition, the staff investigator said that law enforcement agencies had identified Mr. Cangiano "as a very close associate of members of the Colombo family" of alleged organized criminals.

Mr. Cangiano's criminal record, the investigator said, showed that he was arrested eight times for possession of stolen mail and transport of stolen securities. He was never convicted, although some cases are pending, the investigator said.

Cudak testified yesterday that he had begun stealing mail shortly after starting work for Northwest Airlines as a ramp man at Kennedy Airport. He is serving a seven-year term in prison on five charges of mail theft. He disclosed his other thefts for the first time, under immunity granted by the Federal District Court here under the Organized Crime Control Act of 1970.



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PORT CHESTER, N.Y.
ITEM

E - 16,084

JUN 18 1971

Letters, He Stole Letters

TESTIFYING UNDER IMMUNITY before a Senate investigating subcommittee, a prisoner serving seven years for mail theft disclosed his involvement in 200 thefts netting more than \$100 million in valuables of various kinds between 1966 and 1970.

The loot, including cash, jewelry, stocks, bonds, travelers checks and other property marketable through criminal fences, came mainly from U.S. mail, REA Express and air cargo shipments at nearly two dozen airports.

This says little for airport security at the time—and says a lot for recent and continuing efforts to improve it with rigid licensing and cargo-protection requirements.

PARTICULARLY INTERESTING, in view of the present duel between the New York Times and the Justice Department over publication of classified Pentagon papers, is that this champion thief told the Senate panel that sometimes his hauls included secret govern-

ment documents—on at least 20 occasions.

He said they were from the Defense Department, the military services, the Central Intelligence Agency and the Federal Bureau of Investigation. Missile systems plans and an FBI report on Cuban agents in Florida were among the documents that the prisoner said he scanned with interest—but hastily discarded, mostly into the Atlantic Ocean, because the material was too “hot” and he had no interest in branching into espionage.

It seems strange indeed that the federal government, with its abiding concern for keeping secret papers out of unauthorized hands, would have risked even the merest chance that such papers would go astray or, as it happened, get stolen. Personal delivery would seem the elementary alternative.

IN THE INSTANCES at hand, the government was lucky the interceptor was only a cook.

18 JUN 1971

FBI Seeking Ex-Pentagon Aide in Leak

By Ken W. Clawson
Washington Post Staff Writer

CAMBRIDGE, Mass., June 17—Two FBI agents tried unsuccessfully today to interview Daniel Ellsberg, 40, a former government economist who was a member of the federal task force that prepared a secret study of the Vietnam war that has been leaked to The New York Times.

The FBI agents left the Ellsberg residence on a shady, tree-lined Cambridge street when no one responded to their knock at the door.

Neither the FBI nor the Justice Department would comment, but it was learned that efforts to find Ellsberg were intensified when he was not available this morning.

Ellsberg was publicly named as the source of the secret documents Wednesday night by a former New York Times reporter, Sidney Zion. On a local New York radio show, Zion identified Ellsberg as the person who leaked the documents and said his information came from "impeccable sources."

The New York Times declined to comment on Zion's allegation.

Earlier Wednesday night a man identifying himself as Ellsberg telephoned The Washington Post and refused to confirm or deny he leaked any documents. He indicated that he believed he was under surveillance, and was calling from a public telephone booth in Boston.

In Washington today, Rep. Paul N. McCloskey (R-Calif.) said Ellsberg gave him copies of documents dealing with the same subject more than a month ago, according to United Press International. McCloskey, a war critic, said he could not tell whether the copies he received were part of the 47-volume Pentagon report, but he said they were not stamped secret.

And he added "I cannot remember that anything I have seen is what's been published." He said he had not

read the third installment of The Times series, only the first two.

Ellsberg lives at 10 Hilliard St. in Cambridge. For the past year he has been a senior research associate at the center for international studies at Massachusetts Institute of Technology.

Because of Zion's allegations Wednesday night, a few newsmen were at the Ellsberg house this morning when the FBI agents arrived.

During the rest of the day, increasing numbers of media personnel ringed the house and at noon today an MIT security officer said there had been at least 150 reporters and television cameramen scouring the campus in search of Ellsberg.

A spokesman for MIT said that Ellsberg was on campus Wednesday but he was not seen today.

Meanwhile, in Detroit the Associated Press quoted Ellsberg's father as saying that his son had "every reason" to leak the secret Pentagon study on the war.

"He said in 1967 that he would do everything in his power to get the boys out of there. I thought he has been very consistent," said Harry Ellsberg.

"Holding My Breath"

Although Ellsberg said he doesn't know for a fact that his son was the man who gave the report to The New York Times, the father said: "I've been holding my breath for several days since I heard about this thing. I thought it could have been him."

A brother Harold, a New York insurance executive, told Westchester-Rockland Newspapers today he last saw his brother six months ago and the two had never discussed the Pentagon study.

He said his brother at one time "strongly supported the U.S. war policy" in Vietnam, but changed his mind after working as a civilian aide on the staff of Gen. Edward Lansdale in Vietnam.

"He took a 180-degree turn about — that's how he expressed it to me," said Harry. "I think he became totally disillusioned about the entire U.S. involvement from what he saw."

'52 Harvard Graduate

As the FBI sought to talk with Ellsberg, some government officials were raising the possibility that preliminary drafts of the war study, separate from the 15 official copies, may still exist and could have been the source of The Times series.

Ellsberg graduated summa cum laude from Harvard College in 1952 and later earned master's and doctoral degrees in economics. He joined the Defense Department for about a year as an aide to Assistant Secretary John McNaughton, and late in 1965 went to Vietnam and served as attache at the embassy.

Before his government experience he had worked at the Rand Corp., the "think tank" in Santa Monica, Calif., which often works on government projects. He returned there in 1967 and subsequently worked on recommendations for Vietnam policy with presidential aide Henry Kissinger.

In 1970 he received his MIT appointment; it already has been extended for next year.

It was not known why Zion, who quit The New York Times in 1969 to become co-editor of Scanlan's, a defunct muckraking magazine, chose to name Ellsberg. While offering no proof, Zion assured Barry Gray, the radio program's moderator, that Ellsberg definitely furnished the Pentagon documents to The New York Times. Later, Zion told The New York Post that The Times had tried to prevent him from revealing Ellsberg's name. Just before the show Zion said that Arthur Gelb, The Times metropolitan editor, called him at Gray's

WMCA studio and asked him whom he was about to name. "Will you tell me if I'm wrong?" Zion said he replied. He said that Gelb said no, so he refused to tell Gelb anything.

Zion said that after the show Murray Schumach, a Times reporter who was present in the studio, told him that Gelb wanted Zion to know he was "never to set foot in The Times again." The Times did not publish any account of the Zion allegations in its late editions today but did so briefly in Friday's editions.

On the program, Zion was asked how he obtained the information about Ellsberg.

He replied, "Well, just like they won't tell where they got it, I won't tell where I got it; I can't, but I did get it from what I consider to be very impeccable sources."

And he added: "I want to say that I think he did an extraordinary act for the country and that he's to be praised and not condemned..."

STAT

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18 JUN 1971

Right to Secrecy Seen at Issue

By GARNETT D. HORNER
Star Staff Writer

White House officials say failure to stop the New York Times publication of secret documents regarding the Vietnam war would set a precedent jeopardizing the whole system for preserving secrecy of classified government papers.

They indicate they think more damage might be done the government by such precedent than would be involved in the publication of the substance of the documents.

But they said the issues cannot really be separated, because publication of some of the material in the Times' hands would be injurious although it could open the way to even more injurious violation of security classifications.

The Nixon administration's rationale for seeking an injunction banning publication of the documents was discussed by high administration officials with a

small group of reporters invited to the "background" session. The officials would not allow reporters to quote them by name.

The officials emphasized that they did not think the move should be considered as suppressing information against freedom of the press.

When the Times is bound to argue protection of the First Amendment guaranteeing the freedom of the press, one White House official commented that he does not feel the Constitution guarantees the right to use stolen documents in violation of the law.

The officials emphasized the view that the Times was violating security laws in publishing materials classified as top secret, or even in having possession of such material.

American defense interests could be seriously endangered, they said if it is assumed that any newspaper editor can make his own judgment about whether a document should be made public.

Much of the material still is being examined in an effort to determine whether publication of some of the documents would compromise secret codes, an official said.

Asked why the Times was permitted to publish its series for 3 days before the government moved, the officials said the Justice Department had begun immediate study after the first publication of what it meant to national security.

When it became evident that national security was being endangered, he said, the Justice Department asked the Times last Monday evening to stop publication and sought a court injunction the next day after the Times refused the request.

There now is "certainly the potential" for criminal action against persons involved, in addition to the civil suit involved in the injunction proceedings, officials said.

18 JUN 1971

STAT

PLAN LEGAL STEP

21 in House Support Times

A group of House Democrats has moved to take legal steps countering government action to halt further publication of the secret Pentagon documents on the Vietnam war that have been published in part by the New York Times.

As members of Congress continued expressing widespread support for the Times, the 21 Democrats, headed by Rep. Bob Eckhardt of Texas, yesterday announced plans to seek to appear in U.S. District Court in New York against the Justice Department's request for a permanent injunction against publication by the Times.

"We are entitled to know it (the information) by virtue of the fact that we know it exists," Eckhardt told reporters. "It isn't only the right to publish" which is at stake, he said, "but the right to read also."

62 Seek Publication

Sixty-two House members, including four Republicans, delivered letters to Atty. Gen. John N. Mitchell and Defense secretary Melvin R. Laird calling for the administration to make the Pentagon study public. They said its release "cannot in any way prejudice our national interest."

The four Republicans are Rep. Paul N. McCloskey Jr., California; Donald W. Riegle Jr., Michigan; Philip Ruppe, Michigan, and Seymour Halpern, New York.

Conservative support of publication was led by Sen. Carl B. Curtis, R-Neb., a staunch supporter of Nixon on Vietnam and other national security questions.

"The freedom of the press to publish information about the government of the nation, and the decisions of this government, is one of our most precious freedoms," Curtis told the Senate yesterday.

"Judging by what I have read and heard about these Vietnam war documents," Curtis told the Senate, "the government tends to stamp a 'secret' or 'top secret' classification on too many documents and too much information in an attempt to hide it from the public."

In the House, 62 members, including four Republicans,

Leader Mike Mansfield, who has proposed a full-scale inquiry into U.S. involvement in the war, said at a joint news conference in London with Sen. J. William Fulbright, D-Ark., that "the only way to face up to it (American involvement) is to lay it all out."

Mansfield said he doubted the government's claim that the study's publication could compromise U.S. relations with other nations. "I see no indication that allied governments are embarrassed by what's been published so far," he said, adding that the U. government's "primary responsibility is to our own people and to the Congress," not other nations.

Fulbright, who is chairman of the Senate Foreign Relations Committee, said American security was not endangered by publication of the report, and noted that he had asked repeatedly the Pentagon to turn over the study, with no results.

"I think it's very healthy for a Democratic country like America to know the facts surrounding their involvement in such a great tragedy as the war in Vietnam," Fulbright said.

Soviet Comment

Overseas, Soviet press and television devoted a large amount of attention to the reports, with the underlying theme that the documents should be viewed as an indictment of the U.S. government.

"These documents confirm what the world knew before—the enormous gap between the words and deeds of the American government," Gennadi Gerasimov, a Novosti press agency commentator, said on the main evening television news program.

Pravda and Izvestia printed excerpts supplied by Tass, the Soviet press agency, and all papers had commentaries dealing with the political furor in the United States.

"The uneasiness which has gripped official Washington in connection with the new expose shows how scared the United States government is of America

learning the truth about its criminal aggression against the peoples of Southeast Asia," Pravda said.

Canadian Denial

The Canadian government, meanwhile, denied that Canada knew in 1964 that the United States planned to bomb North Vietnam. External Affairs Minister Mitchell Sharp made the denial as a result of criticism aimed at Canada because another Canadian official delivered a message from the United States to North Vietnam threatening great devastation.

The message of June 18, 1964, said that if the North Vietnamese did not "contain" themselves and their guerrilla activities in the south, "then the greatest devastation would result for the Democratic Republic of Vietnam itself," Sharp said.

Sharp denied that Canada knew or should have known that amounted to an intention to bomb North Vietnam.

Former Australian Prime Minister Sir Robert Menzies, who sent Australian troops to South Vietnam in 1955, said his government had offered the support to Saigon and it subsequently was accepted by the South Vietnamese.

"Throughout these discussions (with his cabinet)," Menzies said in defending his role, "it was made clear that whatever was done could only be done on the basis that it was wanted by the South Vietnamese."

WATERTOWN, N.Y.
 TIMES JUN 18 1977
 E - 43,427

Secret Papers

The fact that the United States has been fighting wars of one kind or another for the last 20 years, after only five years of peace beginning in 1945, the end of World War II, has created a federal paranoia toward security secrets. The publisher of the New York Times has commented, "Governments often stamp Secret on too many things because they don't want people to find out things that are embarrassing to them... there are tons of documents even from World War II, which has been over 25 years now, that are still classified Secret, and I think it is a wonderful way if you have got an egg on your face to prevent anyone from knowing it; stamp it Secret and put it away."

Generally speaking, the government classification system for preventing the circulation of information involves degrees of protection. The highest is Top Secret, followed by Secret, Confidential, and the lowest is some form of Restricted. These are the broad categories, but there may be subdivisions within each level, depending upon the frequency of changes as recommended by security specialists. In no instance have there been recommendations for fewer classifications. Rather, the investigators tend to push for more restraints.

Wars increase the rubber stamping of papers. When one war follows another, the declassifiers never catch up to the classifiers. Psychologically, declassifying does not have the same effect on the ego as classifying does, so naturally, in the ranks of the Defense establishment there are more officers raising the security than there are who are reducing security.

The extreme lengths to which Defense will go is exemplified by the many newspaper clippings that are filed away in the Pentagon library, each having been duly

the top and the bottom as Confidential or Secret, and possibly Top Secret. Presumably the world has read the news story, but the fact that the Defense establishment is interested in the story makes it eligible to become a military secret.

A security system must exist for military documents such as the plans for defending the nation against attack or plans for defending some other nation from attack. The next question concerns the degree of secrecy: How many officers should be permitted access to these plans? Obviously, the greater degree of secrecy, Top Secret, the fewer are those who have access. Thus the system, by classifying to different degrees, is supposed to assure a distribution that involves those who are concerned, but no one else. The principal "No one else" should be the enemy, but too frequently the "no one else" is, as Mr. Sulzberger says, the persons who might discover "You have got egg on your face."

A military tank that is developed at great cost to the nation may be classified as a secret weapon until it goes on the battlefield. It may also be classified as a secret weapon when it is a failure, in the hopes that neither the enemy nor the taxpayer will learn of the failure.

Several years ago an officer came to Watertown in a naval airplane to attend a reserve officers' convention. The airplane was damaged in landing, and the Navy sought to prevent an account of the accident on the grounds that military security would be violated. The embargo failed, but provided a classic example of how a military service tries to invoke secrecy as a coverup for failure.

American citizens support the general idea of security and believe

that military secrecy is essential to the degree that it prevents the nation's enemies from threatening our destruction. However, these citizens understand that the secrecy involves the present and not the past. What happened in World War II is hardly a secret that has anything to do with the defense of the nation today. They disagree with thoughts as expressed by General Maxwell Taylor, the former ambassador to South Vietnam, who has said, "A citizen should know those things he needs to know to be a good citizen and discharge his functions, not to get in on secrets which simply damage his government and indirectly damage the citizen himself." Few Americans agree that Big Brother should watch over us. That is what General Taylor seems to believe.

Several years ago, when Allen W. Dulles was head of the C.I.A., he arrived at a security conference at Quantico, Virginia, carrying his brief case. Questioning newspapermen inquired what he had within the case. He opened it up for them to see, and there was the New York Times. Were he alive today and if the inquiry were the same, the case would have been empty or his secrets would be showing.

BALTIMORE SUN
17 JUN 1971

U.S. Says Story Perils All Media

Washington Bureau of The Sun

Washington, June 16 — The Justice Department believes that all news media using classified documents printed by the *New York Times* could be prosecuted under a 1917 law.

The 54-year-old statute makes it a crime to disseminate classified material. One section applies to those, such as government officials, who obtain the material legally, another section to newspaper editors and others who obtain it illegally. Violation of the law is punishable by a fine of \$10,000 and 10 years in prison.

M - 775,416
S - 1,045,176

JUN 17 1971

Mail Thief Testifies

Top Secrets Among Airport Loot

BY WILLIAM KLING

[Chicago Tribune Press Service]

WASHINGTON, June 16 — A

master thief told the Senate today that classified government documents, one a top secret ballistics missile plan, was included in the \$100 million in valuable securities and goods he stole in a series of airport thefts.

Robert F. Cudak, 29, said he always destroyed the documents and disposed of the saleable loot thru crime syndicate fences.

Testifying under heavy guard before the Senate permanent investigations subcommittee, Cudak said he and several partners committed about 125 thefts at 17 airports, including Chicago's O'Hare International Airport.

Some "Top Secret"

Questioned by Sen. Percy [Ill.], the subcommittee's ranking Republican, Cudak said he came across classified government material in mail pouches "on about 20 occasions."

"That stuff was placed right in alongside the securities and jewelry," he testified. "It was all treated like the same thing."

Much of the material was classified "confidential," but some of it was labeled "top secret" and "hand deliver only," he said. It had been mailed by such government agencies as the Defense Department, the Department of the Army, the Central Intelligence Agency and the Federal Bureau of Investigation, he recalled.

Looked at Some of It

"First of all, I want to say that neither I nor my associates ever tried to move any of this stuff," he testified, "but I

looked at some of it because my curiosity got the best of me."

He said one document was a Defense Department plan for a land-to-air ballistics missile. Another, he said, was an FBI list of Cuban nationalists and agents in Miami, complete with informants' names and addresses.

"I was scared of it, I was afraid of it," Cudak said. "I would burn it or throw it in the water, and I know one time when I first started, they recovered some of this stuff and they made a big stink over it. It was in September, 1967, and they got kind of excited because this stuff was lying around."

Most of the classified documents were sent by registered mail and were as subject to theft as the stocks and bonds, furs and jewelry contained in the same mail pouches, Cudak observed.

His Share \$1 Million

"My share of the loot my partners and I stole in a four-year period came to approximately \$1 million," said Cudak, who is serving a seven-year federal prison sentence for mail theft.

"I am peniless today. I gambled most of the money away as soon as I received my share from the fences."

Sen. John L. McClellan [D., Ark.], subcommittee chairman, later told a reporter that Cudak "is probably the biggest thief ever discovered."

Cudak, who said he had been in trouble with the law as a juvenile and had a previous adult criminal record for grand larceny, burglary and auto theft, said he had been a "ramp man" for Northwest Airlines at Kennedy Airport. "Within three days, I noticed the laxity in security for value boxes at Railway Express and Air Freight," he said. "Shortly thereafter, I stole something from Air Freight, and that was the beginning of my career as a thief in airports."

dicade figure in Newark, N. J., as one of the people who fenced his loot.

Another, he said, was Charles DeLutro, also known as Charlie West and identified during the subcommittee's Valachi hearings as of the Genovese La Cosa Nostra family.

Pleads Guilty to Theft

Cudak's career as an airport mail thief ended Nov. 23, 1968, when he was arrested with a partner in a motel near O'Hare Airport after stealing mailbags full of \$2.2 million in securities and other valuables from an airport loading ramp.

He pleaded guilty to that theft and an earlier one at Kennedy International Airport in New York City and was sentenced to Atlanta Federal Penitentiary.

The witness appeared before the McClellan subcommittee after a federal court granted him immunity under provisions of the 1970 Organized Crime Act, the first time that the device has been used. McClellan barred the photographing of Cudak during his testimony. Cudak is being held in secret protective custody, the chairman said.

The subcommittee is investigating the link of organized crime to the theft of millions of dollars in stocks and bonds from Wall Street and the mails.

Noticed Lax Security

Cudak said he began stealing from the mails after he took a job as a "ramp man" for Northwest Airlines at Kennedy Airport.

"Within three days, I noticed the laxity in security for value boxes at Railway Express and Air Freight," he said. "Shortly thereafter, I stole something from Air Freight, and that was the beginning of my career as a thief in airports."

Most of his thefts were at Kennedy, Cudak said, but he and his gang operated sporadically at airports from coast to coast. They hit O'Hare four times, he said.

"The security at all of the airports we hit was very poor,"

Cudak said. "In my view, there weren't many airports that had good security. I had to grade them for security at the time I was operating, I would say that Kennedy and O'Hare were very bad generally, and Atlanta Airport had no security at all. The airports in Florida were all poor in that regard."

Dress Like an Employee

"The only one I ever considered fairly well-protected was Los Angeles. We thought they were pretty tough out there."

Cudak said all that was needed was to dress like an airport employee and walk off with mail sacks.

The gang got relatively little money for their loot in the beginning but, as they became more expert in bargaining with fences, they got more, he said. They also stole from each other and hid some loot to sell without cutting in partners, he said.

Cudak testified that he was approached by crime syndicate figures to become a part of their operation, "but I didn't want to work under mob direction."

"I didn't want to get involved with them that closely," he said. "They tell you where to go and when to steal. We were always stealing from each other, and if you turn around and steal from them, you'd be in real trouble."

U.S. security controversy flares

By George W. Ashworth

Staff correspondent of
The Christian Science Monitor

Washington

Disclosure of portions of the Pentagon's war record has raised several security issues that go far beyond the war.

Because the issue is Vietnam, the very controversy of that war and the way it was started has tended to overshadow so far the possible security implications of the disclosures in the New York Times.

But officials here see these potential difficulties:

- Some of the material used was originally encoded, at least several items being sent in very classified and closely held forms. Disclosure of these messages in their unencoded form could serve to help other interested nations decipher other messages of the period that might so far have eluded translation.

Beyond that, the information made available could serve to give a great deal of information about U.S. procedures in cryptography.

- The intelligence material disclosed, while not particularly sensitive now in terms of national security, could serve overseas analysts interested in studying how U.S. intelligence operates, and give better insight into methods, procedures, weaknesses, and strengths.

- Some officials believe that the disclosures tend to weaken expectations by other countries that confidences exchanged with officials of the U.S. will remain respected.

- The disclosures may tend to weaken still further respect by the press for security classifications imposed by the U.S. Government. The present trend, reinforced by the New York Times series, is for media organizations or individuals to be their own arbiters over whether something classified by the U.S. Government should remain privileged.

Although top-secret and secret material is supposed to be closely held and limited only to those with requisite clearances and what is called "need to know," materials of a classified nature have often in the past been shared by government officials with representatives of the news media.

Normally speaking, this practice has largely been carried out at the highest government levels in order to help the press understand various situations more fully. It is usually understood that this material should not be publicly disseminated because of its nature.

However, in the course of the Vietnam war there has been a general loosening of long-standing security practices. More and more, persons who disagree either with the war or with other persons in government have felt more free to release material damaging to those with whom they disagree.

This tendency has been compounded by an increasing government willingness, as many officials see it, to classify excessively. Some of the most mundane material is routinely classified. And it is not uncommon for classifications to be given merely to lend importance. This is particularly true of study papers.

Canadian involvement

As a result, a cloud of classification hangs over a great deal of material of interest to the public and perhaps of no great advantage to any national enemy. It is often said jestingly here that a great deal of classified material is secret only from the American people.

Thus the willingness to classify widely, and the accompanying growth of disrespect for classification, have caused problems for the last administration as well as the current one.

Of particular concern now are American relations with foreign countries in the wake of the New York Times disclosures.

Already the Canadians are having an internal argument over the fact that a Canadian diplomat serving on the International Control Commission carried notes from Washington to Hanoi in 1964.

As one source here put it, "The stories have just about finished the Canadians as intermediaries, as well as weakening their faith in us."

The question of governmental privacy has been raised before by other nations dealing with the United States. Just as there are allied nations that the U.S. will not trust with really important secrets, other nations now are making it very clear that they do not believe the U.S. can be trusted with private matters. This viewpoint has been particularly evident lately in relations with the government of Thailand.

If governments cannot trust each other, relations become both more difficult and more potentially dangerous.

Approved For Release 2006/01/03 : CIA-RDP80-01601R000400040001-6

E - 427,270
JUN 17 1971

was more profitable. "Between that first theft from an

STAT

Thief's Dream Is Airport Mail

By Myron S. Waldman
Newsday Washington Bureau

Washington—A convicted thief told senators yesterday that he had robbed the airport mails of more than \$100,000,000, operating with such abandon that he would frequently steal top secret government documents by accident along with unclassified loot.

Robert F. Cudak, of Baldwin, L.I., said that he stole cupfuls of diamonds and Department of Defense plans for a land-to-air ballistics missile. He stole carloads of furs and the prototype of a new military pistol. He stole bearer bonds and an FBI list of Cuban nationalists and agents in Miami, complete with names and addresses of informants. He stole travelers' checks and an entire military pouch headed for an Air Force base. The classified material, he said, came from the Defense Department, the CIA and the FBI. "I don't think we seen any Marine stuff," Cudak said.

Many of Cudak's activities were described by Newsday reporter Tom Renner last year in a series of articles on mail theft that called Cudak "the world's most successful mail thief." Yesterday, Cudak gave the details of his operations to the Senate permanent investigations subcommittee. He was under heavy guard and a court order of immunity from further prosecution.

Served 7 Years

Cudak, whose address was 2318 Milburn Ave. before he began serving a seven-year sentence for mail theft last year, told the subcommittee that he had stolen classified materials about 20 times. "You mean, it is just as easy to steal classified material as it is stocks, bonds, jewels, furs and other things you stole?" Sen. Charles Percy (R-Ill.) asked.

"Sure," Cudak replied. "That stuff was placed alongside the securities and the jewelry. It was treated like the same thing." But, Percy asked, wasn't it marked confidential? "Many times," Cudak responded. He added that some

of the documents were sent by registered mail and a few, lying in mail sacks, were marked, "Hand Deliver Only."

"What you're saying is that these documents could have easily been sold to the New York Times or foreign agents or anyone else?" Percy asked. "Sure," Cudak said. "It [the mail sacks] had a lot of stuff in it."

But Cudak said that he wanted to make one thing clear. "First of all," he said, "I want to say that neither I or my associates ever tried to move any of this stuff, but I looked at some of it because my curiosity got the best of me.

"I was scared of it, I was afraid of it. I would burn it or throw it in the water. I know one time, when I first started, they recovered some of this stuff and they made a big stink over it. It was in September of 1967 and they got kind of excited because this stuff was lying around."

On one occasion, he said, Albert DeAngelis of Woodside, who he said was one of his fences and who is associated with the Carlo Gambino family, warned him to stay away from his principal hunting ground, the John F. Kennedy Airport. That, he said, was because Army Intelligence agents were conducting an investigation of thefts there. Asked how DeAngelis might know of that, Cudak replied, "He said he had a lodge brother who was an FBI agent."

Cudak, who listed his associates, many of them from Long Island, claimed that, while he had to use mob figures as fences, he himself remained an independent operator. He told the committee of a youthful criminal career that led to airport mail theft when he got a job as a ramp man for Northwest Airlines at Kennedy Airport. Within a few days, he said, he saw how lax security was and he began to steal from the mails.

Stealing Was More Profitable

"I enjoyed the job," Cudak said. "I based 2006/01/03, CIA-RDP80-01601R000400040001-6 at the airport." But theft definitely

return to prison in September of 1970," he reminisced, "I estimate that my partners and I systematically stole from Railway Express, air freight and both regular and registered mail, approximately \$100,000,000 in stocks, bonds, jewelry, cash, furs and other valuable items."

Cudak's share of the loot after fences, he said, came to about \$1,000,000. "I am penniless today," the lean, sideburned 29-year-old thief said. "I gambled most of the money away as soon as I received my share from the fences. At first, my partners and I gambled heavily in the New York City area . . . Then we found Las Vegas. We lost at the blackjack tables, in the keno rooms and at the dice tables . . ."

In detailing some of his 125 thefts, Cudak said that he stole from Kennedy Airport about 90 times, from LaGuardia about 10 times, and a number of times from airports ranging from Florida to Los Angeles. "Anyone dressed as a ramp man or airline employe can come along and grab any or all of the bags without being questioned," he said.

Sometimes, he said, he and his associates stole from each other. On Sept. 13, 1967, he said, he and one James Sanatar, whose address he gave as 255 Irving Ave., Deer Park, stole four bags of registered mail. At Sanatar's house, he said, they opened the bags and filled a suitcase with common stock, bearer bonds and treasury notes.

"We filled a teacup with diamonds ranging from a half a carat to two or three carats each," Cudak said. "One package held a 16-carat marquis diamond. I managed to slip that diamond into my pocket before Jimmy Sanatar saw it."

Associates Listed

Besides Sanatar and DeAngelis, Cudak listed as among his Long Island associates: one James V. Schaefer, whose address was given as 250 West Merrick Rd., Freeport; a William D. Ricchiuti, 45, of 99 Round Tree Dr., Plainview, who, he said, was "the most important of my partners," and one Vincent Pisano whose address was given as 254 Monroe Blvd., Valley Stream. He said that his principal fences on Long Island were Pisano, one Harvey Sapperstein of Bayside; one Jack Moltz of Westbury and one Leonard Mastrogiacomo of Great Neck.

Subcommittee Chairman John McClellan (D-Ark.) declared that Cudak was "telling the truth as far as his memory permits." The senator would not permit television or still cameras to take pictures of the witness, saying: "This man has a problem of safety for his life and we want to keep our promise to him."

Approved For Release 2006/01/03 : CIA-RDP80-01601R000400040001-6

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Tells of \$100M Airport Thefts

By JEROME CAHILL and FRANK VAN RIPER

Washington, June 16 (NEWS Bureau) — A 29-year-old master thief, who said he helped steal more than \$100 million in securities and valuables from Kennedy and other airports, told Senate probers today that "about 20 or 30" times he stole secret government documents dealing with defense and security matters.

Testifying under heavy guard before the Senate permanent investigations subcommittee, Robert F. Cudak said the secret documents included plans for a ground-to-air ballistic missile system, information on Cuban nationals in Miami and the names and addresses of FBI informers.

Cudak said he was never tempted to sell the documents to foreign agents because he was "afraid of it." He maintained that he dumped the documents into Long Island Sound or burned them.

During a startling day of testimony delivered in a flat monotone, Cudak also accused police at Rosemont, Ill., of helping themselves to diamonds and cash when they arrested him on Nov. 23, 1968, at a motel near O'Hare Airport on charges of mail theft.

Got Little Publicity

He also said two members of his gang, James Schaefer and William Ricchiuti, pulled off a \$21 million mail bag heist at JFK on June 13, 1968. Ricchiuti and Schaefer are in prison on other mail theft charges.

Committee Chairman John L. McClellan (D-Ark.) said he believed it was the first time that the culprits in the \$21 million

heist had been identified. He said proper authorities would be notified.

In New York, Port Authority police said their records listed the haul as \$15 million instead of \$21 million. They added that the theft received very little publicity at the time because it consisted mainly of new securities that were hastily recalled, leaving the thieves with worthless paper.)

New Type of Gun

Cudak testified that in the course of pilfering some 250 mail bags in his four-year crime rampage, he frequently came across government documents stamped "confidential" and "top secret." He added that they were mixed in with ordinary mail, securities and jewelry.

He said some of the papers were from the Pentagon, the CIA and the FBI. Many, he said, were Army documents.

On one occasion, in a theft at Jacksonville Airport, Cudak said, he and his gang seized an entire mail pouch that included Air Force documents containing details on "a new kind of handgun." He said that document was being mailed to Elgin Air Force Base, Fla.

Flanked by Guards

The witness, appearing under the first grant of immunity made under the 1970 organized crime law, came here from the federal prison at Atlanta, where he is serving seven-year concurrent terms for mail theft.

Cudak was escorted to the heavily guarded hearing room by plainclothes guards. Flanked by two of them, he walked from the subcommittee anteroom, behind Chairman McClellan, and over to the long witness table, where three guards sat with him.

An unusually heavy force of Capitol police stood guard in and around the hearing room.

Cudak wore a dark gray business suit, white shirt and blue and black striped tie. He sported

he was sworn in by McClellan, a small pinky ring on his right hand came into sight.

"This man has a problem of safety for his life," McClellan said. Acting on Cudak's request, he ordered no pictures taken of the convicted mail thief as he testified.

Lost in Gambling

A line of spectators stood outside the hearing room, hoping to get in.

Cudak testified that 95% of the gang's thefts were of securities, which passed off to mob fences at only a fraction of their face value.

He said his overall share of the loot during the four-year crime spree was \$1 million — most of which he lost gambling.

Cudak identified 22 fences who handled the stolen loot and said that Mafia leaders Anthony (Tony Boy) Boiardo of Newark and Gregory Scarpa of Brooklyn on several occasions each tried to recruit his gang for their underworld operations.

More Profit Alone

Cudak said he balked at the idea of a Mafia marriage because it was more profitable and less dangerous to remain an independent thief.

Cudak told the subcommittee he disposed of between \$1 million and \$2 million in stolen jewels to a fence he identified as a jeweler named Albert de Angelis, who in 1967 lived in the Woodside section of Queens, he said.

The witness said de Angelis was an associate of two other fences, Frank Mannarino and Vincent Pisano. He said Pisano was "closely connected" with rackets figure John (Sonny) Franzese.

Cudak was an airline cargo handler when he began his crime career at JFK, he said. He testified that he was hired as a "ramp man" by Northwest Orient Airlines in September 1966 despite two prior convictions for auto



Anthony (Tony Boy) Boiardo
Tried to recruit gang?

thief and a phony story about having lost his proper identification.

Quit Job in '67

Cudak said he left his job at JFK in December 1967, after his first arrest for mail theft, but continued to steal from the airports while awaiting trial. He also pulled four heists while out on bail on his second arrest, he said.

"Between the first theft from Air Freight and my return to prison in September 1970," he told the committee, "I estimate conservatively that my partners and I systematically stole—from Railway Express, Air Freight and both regular and registered mail—approximately \$100 million in stocks, funds, jewelry, cash, furs and other valuable items."



Robert Cudak, in 1962 police file mug shot.

Approved For Release 2006/01/03 : CIA-RDP80-01601R000400040001-6

U.S. ASKING COURT FOR ORDER TO SEE TIMES DOCUMENTS

Opponents of War In Congress Decry U.S. Suit on Study

By DAVID E. ROSENBAUM
Special to The New York Times

WASHINGTON, June 16—Congressional opponents of the war in Indochina criticized the Nixon Administration today for having sought and obtained a court order temporarily preventing The New York Times from publishing further material from a secret Pentagon study on Vietnam.

In Los Angeles, however, Vice President Agnew questioned the judgment of The Times in publishing the material for three days before the court order was issued yesterday.

Two members of Congress—Senator J. W. Fulbright, Democrat of Arkansas, the chairman of the Foreign Relations Committee, and Representative Paul N. McCloskey Jr., Republican of California—asked The Times to turn over to them copies of unpublished material, since the Administration has refused Congressional access to the documents. The Times refused both requests.

At the White House, Ronald L. Ziegler, President Nixon's press secretary, said that no consideration was being given to declassifying—removing the official secrecy from—the documents published by The Times.

Asked why the Administration had moved against The Times when it had never before attempted to prevent publication of information, Mr. Ziegler said, "I don't know that there

are other cases . . . where a publication stated that it intended to publish highly classified material."

A major figure in the Pentagon study, Gen. Maxwell D. Taylor, who was Ambassador to South Vietnam from the summer of 1964 to the summer of 1965 said in a television interview tonight that The Times had initiated "a practice of betrayal of Government secrets."

Response by Taylor

Asked on the Columbia Broadcasting System's evening news program how his position squared with "the people's right to know," General Taylor responded:

"I don't believe in that as a general principle. You have to talk about cases. What is a citizen going to do after reading these documents that he wouldn't have done otherwise? A citizen should know those things he needs to know to be a good citizen and discharge his functions, but not to get into secrets that damage his Government and indirectly damage the citizen himself."

The Time's disclosures, General Taylor said, were "laying a foundation for bad history."

The disclosures in The Times series published on Sunday, Monday and Tuesday and the temporary court order that was issued yesterday were major topics of discussion on Capitol Hill today.

Sixty-two members of the House of Representatives, nearly all of them liberal Democrats, signed letters to Secretary of Defense Melvin R. Laird and Attorney General John N. Mitchell, asking Mr. Laird to make the Pentagon study available to Congress and protesting to Mr. Mitchell about what they termed his "harassment" of The Times. The letters were initiated by Representative Jonathan B. Bingham, Democrat of the Bronx.

Senator Mike Mansfield, the Democratic leader, said again, as he had said yesterday, that regardless of the outcome of The Times court case, Senate hearings would be convened on the disclosures in the Pentagon

study. He said he did not know whether they would be held by the Foreign Relations Committee, the Armed Services Committee, or, perhaps, jointly.

Scott Finds Damage

Senator Hugh Scott of Pennsylvania, the minority leader, said that both the publication of the classified documents and the contents of the documents damaged public confidence in the Government.

"The public must question the Government's security now," Mr. Scott said, but he added that it was "perfectly clear that American people were not told things [about the war in

Indochina] that they should have been told."

In the House, the Information subcommittee of the Government Operations Committee announced hearings next week on the Government's classification procedures and on the policies of withholding data from Congress and the public on the ground of "executive privilege."

Representative Ogden R. Reid of Westchester County, the subcommittee's ranking Republican member, said he hoped to call officials from the State, Defense and Justice Departments and the White House staff.

'To Save Some Red Faces'

The subcommittee is headed by Representative William S. Moorhead, a Pennsylvania Democrat. He said that the classification of the Pentagon study "was done not so much to save the security of the United States but to save some red faces."

Vice President Agnew, the highest Administration official to comment on the disclosures, was interviewed by reporters after he discussed the Administration's revenue-sharing program at a meeting of the Los Angeles County Board of Supervisors.

"In my opinion, what is the proper amount of classified information that should be released is a matter for professional judgment," the Vice President, a frequent critic of the press, said.

A reporter asked his opinion about the judgment of American officials in withholding information about the war from the public. Mr. Agnew replied, "The Nixon Administration has a great deal more confidence in the judgment of elected officials than it does in The New York Times."

'Secretive and Clandestine'

Mr. Agnew said that The Times was "classified but had proceeded to publish it in a secretive and clandestine fashion."

Among the few public comments from Congressmen critical of The Times was one from John G. Tower, Republican of Texas.

He said that the published information had been "particularly interesting," but he questioned whether "the publication of classified documents remains within the excellent and responsible motto of which The New York Times prides itself—'All the news that's fit to print.'"

Another piece of criticism came from W. Averell Harriman, who served as President Johnson's delegate to the Paris peace talks. At a breakfast meeting with newsmen, Mr. Harriman said that he believed that the public had not been "misled by the publication of a lot of miscellaneous documents."

Another member of the Johnson Administration, Senator H. Humphrey of Minnesota, the former Vice President, discounted reports that McGovern Bundy and Walt W. Rostow, Mr. Johnson's assistants for

national security affairs, had been the men closest to the President on war matters. Senator Humphrey said that "day in and day out" Secretary of State Dean Rusk and Secretary of Defense Robert S. McNamara were the key officials. Most members of Congress who commented publicly today are, like Mr. Harriman, now critics of the war.

Senator George S. McGovern, Democrat of South Dakota, said in a statement that the Justice Department's use of espionage laws to "harry The New York Times" not only violates the constitutional principle of freedom of the press "but also shuts off a free flow of vital information to the public."

Senator Fulbright, in a letter to Arthur Ochs Sulzberger, president and publisher of The New York Times, said that the information published by The Times had not breached the national security and that it was within The Times's right under the First Amendment to print it. The Senator, who was in London, added, "Too often, national security as an excuse for secrecy has been invoked solely to prevent personal embarrassment."

Representative McCloskey, in a letter to A. M. Rosenthal, managing editor of The Times, said that if he were given copies of the secret material he would have it printed in The Congressional Record.

Representative Andrew Jacobs, an Indiana Democrat, told the House of his opinion on the matter in the form of a parable:

"Once upon a time a little paper boy discovered great gaps in the credibility in which the emperor claimed to be clothed. So the emperor sued the little boy and tried to put him in jail for finding out.

"And nobody lived quite the same ever after."

Approved For Release 2006/01/03 : CIA-RDP80-01601R000400040001-6

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Viet Leak Suspect Reported Known to FBI

STAT

By Ken W. Clawson
Washington Post Staff Writer

Justice Department sources said last night they believe they know the identity of the person who leaked top secret documents on the Vietnam War to The New York Times.

The FBI reportedly had narrowed the suspect list down to a single person as early as Tuesday by tracing the movements of the 15 legitimate copies of the documents, whose security markings require detailed records on who has access to them.

Neither Attorney General John N. Mitchell nor the FBI would comment on the intensive effort to identify the suspect. But Mitchell said through a spokesman last night, "Our investigation is making substantial progress."

Justice sources emphasized that the FBI investigation is far from complete. "Knowing who leaked the documents and proving it are different matters," one source said.

There appeared to be little doubt that the government would prosecute, although one Justice source said, "You're too far in front of events. What if the guy is crazy or something?"

One section of the Espionage Act makes it a crime to publish secret information. The penalty is 10 years in prison and/or a \$10,000 fine.

Other sections provide similar penalties for persons lawfully entitled to see classified documents who make them available to unauthorized persons, and for persons not authorized to see such material who make it available to others.

Attorney General Mitchell has said that publication of the documents "will cause irreparable injury to the defense interests of the United States."

Despite reports that the FBI was interviewing all those persons who had access to the documents, it was clear yesterday that many such persons had not been contacted by the Bureau.

Former Secretary of Defense Clark Clifford, for example, said his copy of the voluminous report was locked up in his law firm vault when it was delivered two years ago and has remained there, unread, since.

He said yesterday that he had not been contacted by the FBI. "I've been right here in my office and I am available

and ready to tell the facts to anyone who is interested."

At the Rand Corp. in Santa Monica, Calif., Mel Gurtov, who had access to the documents, said he hadn't been contacted. Several other persons told similar stories.

This gave rise to speculation that the FBI had located a prime suspect early in its investigation.

It was authoritatively stated last night that the Defense Department had reclaimed at least one of the copies of the documents from the Rand Corp., but one Rand official here said he was not free to discuss "any aspect" of the case.

Klein Criticizes The Times

By Dorothy McCardle

Herbert G. Klein, director of communications for the Nixon administration and a former newspaper editor, said last night that he "does not think that a newspaper should take the law into its own hands."

He was referring to the present controversy between the Department of Justice and the New York Times over the Times' publication of secret material about the war in Vietnam.

"I do not know of any editor who is qualified to decide what is or what is not a matter of military security if it involves top secret material," said Klein.

Klein is the former editor of the San Diego (Calif.) Union. He said that when classified material including photographs, came to his desk he turned down its use.

"I did not make use of the material," he said.

Then he added: "I do not think you should declassify documents in the midst of a war."

He said of Arthur Ochs Sulzberger, publisher of the New York Times, who has just returned from Europe



Herbert Klein

to take over the Times' controversy with the Justice Department:

"I do not know how Sulzberger is qualified to judge his use of the material."

This exchange took place at a dinner party given at the home of Dr. and Mrs. Majid Khadduri in Wesley Heights in honor of the ambassador of Kuwait and Mrs. Salim Al-Sabah.

Klein was so precise and emphatic about his statements that he took a gold pen from his pocket when a reporter's pencil lost its lead. The pen was inscribed on its sides, "Richard Nixon."

Secretary of Commerce Maurice Stans, who was among the guests, seemed nonplussed by the controversy with the New York Times and admitted that he had not read the three articles which the Times has condensed from a 7,000-page top-secret about the war in Vietnam during the Johnson administration. Two more articles have been held up by a temporary restraining order issued by a Federal judge.

The dinner was almost an hour late because the hostess, who had prepared all the sumptuous Middle East food herself, had hired a part-time White House butler to help serve her 36 guests.

When the butler arrived, he explained:

"President Nixon had a guest tonight and wanted his dinner later than usual."

Two Deny Role in Leak Of Report

Two former Defense officials who helped prepare the Pentagon's Vietnam study have denied through an attorney--also a former Defense official--that they were involved in making the report available to the New York Times.

The two are Leslie H. Gelb, who was chairman of the Vietnam task force that prepared the report in 1967-68, and Morton H. Halperin, a former official of the Pentagon's office of Internal Security Affairs. Both are now associated with the Brookings Institute, though their offices were empty and dark yesterday.

Written messages were delivered to the homes of both men yesterday afternoon asking them or their attorney to contact a reporter for The Star.

Halperin personally called last night to deny any role in giving the documents to the Times.

Earlier, Paul C. Warnke, former assistant secretary of defense for international security affairs and now a law partner of former defense secretary Clark M. Clifford, had called and identified himself as Gelb's attorney.

Asked if the two men were prepared to deny that they had provided copies of the archives to The Times, Warnke said:

"I can deny that emphatically on behalf of both."

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ELLSBERG GAVE TIMES REPORT, WRITER SAYS

A free lance writer has claimed that the New York Times obtained its copy of the secret study of U.S. involvement in Vietnam from a former Pentagon official who worked on its preparation.

Sidney Zion, who was a reporter for the Times from 1965 to 1970 and a founder of the ill-fated magazine Scanlan's, said Daniel Ellsberg, now at the Massachusetts Institute of Technology's Center for International Studies, passed the study to the Times as "an act of conscience."

Ellsberg worked on the massive study, the Pentagon said yesterday. In 1965, Ellsberg was special assistant to John T. McNaughton, assistant defense secretary for international security affairs. The study, commissioned by then Defense Secretary Robert S. McNamara, was supervised by McNaughton, who died in a plane crash in 1967.

Zion said Ellsberg went from the Pentagon to the Rand Corp., and from there passed on the study to the Times. A Rand Corp. spokesman in Washington said it had no comment.

Judge Suspends Times's Series On Vietnam War

Heeds U.S. As He Bars Reports On Secret Documents Until Saturday; Sets Hearing Friday On Extending Court Order

By JOHN S. CARROLL,
Washington Bureau of The Sun

Washington, June 15—The New York *Times's* voluminous disclosures of secret Pentagon documents came to a halt today as a federal court issued a temporary restraining order.

Judge Murray I. Gurfein, in his third day as a federal judge in New York, ordered that publication of the controversial series on the origins of the United States involvement in Vietnam be stopped until 1 P.M. Saturday. He also scheduled a hearing Friday morning on the government's request for a preliminary injunction to extend the ban.

In today's order, the judge went along with the Department of Justice, which contended that the articles had already "prejudiced the defense interests of the United States" and, if continued, would "result in irreparable injury to the national defense."

Judge Gurfein noted that important constitutional issues were at stake, but concluded that the order was justified because any temporary harm that might result from not publishing the series during the next few days would be "far outweighed by the irreparable harm" that could be done.

The order was unusual, if not unique. The Associated Press quoted Alexander M. Bickel, the Yale law professor and author who is representing the *Times*, as saying before the ruling that issuance of a restraining order would mark the first time in United States history that a federal judge had ordered a newspaper not to publish something.

The *Times* went along with the court and canceled tomorrow's publication of the fourth part of the series. It was understood that the series had been halted at its approximate

point. It has already covered events up to the deployment of U.S. combat troops in 1965.

Meanwhile, the furor over the disclosures continued to mount. In Washington there were these developments:

1. Scores of senators and representatives voiced dismay at the *Times* disclosures, especially those indicating that the Johnson administration deliberately misled the public on its Vietnam plans. Senator Mike Mansfield (D., Mont.), the majority leader, said the Senate would hold hearings on the Pentagon documents.

2. William P. Rogers, the Secretary of State, said at a press conference that the disclosures are "going to cause a great deal of difficulty with governments outside the United States, with the foreign governments." He added that "if governments can't deal with us in any degree of confidentiality, it's going to be a very serious matter."

3. Ronald L. Ziegler, White House press secretary, attempted to dissociate the Nixon administration from the Johnson administration's credibility problem.

Mr. Ziegler said the government was obligated to take court action to stop the publication of "highly classified material." Otherwise, he explained, "the government would waive the responsibility to carry out

He acknowledged that the government may have overlooked similar security violations in the past, but he said this one could not be ignored because of "the scope" of the material. The decision to seek the restraining order was made by John N. Mitchell, Attorney General, and President Nixon "accepted the judgment," he said.

Mr. Ziegler, who in recent days has been saying the Nixon war policy represents a departure from that of previous administrations, was reminded by questioners that there are similarities between statements under President Nixon and statements under President Johnson. Asked to differentiate between them, he replied:

"The difference is that our record clearly shows that when we say it, we're doing it."

4. "So-Called Study"

At the State Department, Secretary Rogers dissociated the Nixon administration from the Pentagon documents.

"This so-called study was conducted during 1967 and 1968, so it was completed before this administration took office," he said, adding:

"We are concerned about how to get out of the war, and that is what we are doing. We hope that when the study is made of this administration it will be entitled 'How President Nixon Got the United States Out of the War in South Vietnam.'"

After the court ruling today, Senator Mansfield said that "regardless of what the decision of the court is, hearings will be held." He said they would be held "in as comprehensive a manner as possible" in open sessions of the Foreign Relations or Armed Services committees.

If neither committee agrees, he said, his own subcommittee on Far Eastern affairs will hold the hearings. In an earlier statement he said: "I would like to see the whole story laid out. . . I think the Congress and the

people are entitled to all the elements pertaining to this tragedy."

Mr. Mansfield said the hearings would dwell on the substance of the disclosures, not how the *Times* obtained the documents.

Senator Henry M. Jackson (D., Wash.) suggested to reporters that joint hearings be held

and Foreign Affairs committees. He said he saw no "serious breach of classified data" in the *Times* series. What he had read so far, he went on, dealt more with "political security" than national security.

The *Times* series began appearing today in the *Congressional Record*. It was inserted by three anti-war legislators, Senator George S. McGovern (D., S.D.), Representative Paul N. McCloskey, Jr. (R., Calif.) and Representative Michael Harrington (D., Mass.).

In Grand Rapids, Mich., Senator Hubert H. Humphrey (D., Minn.) said the Pentagon study quoted by the *Times* was "never brought to my attention." He said he was "shocked and surprised" at the disclosures, which largely cover the period in which he was vice president.

The Justice Department said the FBI was looking into possible criminal violations connected with the *Times* series. A spokesman cited a federal law making it a criminal offense for any person "having unauthorized possession" of classified material to communicate, deliver or transmit such document "to any person not entitled to receive it."

On Monday Jerry Friedheim, a Defense Department spokesman, noted another law that makes it a crime to publish classified information.

10 Years In Prison

Under the law, the penalty is 10 years in prison or a \$10,000 fine, or both.

Representative John E. Moss (D., Calif.), who has been active in press-freedom issues for some years, said there is no basis for a case against the *Times*. Only a government official could be found guilty of divulging secret material, he said.

"There is no basis for bringing a case against the newspaper," he said. "What that amounts to is censorship."

The Justice Department named as defendants today the New York *Times* Company and the following individuals:

Arthur Ochs Sulzberger, president and publisher; Harding F. Bancroft and Ivan Veit, executive vice presidents; Francis A. Cox, James C. Goodale, Sydney Gruson, Walter Mattson, John McCabe, John Mortimer and James Reston, vice presidents; John B. Oakes, editorial page director; A. M. Rosenthal, managing editor; Daniel Schwarz,

STAT

JOHNSON HID INVOLVEMENT

Times Report Traces Start Of Major Combat Role

By CHARLES W. CONDRY

Washington Bureau of The Sun

Washington, June 15—Pentagon records published today show that President Johnson made his momentous decision to use United States ground troops for offensive action in Vietnam on April 1, 1965, but banned any immediate publicity or official concession that a drastic policy shift was involved.

Events surrounding this major departure from the "never-again" attitude against ground war in Asia, which had persisted from the end of the Korean war, formed the highlights of the third in a series of New York Times articles.

The articles are based on "top secret" defense department studies of American involvement in Indochina from World War II to mid-1963. The government obtained a federal court order in New York today suspending further publication at least until Saturday.

Much Already Known

Much of what has been published, in news reports and textual material, documents in detail what had been generally known on the course of the war—particularly from the time just before the Tonkin Gulf episode of August, 1964, to the post-Tet offensive studies in the winter and spring of 1963 which ended the U.S. build-up in Vietnam.

But the secret documents and accompanying narrative in the Pentagon papers also dramatically expose instances when major policy shifts were concealed.

One was the decision on commitment of ground forces to offensive action, described in the Times as a result of the Johnson administration's discovery that the bombing of North Vietnam in early 1965 would not prevent the South's collapse.

Mr. Johnson's decision was recorded in a National Security Action Memorandum dated April 6, 1965, signed by McGeorge Bundy, and one of the huge numbers of documents the Times has published. Mr. Bundy was President Johnson's special assistant for national security.

The memo was addressed to Dean Rusk, Secretary of State, Robert S. McNamara, Secretary of Defense, and John A. McCone, director of central intelligence. It reported decisions taken April 1, including expansion of the forces in Vietnam, especially including additional marine battalions, and a "change of mission" for the Marines. That change called for "more active use" under conditions to be fixed by Secretaries McNamara and Rusk.

The Pentagon study called this a "pivotal" change and a "departure from a long-held policy" with momentous implications. But the Bundy-memorandum said Mr. Johnson desired that "premature publicity be avoided by all possible precautions."

The military actions were to be taken rapidly, "but in ways that should minimize any appearance of sudden changes in policy." Mr. Bundy wrote that "the President's desire is that these movements and changes should be understood as being gradual and wholly consistent with existing policy."

The public learned officially of the shift of ground forces to a combat—rather than defensive—role almost inadvertently when the State Department referred to it vaguely on the following June 8.

By that time, however, observers recall, Mr. Johnson's course was beginning to be apparent, for all the lack of official comment. In February, Marine anti-aircraft units had been deployed at Da Nang to protect the air base from which bombing originated.

In March, a battalion of Marine infantry had been sent to Vietnam, followed in May by activation of the big Marine headquarters in Da Nang and arrival of Army airborne troops.

The original purpose of the March deployment had been defense of the air base.

It had become clear during this period that the fragile South Vietnamese government and its Army faced collapse and that the "Rolling Thunder" bombing campaign against the North, started in February, 1965, would not prevent it.

The Pentagon study said "the bombing effort seemed to stiffen rather than soften Hanoi's backbone," and optimism waned after a month of the air campaign.

The choice then was to withdraw, or to go to war on the ground. There were deep differences within the administration, the Times noted, citing views of George W. Ball, then under secretary of state, and Mr. McCone.

Mr. Ball believed neither bombing nor ground fighting would solve the problem and proposed in a memorandum June 28 that the United States "cut its losses" and get out, according to the Pentagon account.

Mr. McCone, on the other hand, had argued in April that it would be unwise to commit ground troops unless there were also willingness to bomb the North with "minimum restraint" in an effort to break Hanoi's will.

But at that time, President Johnson was accepting the counsel of Gen. William C. Westmoreland, then American commander in Vietnam, using combat troops, and was in no mood for compromise, the Pentagon account indicates.

Regarding the commitment of ground forces, the Pentagon papers say there was a "subtle change in emphasis."

"Instead of simply denying the enemy victory and convincing him he could not win," the study says, "the thrust became defeating the enemy in the South. This was sanctioned implicitly as the only way to achieve the U.S. objective of a non-Communist South Vietnam."

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JUDGE, AT REQUEST OF U.S., HALTS TIMES VIETNAM SERIES FOUR DAYS ENDING HEARING ON INJUNCTION

ARGUMENT FRIDAY

Court Here Refuses to Order Return of Documents Now

By FRED P. GRAHAM

United States District Judge Murray I. Gurfein yesterday ordered The New York Times to halt publication of material from a secret Pentagon study of the Vietnam war for four days. Argument on publication thereafter will be heard Friday.

The judge granted a request by the Justice Department for temporary relief, but he gave no hint as to how he would eventually rule. He also refused to order The Times to return the massive report immediately to the Government.

Declaring that the case could be an important one in the history of relations between the Government and the press, Judge Gurfein said that the temporary harm done to The Times by his order "is far outweighed by the irreparable harm that could be done to the interests of the United States" if more articles and documents in the series were published while the case was in progress.

Statement by The Times

In a brief statement, The Times said that it "will comply with the restraining order issued by Judge Murray Gurfein.

"The Times will present its arguments against a permanent injunction at the hearing scheduled for Friday," the statement said.

Lawyers for The Times and the Justice Department told the judge, at the proceedings in the Federal District Court House at Foley Square, that this appeared to be the first time in the nation's history that a newspaper was being restrained by a court from publishing an article.

Meanwhile, the Justice Department disclosed in Washington that the Federal Bureau of Investigation was investigating possible violations of federal criminal laws in connection with publication of the secret documents.

"The F.B.I. investigates all allegations of federal criminal violations and is doing so in this case," said John W. Hushen, chief press spokesman for the department.

Judge Gurfein, in his first day on the bench after having taken his oath of office last week, acted upon the Justice Department's argument that the publication of further articles by The Times would inflict serious injury on the nation's international relations.

The 63-year-old judge deferred until Friday a decision on the Government's request that The Times be ordered immediately to return the voluminous documents from which its Vietnam series has been drawn.

Order Expires Saturday

The temporary restraining order issued by Judge Gurfein yesterday expires at 1 P.M. Saturday.

His action came a day after Attorney General John N. Mitchell had requested that The Times cease publishing the documents and The Times had refused to do so voluntarily.

Yesterday afternoon, the Justice Department filed a civil suit seeking to permanently enjoin The Times and 22 of its officers, editors and reporters from going forward with the series of articles on the origins of the Indochina war. Three installments had been published, including texts of official documents, and The Times had said that the series was to continue.

Word filtered through the city's legal community yesterday that the Government had requested an afternoon hearing on a temporary restraining order against The Times, and the courtroom, was packed—mostly with young lawyers and spectators—when the mustached judge took his seat in Room 605 of the United States Court House.

The arguments pitted a 30-year-old staff member of the United States Attorney's office, Michael D. Hess, against Prof. Alexander M. Bickel of the Yale Law School, a 46-year-old constitutional authority who has been mentioned as a possible Supreme Court nominee. Prof. Bickel represented The Times and its personnel.

The gist of the Government's argument was that The Times had violated a statute that makes it a crime for persons having "unauthorized possession" of Government documents to disclose their contents under circumstances that "could be used to the injury of the United States or to the advantage of any foreign nation."

In his argument, Mr. Hess asserted that "serious injuries are being inflicted on our foreign relations, to the benefit of other nations opposed to our form of government." He told the judge that Secretary of State William P. Rogers had said today that several friendly nations had expressed concern over the disclosures in the articles.

With the Government facing the prospect of "irreparable injury" in its international relations, Mr. Hess said, The Times

should be required to suffer a "slight delay" in its publication schedule until the case could be heard on Friday.

Otherwise, he said, the case would be mooted by publication of the material before a decision could be reached.

Professor Bickel, a tanned, dapper man in a brown suit and blue shirt, replied that this was a "classic case of censorship" that is forbidden by the first amendment's free-press guarantee. He also insisted that the statute being invoked by the Government was an anti-espionage law that had never been intended by Congress to be used against the press.

The law, Title 18 of the United States Code, Section 793, provides for a maximum punishment of 10 years' imprisonment and a \$10,000 fine against:

"Whoever having unauthorized possession of, access to, or control over any document . . . relating to the national defense, or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, wilfully communicates . . . the same to any person not entitled to receive it, or wilfully retains the same and fails to deliver it to the officer or employe of the United States entitled to receive it."

Mr. Bickel contended that to rely upon this wording to bar a newspaper from publishing certain matter "for the first time in this history of the republic" would set an unfortunate precedent. "A newspaper exists to publish, not to submit its publishing schedule to the United States Government," he argued.

2 Groups Ask to Be Heard

During a final discussion in his chambers, Judge Gurfein heard brief statements from two civil liberties groups that asked to be heard as friends of the

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Approved For Release 2006/01/03 : CIA-RDP80-01601R000400040001-6

SENATE STUDY SET

Roots of Involvement
Sought—Disclosure
Worries Rogers

By JOHN W. FINNEY

Special to The New York Times

WASHINGTON, June 15—Amid continuing Administration criticism of the publication by the New York Times of articles on a secret Pentagon study on Vietnam, Senator Mike Mansfield, the Senate Majority Leader, said today that a Senate committee would hold hearings on how the United States got involved in the war.

The Montana Democrat told newsmen that the hearings would be held regardless of the eventual decision by a Federal Court judge in New York, on The New York Times's publication of a series of articles on the Pentagon study.

At a State Department news conference, Secretary of State William P. Rogers said that the publication of the articles on the study was "a very serious matter that was going to cause "a great deal of difficulty" in the United States relations with foreign Governments. These, he said, will question whether they can deal with the United States on a confidential basis.

Seeks 'White Story'

Senator Mansfield, who heads the Senate Foreign Relations Subcommittee on the Far East, said the purpose of the hearings would not be to find "scapegoats" or to force The New York Times to disclose how it obtained the secret study, made in the Pentagon, on the origins of the American involvement in the Vietnam War.

Rather, he said, the purpose would be to "lay out the whole story before Congress and the American people" with the hope that it would be establish closer cooperation between Congress and the Executive on foreign policy and this "prevent future Vietnams."

As envisioned by Senator Mansfield, however, the proposed hearings would not be completely retrospective in nature, with an examination only of decisions made in the John F. Kennedy and Lyndon B. Johnson administrations. While he is still formulating plans, the Senate leader believes the hearings could provide a forum for an examination of the Nixon Administration's Vietnam policies as well as Congressional advice to the White House on how to end the war.

Senator Henry M. Jackson of Washington, who has been a leading Democratic hawk on the Vietnam war, said that he would press for a joint hearing by the Senate Armed Services Committee, of which he is a senior member, and the Foreign Relations Committee.

He said that such hearings, with testimony from former State Department and military officials, would try to find out "if we were not correct, where were we incorrect" and go into the "broader issues" of trying to draw lessons for the future from the Vietnam war.

Meanwhile, Nixon Administration officials were being careful not to get involved in the question of whether, on the basis of the Pentagon report, the Johnson Administration had misinformed or misled Congress about the steps it was taking to enlarge the war. Rather, Nixon Administration officials were focusing on whether security regulations and laws had been violated by the publication of articles on the Pentagon report by The New York Times.

Rogers Sees Violation

At the State Department news conference, Mr. Rogers said that the law dealing with the disclosure of classified information had clearly been violated since "the law clearly provides that secret documents and top secret documents should not become public until they are declassified."

Since articles based on the Pentagon study and some texts of documents accompanying it started appearing in The New York Times on Sunday, the Secretary of State said, the State Department has had demarches, or diplomatic inquiries, from foreign governments.

"If governments can't deal with us in any degree of con-

identiality," he said, "it's going to be a very serious matter."

Mr. Rogers made it clear that he was "not going to get involved in passing judgment on those events," particularly since the analysts and historians who prepared the study acknowledged that they did not have access to White House files. But more importantly, he said, "we are concerned about how to get out of the war, and that is what we are doing."

Ziegler Refuses to Comment

Similarly at the White House, the Presidential press secretary, Ronald L. Ziegler, refused to be drawn into a discussion of the contents of the report on the ground that the study dealt with "something that occurred in the previous administration. He said that the Nixon Administration had developed a new policy on Vietnam.

Under questioning by reporters, Mr. Ziegler also sought to emphasize that the Administration, in seeking a court injunction against further publication of the study, was seeking neither to quash the report nor to harrass The New York Times.

Rather, Mr. Ziegler took the position that the Administration had a statutory responsibility, once "highly classified material had been published," to seek the prevention of further publication of the material.

Mr. Ziegler said that President Nixon had not ordered Attorney General John N. Mitchell to ask The New York Times to refrain from further publication of the study. The Attorney General, the press secretary said, "informed the President that it was necessary to take the step so that the Government would not waive its responsibility to carry out the law . . . and the President accepted that judgment."

Senator Mansfield said that he was "delighted," that The Times had been publishing accounts based on the report, which had been prepared in 1967-68 by a large team of authors. It consisted of 3,000 pages of analysis and 4,000 pages of supporting documents.

Among Congressional Republicans, a common opinion was that the material published by The Times was far more damaging to the Democrats and the Johnson Administration than to the Nixon Administration.

"It is not harmful to this Administration," the Senate Republican leader, Hugh Scott, said. He said that the Nixon Ad-

ministration, when it took office, undertook a reassessment of Vietnam policy.

After a White House meeting with Republican legislative leaders, Senator Scott told reporters that there was a general feeling at the White House that the report was made public as a result of "an intraparty dispute" within the Democratic party.

While not criticizing The Times for its "editorial decision" in publishing its articles, Senator Scott said the study "should not have been stolen or leaked."

"In my judgment it was stolen," he said. "But I don't charge The Times. Somebody stole it."

Senator Mansfield and other congressional leaders felt that publication of the study would contribute to a growing disillusionment within Congress over the Vietnam war.

In the still sporadic reaction to the study, some of the harshest criticism was coming from Democrats. Senator Gaylord P. Nelson, Democrat of Wisconsin, said the documents "clearly show that those who made the decisions to deepen our involvement in the war in Vietnam were not only deluding the American public but deluding themselves as well."

"These documents do not contain any information that would endanger the national security," he said, "and it would be a disservice for any court to enjoin their further publication. Quite obviously these documents contain information embarrassing to the political and military leadership of the country, but that is no reason to deny the public information it is clearly entitled to have.

In Texas, a spokesman said former President Johnson would have no comment on the study under his policy of not granting interviews.

In Atlanta, Ga., the secretary of former Secretary of State Dean Rusk said he also would have no comment.

Humphrey Expresses Surprise

GRAND RAPIDS, Mich., June 15 (AP)—Senator Hubert H. Humphrey, who was President Johnson's Vice President, said today that the secret Pentagon study on Vietnam published by The New York Times was "never brought to my attention."

The Minnesota Democrat said that he remained unaware of the study during the time he

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continued

What's News

World-Wide

A U.S. JUDGE BARRED publication of The New York Times' Vietnam series.

The Times said it would comply with the temporary restraining order, which expires at 1 p.m. Saturday. The order had been requested by the Justice Department, which said the series on how the U.S. got involved in the Vietnam war "prejudiced the defense interests of the U.S." The agency also said the FBI is studying possible criminal violations arising from publication of the secret Pentagon study. The government's request that the newspaper be ordered to return the 47-volume study was denied by Judge Murray J. Gurfein, and the Times accused the government of an obvious attempt at "classic censorship."

Rep. Moss (D., Calif.), former chairman of the House Freedom of Information Committee, said the Times "violated no law, and . . . publication of . . . the report is very much a public service."

A public Senate inquiry into how the U.S. got involved in Vietnam will be held regardless of the final decision in the Times case, Senate Democratic Leader Mansfield said. He said the Times' disclosures "shocked me, surprised me and astounded me." Earlier, Sens. Jackson (D., Wash.) and Symington (D., Mo.) called for a thorough investigation to place the full story before the American people. And Sen. Humphrey (D., Minn.), Johnson's Vice President, said he was "shocked and surprised" by the information in the Times' series.

Rogers said publication of the hitherto secret papers "is going to cause a great deal of trouble." He explained that the State Department has had "many queries from other governments" as to how they could still deal with the U.S. with some assurance that confidential matters wouldn't be disclosed.

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The Vietnam 'secret' papers

THE dispute between the Justice Department and the New York Times over that newspaper's publishing top secret Pentagon documents on Vietnam probably has a long future in the courts.

At least two important rights are involved. One is the constitutional guarantee of freedom of the press, which the Times cites to justify its action. The other is the government's undoubted right to protect its secrets in the interest of national security.

The clash of these competing rights may well go to the Supreme Court and we cannot foresee the outcome.

But there are a number of points that are clear already.

The first among them is that somebody, possibly a present or former government official, stole or misappropriated large sections of a 47-volume study of U.S. involvement in Vietnam that was ordered by Defense Secretary Robert McNamara in 1967.

Turning over this highly classified material to the Times was a flagrant violation of the espionage law. The person or persons who betrayed their trust should be identified and tried.

The law is less clear about the Times' action in publishing the secret documents. The newspaper says that it resolved its doubts in favor of "the public's right to know," and that contention is difficult for another newspaper to criticize.

In general, governments keep matters secret for real reasons of security or to cover up official blunders and incompetence. In the latter case, it is the duty of the press to ferret out the story and make it public.

In the material published so far by

the Times, there is nothing startlingly new. The documents rightly stress that our unhappy involvement with Vietnam started under the Truman administration and was steadily deepened by the Eisenhower, Kennedy and Johnson administrations.

Some of the official papers suggest that President Johnson was deceitful as he led the country into massive involvement in Vietnam. But if Johnsonian trickiness is news to any citizen today, he has not been paying attention.

The papers also may be embarrassing in exposing the arrogance of the McNamaras, Bundys, Rostows and other intellectuals who were not military experts but overconfidently went to war with a people they did not understand. That too is hardly a breach of high security.

There were things, however, that should better have been left unpublished. The documents may have exposed some of our codes and military strategy. They "blew the cover" of a Canadian official who undertook missions for us to Hanoi. This could make foreign diplomats wary about helping out in the future.

Finally, there is the question of timing. The Times says it had the documents for three months. It started publishing them just days before the vote in the Senate on the McGovern-Hatfield amendment to order withdrawal of all U.S. troops from Vietnam by Dec. 31.

We would like to think that the material could not be edited any sooner, that it was published only because "the public has a right to know" and not to help antiwar senators pull the rug out from under President Nixon's Vietnam policy.

18 JUN 1971

Can Soviets crack it?

U.S. code now in danger

(UPI)—Government officials seem more disturbed about diplomatic and espionage consequences from publication by The New York Times of the secret Vietnam war history than by the facts revealed.

Of particular concern to many officials is the possibility that extensive publication of diplomatic and military cable texts might allow the Soviet Union to crack the code of other U.S. communications transmitted during the early 1960s.

"You may rest assured that no one is reading this series any more closely than the Soviet Embassy," one official said.

Others said the series had produced few surprises.

"If The Times had not printed all those texts," one official said, "very little might have been done. Stories about the study — by

themselves — would probably not have caused much reaction."

The Times, however, accompanied the three installments with numerous texts of high-level memos and cables. Many were messages between Washington and Saigon or other U.S. diplomatic and military outposts in Indochina.

In each case the sender, receiver and date of the message were given just before the text.

No one knows how many of these messages, transmitted in code, may have been intercepted by the Soviet Union. Security experts at the Pentagon and elsewhere operate on the assumption that any of them might have been intercepted.

They also assume that even the most sophisticated code may be broken by a cryptanalyst who obtains a "plaintext," or decoded version, of messages sent in that code. Once a code pattern is deciphered, other coded messages sent during that period — perhaps to entirely different areas and on entirely different subjects — might be read.

For these reasons, verbatim texts of diplomatic and military messages are almost never released and this is why The Times' printing of the texts generated concern.

16 JUN 1971

Judge Halts Publication Of War Study

By Philip Greer and Ken W. Clawson

Washington Post Staff Writers

A federal district judge yesterday ordered The New York Times to temporarily suspend publication of a secret Defense Department study of the origins and escalation of the Vietnam war.

After the ruling by U.S. District Judge Murray I. Gurfein, The New York Times attorney, Alexander M. Bickel of Yale University, said it was the first time in the history of the United States that a judge had prevented publication of all or part of a newspaper.

The Times agreed to abide by the New York district court's temporary restraining order, which is effective until 1 p.m. Saturday.

Judge Gurfein set a hearing for Friday morning on the government's request for a permanent injunction. The request includes a motion that Judge Gurfein order The Times to return to the government the top-secret documents on which the five-part series is based.

The Times has printed three installments of "The History of U.S. Decision-Making Process on Vietnam Policy," a 47-volume study of the decisions that led up to the escalation of the war in 1965. Two more installments remain to be published.

In an editorial that appeared only hours after Gurfein's decision was handed down, The Times said it "will continue to fight to the fullest possible extent of the law what we believe to be an unconstitutional prior restraint imposed by the Attorney General."

The editorial added that "Once this material fell into our hands, it was not only in the interests of the American people to publish it, but even more emphatically, it should have been an abnegation of

responsibility and a renunciation of our obligations under the First Amendment not to have published it."

After the hearing yesterday, Justice sources in Washington said the possibility of future criminal action against individuals at The New York Times and persons who presumably leaked the newspaper the secret documents is under serious consideration.

The FBI, under orders from the Justice Department, reportedly interviewed former high Johnson administration officials and other government officials who have access to 15 legitimate copies of the documents.

Some Justice sources said the government was more concerned about preventing the last two installments than it was those which have already appeared. One source said the government considered it vital to prevent publication of the remainder of the series.

"What's best in terms of headlines may not be the most damaging," the sources said, referring to the first three installments which started Sunday.

"The rest of the material may not be very interesting to the public, but we have reason to believe it would be more damaging to the nation."

Remaining to be published by The Times are excerpts from a study done by the Defense Department's weapons

Gulf Incident."

Yesterday's installment also indicated that No. 4 in the series was to deal with Vietnam-related activities of the Kennedy administration. In its initial story last Sunday, The Times said the documents cover the Truman and Eisenhower administrations involvement in the Vietnam situation as well. Mr. Nixon served as vice president in the Eisenhower administration.

Justice sources said the government moved against The Times' president and publisher, Arthur Ochs Sulzberger, 14 other executives and 7 reporters in a civil action because it was the fastest way to stop future publication of the articles.

The government's action yesterday was under Title 28, U.S. Code, Section 1345, which gives the U.S. the right to file civil actions.

But Justice Department sources said the criminal action "is in an advanced stage of our thinking." One source said there are several statutes under which criminal prosecutions could result. Under the espionage law, Title 18, U.S. Code, Section 793, conviction of release of top secret and secret documents to unauthorized persons, in this case the public, carries a possible \$10,000 fine and/or 10 years in prison.

Throughout the court hearing, Judge Gurfein made it clear that he did not intend to rule immediately on the broader issues involved in the government's action. Several times, he asked The Times' attorney whether a delay of a few days would cause the newspaper any problems.

And when Gurfein announced the restraining order at 5 p.m., a half hour before a Times deadline for knowing whether or not it had to remove the fourth installment from its first edition, the judge stressed the narrow nature of his decision:

"In my opinion, any temporary harm that may result from not publishing during the pendency of the application for a preliminary injunction is far outweighed by the irreparable harm that could be done to the interests of the U.S. government if it should ultimately prevail," he said.

The action are serious and funda-

mental. They involve not only matters of procedure but matters of substance and presumably of constitutional implication as well.

"I believe that the matter is so important and so involved in the history of the relationship between the security of

the government and the free press that a more thorough briefing than the parties have had an opportunity to do is required."

Gurfein, who was sworn in only last Thursday and who was on the bench for the first time as a district judge yesterday, started the hearing shortly before 1 p.m. But he recessed it almost immediately because the government attorneys had not filed their briefs with the court clerk. After consulting with his bailiff, Judge Gurfein ordered the government, which had attempted to file directly with the court, to follow normal procedures.

The government's brief and two accompanying affidavits were summarized by Michael D. Hess, an assistant U.S. attorney in charge of the civil rights division.

One of these, signed by J. Fred Buzhardt, general counsel for the Department of Defense, said that the "history of U.S. decision-making process on Vietnam policy," which The Times has been publishing, is classified "top secret—sensitive."

"The command and control study of the Tonkin Gulf incident done by the Defense Department's weapons system evaluation group in 1965," which the newspaper says it also has, is currently classified "top secret." In the case of each document, Buzhardt's affidavit says, publication "would prejudice the defense interests of the United States and result in irreparable injury to the national defense."

In the case of the Vietnam study, he said, "publication of the said excerpts has prejudiced the defense interests of the United States."

The other affidavit was signed by Robert C. Mardian,

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Court Holds Up War Disclosure

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By ROBERT WALTERS

Star Staff Writer

NEW YORK—The New York Times, complying with a court order sought by the Justice Department, today suspended publication of a series of stories on a highly classified Pentagon report on the Vietnam war.

Although it did not appeal the temporary court order, the Times argued that it is an unprecedented restraint on the press.

The Federal Bureau of Investigation is investigating possible criminal violations in connection with the Times stories, although that probe is understood to be directed mainly—at the moment—toward government sources who might have “leaked” the documents to the Times, rather than aimed at officials and employees of the newspaper itself.

The Justice Department indicated that the FBI is interviewing former and present government officials who might have had access to the 46-volume Pentagon document. There are 15 known copies of it.

Sources indicated last night that the department had “a lot more investigating to do” before it would decide whether to press any criminal charges. However, such charges remained a distinct possibility.

So far, officials have examined four laws that they think might have been violated by disclosure of the documents. The four deal either with handling of secret documents, or with protection of government property.

The temporary halt in the publication of the series was ordered by Federal Judge Murray I. Gurfein, following several hours of court hearings and negotiations between government and newspaper lawyers here yesterday.

Government Wins 1st Round

The seven-part series began in Sunday's editions of the Times, and only three installments had been printed by the time the Justice Department filed a civil suit in U.S. District Court here yesterday in an effort to stop publication on the grounds it violated national security interests.

Gurfein, after hearing arguments from both parties in a hastily arranged court session, granted the government's request for a temporary restraining order, prohibiting publication of the remaining four articles until 1 p.m. Saturday, at the earliest.

In effect, his order means that the Times cannot resume publication until Sunday morning's editions.

However, the issue probably will be more clearly defined—and possibly resolved—by then, because Gurfein's order yesterday also established Friday morning for an additional court hearing on a government motion for a temporary injunction against the Times.

A temporary injunction could delay future publication for weeks rather than days, but would require a more substantial showing of damage by the part of the government.

If government attorneys succeed in that second round, they would then seek a permanent injunction, which could bar publication of the classified data almost indefinitely.

The Times, however, could be expected to appeal any additional trial court order extending the current four-day suspension.

This is Gurfein's first week on the bench. He is 63 and was recently appointed to the court by President Nixon.

“In my opinion, any temporary harm that may result” from not publishing the series while the application for a preliminary injunction is pending “is far outweighed by the irreparable harm that could be done to the interests of the United States government if it should ultimately prevail,” Gurfein said.

The Judge's Feeling

During oral arguments before Gurfein, a Times lawyer argued that the issuance of a court order delaying publication for

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Mitchell Urges Halt To Series

New York, June 14 (AP)—The New York Times said tonight the Justice Department asked it to halt publication of a secret Pentagon study of the Vietnam war and threatened to seek an injunction tomorrow if the paper did not comply. The Times said it "must respectfully decline the request."

The Times said in a statement it believed "that it is in the interest of the people of this country to be informed of the material contained in this series of articles."

The Times said it had received a telegram from John N. Mitchell, the Attorney General, requesting that it stop publishing documents drawn from the 1968 Pentagon study because it will cause "irreparable harm to the defense interests of the United States."

Mr. Mitchell's telegram did not raise the possibility of an injunction, but the Times said another Justice official indicated his department's intention of seeking one.

partment, saying it had about half the copies and these were accounted for. Control of these was such that the Pentagon believes none of its copies was reproduced, he said.

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Times Said To Violate Security

By CHARLES W. CORDORY

Washington Bureau of The Sun

Washington, June 14—Melvin R. Laird, Secretary of Defense, said today a violation of law was involved in the publication of secret Pentagon studies on American involvement in Vietnam from its pre-1954 origins through the Lyndon B. Johnson era.

He told Congress he has asked the Justice Department to investigate how the documents, described as running to 7,000 pages, fell into the hands of the New York Times, which is running news reports and textual matter in a series:

In Short Order

The secretary indicated to the Senate Foreign Relations Committee, which has sought the Pentagon studies to no avail, that he thought an inquiry could find out in fairly short order how the law was broken.

Contending that "the publication of these papers violates the security regulations of the United States," Mr. Laird said he did not know who provided them to the Times but there was a limited number of copies "and they will not be hard to track down."

The Times, which began publishing the material yesterday,

said the data showed how four administrations, beginning with

President Harry Truman's, progressively became committed to a non-Communist Vietnam, became ready to fight the North to protect the South, and finally became more frustrated than public statements revealed.

Yesterday's installment dwelt on the 1954 months up to August when the Tonkin Gulf incident occurred and brought the congressional resolution on which the Johnson administration heavily based its future massive commitment of forces. During that year, the Times said, the administration intensified covert warfare against North Vietnam and in the spring began planning to wage war.

1954 "Consensus" Open

Today's installment recounted that the Johnson administration reached a "consensus" September 7, 1954, that air attacks on North Vietnam probably would have to be launched and, according to the Pentagon study, it was expected they would start early the following year.

This decision was made when Mr. Johnson was opposed in the 1954 election campaign by Senator Barry M. Goldwater (R., Ariz.), a bombing advocate, and one of the documents indicates the considerations of restraint the campaign imposed on the Democrats.

The Times said the Pentagon studies were commissioned in June, 1967, by Robert S. McNamara, then Defense Secretary, to see how the country got so deeply involved in Vietnam, and were completed a year later when Clark M. Clifford had become Defense chief. It said they required 30 to 40 authors and researchers, who compiled 2.5 million words of narrative and documents. The Times said there were "nearly 40" volumes and it had all but one.

"Classified And Sensitive"

Besides Mr. Laird's comments in Congress today, the Pentagon issued a formal statement which said:

"The Department of Defense must be and is concerned about the disclosure and publication of highly classified information affecting national security.

"The material remains classified and sensitive despite the fact that it covers a period that ended in 1968.

"It is our responsibility to call this violation of security to the attention of the Justice Department. We have done so.

"The government has the responsibility to determine what individual or individuals, if any, violated the laws relating to national security information by unauthorized disclosure of classified material."

Jerry W. Friedheim, Pentagon spokesman, said one pertinent law was 18 U.S. Code 793, covering unauthorized disclosure of

material detrimental to the United States. There are several other laws, it was indicated, governing what public officials may divulge.

At the Capitol, Secretary Laird would not answer directly whether he was accusing the Times of violating security regulations. Mr. Friedheim said that attorneys consider there are "ambiguities" in the law concerning those who publish security material and he knew of no suits against publishers that serve as precedents. Responsibility would usually fall on the person or persons who made such material available, he said.

It was understood that much of the material that came into the Times's hands had been labeled "top secret."

Some well-informed sources said one of the government's chief concerns was the publication of verbatim textual material, some of which may have passed between Washington and Saigon in code. Another was the disclosure of code words which, the sources contended, might enable foreign intelligence operatives to complete what previously had been jig-saw puzzles to them.

Canadian's Role

Yet another concern was the disclosure of the role of a Canadian official, J. Blair Seaborn, of the International Control Commission in Indochina. He carried Washington's warnings to Hanoi about escalation two months before the Tonkin Gulf incident.

In political terms, Republican sources contended, the published documents do not damage President Nixon because they deal chiefly with the ways that the Johnson administration became more deeply enmeshed in the war. The present administration's concern, such sources maintained, is with the breaches of security said to be involved.

Mr. Friedheim said there are only "a dozen or so" copies of the Pentagon studies, unless "unauthorized copies" were made. He implied the leak occurred outside the defense de-

A State Department spokesman reported late this afternoon that its copy of the Pentagon studies had been located "in the department's files." It took so long, he said, because no senior officials knew about the documents until reading the Times accounts and so "we didn't know where to begin looking." The studies could be but a partial history of the period covered, lacking numerous extra-Pentagon documents.

It became known that the White House received its first copy of the studies today. But spokesman there were at pains to indicate that President Nixon would learn nothing useful or new from the publications of which he first became aware Sunday.

Nixon Satisfied

Ronald L. Ziegler, the White House press secretary, was asked whether the President was satisfied that he already knew all the relevant information. Mr. Ziegler replied, "Yes." He noted that the president's first National Security Council Memorandum on assuming office, called for a study of the history the Vietnam involvement. The materials in the Pentagon studies were available to the White House staff then, though the complete studies were not, he said.

Mr. Ziegler sought to distinguish carefully between Johnson and Nixon administration policies, saying the latter were not a "continuation" of the former.

One Republican who saw it differently was Representative Paul N. McCloskey, Jr., of California, who threatens to try to unseat Mr. Nixon in presidential primaries. He said the Johnson administration's policy of "deliberately deceiving" the public continues in this administration.

In another reaction, Senator Goldwater recalled Mr. Johnson's campaign statements that "he would never send American boys to fight in Vietnam." Mr. Goldwater said, "I knew damned well he would," all the while that he, the senator, was being called "triggerhappy, warmonger, bomb-happy."

War critics saw the Times disclosures as evidence of how the were kept ignorant of the Johnson administration's plans.

Viet 'Secrets' Shy on Surprises,

By JERRY GREENE

Washington, June 14—There is something for almost everybody—friend and foe alike—in the lurid details now emerging of the creeping American involvement in the Vietnam war, a participation that grew deeper more swiftly than the public ever knew at the time.

The 40-volume study, a chronological account of U.S. plans, recommendations, decisions and operations covering U.S.-Vietnam relations and activities into

1968, contained no great surprises in the broad sweep of events. But when it broke into public view in the New York Times with reproductions of cablegrams, memoranda and military and diplomatic reports the capital was shaken in no small manner.

For the study, commissioned by former Defense Secretary Robert McNamara and completed after he left that job for presidency of the World Bank, lifted the secrecy lid on things that a nation normally keeps hidden for 25 years or so after the fact.

Foes and critics of the administration Vietnam policies, past and present, could find grim satisfaction in the revelation that the United States was directing secret South Vietnamese raids into North Vietnam a couple of years before American combat troops were committed to the conflict.

Political and personal enemies of former President Lyndon Johnson can find bitter justification of their contentions of perfidy. LBJ was portrayed as approving future bombing plans in September 1964, during a presidential political campaign, when he was boasting of restraint and belaboring Sen. Barry Goldwater (R-Ariz.) for being trigger-happy.

The fact of the political campaign of 1964 as well as the normal desire for secrecy in military planning led to deception of the American people as well as the Communists in Hanoi, and in some instances, more so.

Yet the friends and supporters of the Kennedy and Johnson administrations, under which the Vietnam commitment was solidified and expanded far beyond original intentions, could point to ample evidence that there was great restraint.

It is evident, for example, that Johnson rejected an elaborate, hard proposal advanced by some of his advisers that the U.S. adopt a strategy of provocation, seeking to draw Hanoi into taking action that would justify quick expansion of the war.

Johnson is shown consistently as holding back, turning aside from some of the more belligerent advisers, to find a way out without more war. There are fascinating accounts of how twice the U.S. persuaded Canada to send an envoy to Hanoi with warnings, and how both, to cool the war off before it got out of hand.

Some of his associates were urging a war-time resolution long before the

CAPITOL STUFF

controversial attack on two U.S. destroyers in the Gulf of Tonkin in August 1964; a draft of the document had been prepared as early as May of that year.

What comes through strongly from the study is the fact that the U.S. got mixed up in Vietnamese affairs during the Truman administration when a decision was made to help the French fight the "nationalist" Viet-Minh, then led by Ho Chi Minh, who was to show his Communist colors and establish a Red dictatorship in Hanoi only after defeat of the French.

Set Broad Commitment

Under the Eisenhower administration the course was set, to help rescue South Vietnam from Communist domination. The Kennedy administration turned the "limited risk" gamble into a "broad commitment."

By the time Johnson moved into the White House, events in South Vietnam had left him with a fairly clear-cut choice. He could pull the U.S. out of Southeast Asia or he could accept the unhappy probability of much more war.

What comes through even more strongly is the fact that Johnson was getting large amounts of advice about how to run a war from nonmilitary staff members, that there was division within the military on the course that could be followed, that somebody made an awfully wrong guess on how to fight a war in small doses.

The President had warnings. Some of the military people told him that Hanoi would not be scared off by token bombings, that the will of the Communists would not be easily broken. The President was told that some of the elaborate plans submitted to him simply wouldn't accomplish the stated objectives.

Aimed to Avoid Big War

But there was an appeal in this fit-for-fat warfare thing, and in the idea that the massive American threat would surely keep the North Vietnamese from pushing into the face of power and risking a big, deadly conflict.

And it was the "gradual war" path

Big on Villains

that was followed up to the deployment eventually of 550,000 troops, with no final, conclusive decision in sight.

It can be said safely that if Vietnam taught no other lesson, this involvement served as a convincer that the American public won't buy the concept of a limited war—certainly where the involvement is concealed or cloudy, and where the legitimate aims become obscured to the point of plain frustration and distrust.

The Nixon administration has no intimate concern with the historical account of the original involvement. The White House takes the position that it was given access to all basic information and President Nixon's concern is now working for disengagement, not in assessing blame.

But there is a grave worry around the capital that is shared by the present administration. That is the effect the disclosure of secret state papers may have on relations with other nations who may want diplomatic exchanges kept fairly secure. Hardly anybody could be expected to trust a blabbermouth.

U.S. Asks Lid on War File

Times Refuses, Expects Move For Injunction

By Carroll Kilpatrick
Washington Post Staff Writer

Attorney General John N. Mitchell asked The New York Times yesterday to cease further publication of a leaked secret Pentagon study on the Vietnam war.

The Times responded last night that it "must respectfully decline the request." In a statement the Times also said:

"We have been informed of the Attorney General's intention to seek an injunction against further publication. We believe that is properly a matter for the courts to decide. The Times will oppose any request for an injunction for the same reason that led us to publish the articles in the first place. We will, of course, abide by the final decision of the court."

Earlier in the day Secretary of Defense Melvin R. Laird, charging a breach of security, said he had requested the Justice Department to investigate the leak of the Pentagon study to the Times.

The Times, in its Tuesday edition, delayed one hour, said a telegram received by Publisher Arthur Ochs Sulzberger from Mitchell said the Attorney General had been informed by Laird that the material published by the newspaper "contains information relating to the national defense of the United States and bears a top-secret classification."

"As such, publication of this information is directly prohibited by the provisions of the espionage law . . ." the

Times quoted the telegram as saying. "Moreover, further publication of information of this character will cause irreparable injury to the defense interests of the United States."

The Times said the telegram also asked for the return of the documents to the Defense Department.

In Washington, John W. Hushen, Justice Department public information director, confirmed that Mitchell had sent the telegram and that Assistant Attorney General Robert C. Mardian had mentioned the possibility of an injunction to Harding F. Bancroft, an executive vice president of The Times.

"In response to questions from Harding F. Bancroft, who asked Robert Mardian what would be the government's position if The Times decided not to accede to the request, Mardian said that the government would seek to enforce all applicable statutes, including seeking an injunction to stop further publication," Hushen said.

Laird told the Senate Foreign Relations Committee that publication of the papers "violates the security regulations of the United States."

Asked if he knew how the papers fell into the hands of The Times, he replied:

"No, I do not. But there are a very limited number of copies and they will not be hard to track down."

At the White House, Press Secretary Ronald L. Ziegler said that a copy of the Pentagon study, which former Secretary of Defense Robert S. McNamara had ordered on the origins of U.S. involvement in the war, was delivered to the White House yesterday.

Ziegler also charged a security violation, but he would not say whether action would be brought against The Times, or against the person or persons who gave the document to the paper, if they are discovered.

Ziegler's comment was generally low key, suggesting that for the time being President Nixon wants to avoid arguing over how the U.S. became involved and whether the Johnson administration misled the public.

While public comment on the documents published in the Times was scarce yesterday, observers speculated on the possible im-

pact on administration policy, on the effect it may have on Senate debate on the McGovern-Hatfield amendment requiring a deadline on troop withdrawals and the long-term political effect.

The White House by its restrained comment indicated it may not have made up its mind on these questions and is awaiting further public reaction.

Ziegler emphasized that the President's first directive to the National Security Council after taking office was to conduct a thorough review of past Vietnam policies. The President then established a "new" policy which he has carried out, Ziegler said.

Although the President did not see the Pentagon study until yesterday, he had access to the papers used in the study as well as documents from other agencies, Ziegler said.

"Complete information" was available to the new administration, which made its own assessment of past policies and then developed its own policy, Ziegler emphasized. He gave no explanation of why the Pentagon document was not at the White House earlier.

The State Department found its copy of the Pentagon study yesterday after rummaging through departmental files. "We didn't know where to begin looking since none of the Department's senior officers was aware of the report," a spokesman said.

A copy of the study is in the Lyndon B. Johnson Library in Austin, Tex., and was available to Mr. Johnson in the preparation of his memoirs, which deals largely with the Vietnam war. The Johnson book is scheduled for publication in the late fall.

Sen. Barry M. Goldwater (R-Ariz.), who ran against Mr.

Johnson in 1964 and advocated air attacks on North Vietnam, said he knew all along that the Democratic administration was planning to escalate the war.

Nevertheless, President Johnson "kept reiterating that he would never send American boys to fight in Vietnam," Goldwater said.

"See, I was being called trigger-happy, warmonger, bomb-happy and all the time Johnson was saying he'd never send American boys; I knew damned well he would."

Senate Minority Leader Hugh Scott (R-Pa.) called the Pentagon report "instructive" and said: "I think the implication is shocking that a President would know things which he didn't say which ran counter to the themes of his campaign."

When Sen. Stuart Symington (D-Mo.) said Congress has "not known what is going on," Laird replied: "As Secretary of Defense I have not gone back to condemn acts by previous administrations but have tried to look to the future."

Symington, meanwhile, called for a full congressional inquiry into the disclosures, which he called "shocking." He said joint House-Senate hearings should be held.

Despite the fact that The Times obtained copies of the study, Laird declined immediately to make it available to Congress, commenting that "I hope we don't spend all of our time debating mistakes of the past."

STAT

U.S. to Seek Injunction

STAT

By LYLE DENNISTON

Star Staff Writer

The Justice Department apparently was preparing today to go into federal court to try to stop the New York Times from publishing any more secret Pentagon documents.

The Times last night was warned of this action by Asst. Atty. Gen. Robert C. Mardian, who is in charge of the department's Internal Security Division.

He telephoned Times executives, the newspaper reported in today's editions, not long before Atty. Gen. John N. Mitchell sent a telegram suggesting that the Times had violated a federal "espionage" law.

Mitchell also asked the Times to "publish no further information of this character" and to make arrangements to return the documents to the Defense Department, the Times reported.

The newspaper said Mardian had told its executives that if these requests were refused, the government would try today to forbid further publication by court order.

In reply, Times president-publisher Arthur Ochs Sulzberger said the newspaper "must respectfully decline the request of the attorney general, believing that it is in the interest of the people of this country to be informed of the material contained in this series of articles."

Further details and documents were published in today's editions. The Times' first edition appeared an hour later than usual last night, but there was no explanation.

Sulzberger said the issue of an order against further publications "is properly a matter for the courts to decide." While saying the Times would "oppose any request for an injunction," he said, the newspaper will of course abide by the final decision of the court.

The Times itself disclosed Mitchell's telegram, which pointedly commented that the documents were classified "top secret" and that "as such, publication of this information is directly prohibited by the provisions of the Espionage Law...."

The telegram added:

"Moreover, further publication of information of this character will cause irreparable injury to the defense interests of the United States."

Since the Justice Department was officially limiting its comments to conceding that the matter was "under consideration" at Defense Department request, the Times article was the only indication early today that the telegram was a prelude to possible legal action.

Espionage Law

The Espionage Law section to which Mitchell referred makes it a crime—punishable by fines of up to \$10,000 and prison terms of up to 10 years—to "knowing-

ly and willfully" give out classified information to an "unauthorized person," or to use such data in "any manner prejudicial to the safety or interest of the United States or for the benefit of any foreign government to the detriment of the United States."

An attempt by the Justice Department to get a court to enjoin further publication of the secret data or documents would raise major constitutional questions.

Court Decisions

A series of Supreme Court decisions dating back over several decades holds that the First Amendment protects the news media against "prior restraint" by officials—that is, attempts by officials to move, in advance, to stop an article or story from appearing.

That would be a major, and possibly insurmountable, barrier to a court order—an injunction or "restraining order"—to keep The Times from continuing its series.

Although the nation is still technically in a state of "national emergency," legal experts here doubt that this could be used now as a justification for trying to block further publication of The Times' series.

These analysts indicated that even a national emergency proclamation might be totally incapable of suspending the Constitution's "free press" clause. It is not clear, in fact, that the Constitution makes any provision for official actions that would temporarily annul the First Amendment.

The Supreme Court has ruled, many years ago, that there may be situations in which a "clear and present danger" would justify some controls on free speech, but it is unclear now whether that could be used as a justification for official censorship of the press.

Actions Possible

Aside from any attempt to stop the Times series, the Justice Department's investigation of the disclosure presumably could lead to either or both of these other legal actions:

1. The filing of charges or seeking of an indictment against the government officials, former officials or private citizens who handed out the documents, if

such a disclosure did occur.

2. Filing a case against the Times' staff if the department could prove that Times employees themselves took the documents from a protected place, location or person.

'Free Press' Protection

Since the Times, as a newspaper, is protected by the "free press" clause of the Constitution's First Amendment, both the department's official investigation and any subsequent prosecution might be complicated by constitutional issues.

If the department takes the issue to a federal grand jury, it could have difficulty getting subpoenas to order the Times to produce a reporter, editor or executive to testify.

The Supreme Court has agreed, in a major test case which, by coincidence, also involves the Times, to rule on the power of grand juries to order newsmen to appear or to testify. That ruling will not come until late this year or next year, however.

If a criminal prosecution does develop, the "free press" issue apparently would not be of major significance at the trial if the charges are leveled only at those who disclosed the documents to the Times.

However, if the Times were charged, that would be the crucial issue. The general right of newspapers to publish free of official restraints would be a main part of the legal defense. If there is a right to publish, it would probably be argued, there is a right to gather news.

Legal experts here concede that it might be quite difficult to prosecute the Times for merely inducing someone to give out the documents, but less difficult to prosecute it for "purloining" the documents itself. A prosecution for inducing a violation, however, could not be automatically ruled out.

The Pentagon Papers

There is no questioning the fact that the Pentagon study of America's involvement in Indochina is the most fascinating news story of the day. Other people's secrets are invariably intriguing. And when the diaries, the private letters, the gossip and the personal conversations involve presidents, ambassadors, generals, cabinet officers, and foreign heads of state, the fascination is irresistible.

So the massive secret Pentagon study, now being published in part by the New York Times, will be avidly read, here and around the world. It presents a unique insight into the operation of the executive, previously reserved for those at or near the top levels of government. It represents, so far as is known, a unique attempt by one part of a government to document and assess a complex sequence of events and decisions. It is certainly the first time that thousands of classified documents, accompanied by secret explanatory notes and interpretive text have been handed to a newspaper for publication.

There will unquestionably be a prolonged public debate — and quite possibly a judicial debate as well — about the propriety and the legality of the unauthorized delivery of the documents to the Times by the anonymous donor, and of the newspaper's decision to publish the classified material. It is an interesting topic for theoretical discussion. But of more immediate interest are the facts that have been revealed, and the use that will be made of those facts.

It is still too early to draw any final conclusions about the Pentagon papers. The public has only been shown a small sampling of the 40-volume work. The beans will be spilled in daily installments throughout this week, unless the government's legal move to halt publication is successful. Any final assessment of the material must wait until the job of letting us in on the government's secrets is completed.

It is possible, however, to draw some preliminary conclusions from the papers published to date. The Pentagon study restates the historical truism that the roots of our Vietnam involvement extend back to the Truman administration's de-

cision to support France in her colonial war in Indochina. It tends to confirm the general suspicion that Lyndon Johnson, during his campaign for the presidency, was something less than totally candid about the prospects for a widened war. It offers evidence that counters the widely held theory that the United States blundered blindly up the path of escalation, suggesting instead that President Johnson and his advisers had their eyes open when they took the fateful steps.

It is also possible, and even more important to recognize the limitations of the Pentagon study. It is not what many observers seem anxious to make it: A definitive history of the executive decision-making process on Indochina.

The study was ordered by Defense Secretary McNamara in 1967, at a time of personal despair over the progress of the war. It was carried out by some 40 researchers, historians and analysts who, according to published reports, shared the secretary's dim view. The material was drawn not from the entire executive branch; it was selected from the files of the Pentagon — one highly specialized arm of the executive. It is available to the public after a further process of refinement by the Times, which has made its own determination of what part of the 2.5-million-word study is fit to print. And most Americans will read a condensation of the Times condensation of the Pentagon condensation of one part of the total, infinitely complex picture.

The Pentagon study is a fascinating and important addition to the public understanding of the governmental process. Its release and publication also constitute a major security breach. It may dim a few illusions, tarnish a few reputations, embarrass a few allies, amuse and astound a few enemies. It unquestionably will provide much grist for Communist propaganda mills and intelligence services. But it should not, in view of its built-in limitations and distortions, be seized upon by Congress, the administration, or the public as a cause for panic. It must not be allowed to disturb, retard or accelerate the delicate process of disengagement, now so well under way.

EL PASO, TEX.
TIMES

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MAY 20 1971

Great Society Returns

LIKE THE GREAT Society, the Lyndon Baines Johnson Library is an undertaking of grand proportions. When completed, the eight-story marble building on the campus of the University of Texas at Austin will hold 31 million pages of documents, microfilms of six million papers, 3,000 political cartoons, 500,000 pictures, miles of movie film and thousands of mementos from the Johnson era.

With the LBJ School of Public affairs, it cost the university \$18 million—by far the most expensive presidential library-school complex yet constructed. Scholars studying the '60s will find there the most detailed and extensive record of any period in American history.

The library's formal dedication Saturday, promises to be an affair worthy of the celebrated Johnson hospitality. "Everybody in Austin" is invited—along with 22,000 out-of-towners, including the Nixons and Agnews. The former President will lead a tour through the public sections of the library, and preside at a Texas-style barbecue on the university lawns. Tour takers will see a reproduction of the oval office in the White House, complete with LBJ's presidential desk.

The "Great Hall," an enormous room with a 60-foot ceiling, houses

a carved presidential seal 10 yards wide, murals depicting Johnson's career, and a huge granite shaft inscribed with quotations from his speeches. Television monitors will flash scenes from his past. The library has its share of sentiment—Luci's wedding gown, campaign buttons, a moon rock from President Nixon. Also on display will be samples of the presidential papers. Harry Middleton, director of the library, says many of the papers will be open to researchers in about two years. But the real excitement may be delayed perhaps 20 years, until the FBI and CIA declassify secret papers relating to foreign affairs and national security.

The National Archives and Records Service of the General Services Administration will operate the Johnson Library, as it does the four other presidential libraries. They are the Hoover Library in West Branch, Iowa, the Franklin D. Roosevelt Library in Hyde Park, N. Y., the Truman Library in Independence, Mo., and the Eisenhower Library in Abilene, Kan.

Construction of the John F. Kennedy Library in Cambridge, Mass., has not yet begun.

The Johnson Library should be the type of monument any man would want and its tribute to the former president is most fitting.

MAY 1971

Lady Bird Tells of Library

By ISABELLE SHELTON
Star Staff Writer

AUSTIN, Tex.—“Luci” and “Lynda” already are encoined in wax in glass cases, each wearing her original wedding gown and accompanied by her smiling “maid of honor.”

Carol Channing’s red feather “Hello Dolly” hat, Maria Tallchief’s ballet shoes (with both toes autographed), and Carol Lawrence’s white gloves—mementoes of times when those stars performed at the White House—share another glass case.

In still another is a complete setting for a White House state dinner—an authentic Johnson china service plate (the firm made an extra one), Kennedy-era West Virginia wine and water goblets, and pearl-handled gold vermeil flatware. The latter are copies of the president’s mansion from France by President James Monroe, and rediscovered in White House storage by First Lady Jacqueline Kennedy.

Cases of Gifts

Still other cases contain handsome gifts from foreign chiefs of state, plus a sampling of the potpourri of gifts the American people like to shower upon their president—a crocheted American flag, a Maine lobster trap, an Indian chief’s long, feathered bonnet.

On the top floor is a seven-eighths reproduction of the oval presidential office in the White House, complete down to the actual desk Lyndon Johnson used while he was chief executive.

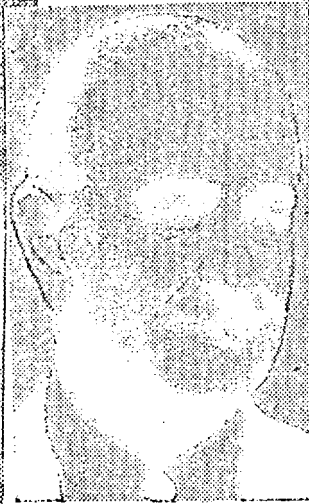
In short, the Lyndon Baines Johnson Library, 5½ years in the making, is about to open at the University of Texas in Austin.

Whether all the exhibits in the massive, eight-story, travertine marble-sheathed building actually will be ready in time for the formal dedication ceremony, set for 11:30 a.m. on Saturday, May 22, is still “very much a cliffhanger,” former First Lady, Lady Bird Johnson, confessed the day.



MRS. JOHNSON

It had better be ready, because everybody from President and Mrs. Nixon and Vice President and Mrs. Agnew to Lady Bird Johnson’s dress designers and the youngest Johnson grandchild — plus a rich cross section of other Americans, 2,000 strong — have been



LYNDON JOHNSON

invited to be on hand at that hour, and stay on afterward for a typical LBJ-style barbecue lunch.

But it was hard to believe the deadline would be met when Mrs. Johnson, who has been very involved in the planning and execution of the library since it first was a gleam in Lyndon Johnson’s eye, took reporters and photographers on a tour last Tuesday.

Group Cautioned

“Watch you don’t pitch head-first into a wheelbarrow of wet plaster or trip over a sawhorse,” she cautioned, as the group threaded its way through a busy beehive of workmen.

Lady Bird Johnson’s good right hand at the White House, Elizabeth Carpenter, drafted temporarily to help launch the library, asked some particularly noisy workmen to desist for a while, so the former First Lady’s words could be heard.

But reporters noted with amusement that Mrs. Johnson started them up again, as soon as she realized they had been silenced. There’s not one minute to spare, she obviously feels.

They tell a story of Johnson’s concern about the pace of the work that has everyone who knows the hard-driving

“Do you think you’ll have all this finished by 11:30 on the 22nd?” he is said to have asked the construction foreman nervously on one of his frequent unannounced forays through the building.

“Mr. President, could you give us until 4:30?” the foreman responded straightfaced, as if he had no idea that planes are flying people in from all over the country for the earlier hour.

The ‘True Heart’

While the eye-catching museum pieces such as a White House bridal gown, a cutaway view of a scale model of Air Force One, a moon rock (recently contributed by President Nixon) and innumerable campaign buttons, banners, songs and speeches down through the years are expected to be the crowd-pleasers, the “true heart and soul of the library” is the collection of 31 million Presidential papers from the LBJ years, Mrs. Johnson noted.

Through detailed tours of the other Presidential libraries—Herbert Hoover’s at West Branch, Iowa; Franklin Roosevelt’s at Hyde Park, N.Y.; Harry Truman’s at Independence, Mo., and Dwight Eisenhower’s at Abilene, Kans.—seeking ideas for her husband’s, Mrs. Johnson said, she learned that “the tourists come in thousands, while the scholars come in trickles.”

Yet it is the historic papers that are the library’s reason for being, she said, and “we wanted the tourists to be reminded of that too,” whereas too often scholars work in the basement in dusty stacks, their existence unrealized by the tourists.

Mrs. Johnson and LBJ Library officials think Architect Gordon Bunshaft of Skidmore, Owings and Merrill, who designed the LBJ library, solved that problem in a striking, imaginative way by making one wall filled with bright red buckram file boxes the main visual focus in the huge 60-foot-high “Great Hall” that occupies one whole end of the building. A 34-foot Presidential seal is carved in marble on the facing wall.

6 MAY 1971

The Washington Merry-Go-Round

Politics Snagging Space Secrets

STAT

By Jack Anderson

Administration officials have been playing politics with some of the most sensitive secrets that come into the Pentagon—namely, the intelligence gleaned from our space photography.

The film packets are dropped from space over the Pacific and snagged out of the air by Air Force planes. The films then are analyzed by photo experts who can determine from the advance preparations that a hole in the ground is intended as a missile silo.

This satellite reconnaissance intelligence, known by the secret code name "Tango-Kilo," is sent to the Special Activities Office in the Pentagon. The intelligence is so tightly guarded that some of the Pentagon's own intelligence analysts can't get a T-K clearance.

In fact, Adm. John McCain, Pacific commander, complained last year that the severe security restrictions on T-K sightings are causing an intelligence gap. In a message marked for the eyes only of Adm. Thomas Moorer, the Joint Chiefs' chairman, McCain pleaded that the men who prepare our intelligence

posture need better access to T-K secrets to avoid misinterpretations.

Yet Defense Secretary Mel Laird and CIA Chief Richard Helms have been giving out selective T-K intelligence to favorite senators to win support for the defense budget.

They have warned, in closed-door briefings, that the Soviets are deploying new monster missiles. This is information straight out of the supersecret T-K files.

Satellite sightings showed that the Soviets stopped deploying their huge, multi-warhead SS-9 missiles at the 300 level, then started digging even bigger silos for the monster missiles. More than 40 huge holes have been dug, but the new missiles have neither been tested nor installed.

Meanwhile, selective T-K information, so secret it is sometimes withheld from our intelligence experts, can be leaked to the public, apparently, when it suits the Administration's purposes.

HHH Rates Rivals

Hubert Humphrey's secret political files contain some fascinating assessments of his Democratic presidential rivals.

He made the assessments in 1968 when he was choosing a running mate. At least two of the men he then considered are now trying to beat him out for the 1972 presidential nomination.

We have seen the confidential papers, which show how Humphrey rated Senators Ed Muskie and George McGovern in 1968. Humphrey boiled down the case for and against each man.

Evaluating Muskie, Humphrey summarized:

"Pro: A former governor, a respected senator, he is well liked and would appear qualified and fully experienced. His Polish-Catholic background could also be helpful. Poles, who are likely to be in the white backlash force, are concentrated in nine states, representing 196 electoral votes, ranging from Ohio where they are 1.5 per cent of the population to Connecticut where they are 4.7 per cent of the population (Connecticut, New York, New Jersey, Illinois, Michigan, Pennsylvania, Massachusetts, Wisconsin, Ohio).

"Con: Does he show enough energy and other attributes of genuine leadership?"

Rating McGovern, Humphrey wrote:

"Pro: His peace identification and Kennedy relationship would attract some Kennedy supporters and heal some Vietnam political wounds.

"Con: He is unknown, does not communicate strength or leadership capacity."

Washington Whirl

DRUGS AT MYLAI? — There were rumors that some of the soldiers, who gunned

down women and children at Mylai, were high on drugs. A study of addiction in the Americal division, which was responsible for the Mylai massacre, was completed in September, 1970—13 months after the massacre. This made no attempt to show the relationship between the use of drugs and the killings. But it declared shockingly: "Drugs represent a real problem for a combat unit. Approximately five per cent of the division are in reality addicts." This contradicts the official Pentagon line that the drug problem hasn't affected combat.

NIXON AIDES DISABILITY—President Nixon was irritated over a press conference question last week about Lt. Jonathan Rose, who has been on loan to the White House for two years, thus avoiding active military duty. Rose happens to be the son of H. Chapman Rose, a Nixon friend and GOP fund raiser. The President explained that the lieutenant "has a physical disability, an injury to his shoulder, which disqualifies him from active combat duty." This disability, however, doesn't keep him from playing tennis and squash at the White House. When we asked young Rose about this, he explained that he has a dislocatable left shoulder. This, he said, doesn't interfere with his tennis and squash, which he plays with his right hand.

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The Washington Merry-Go-Round

Adm. Moorer Aids Inter-Agency Spies

By Jack Anderson

International espionage is seldom as efficient as the inter-departmental spying that goes on in Washington.

The rivalry between some government departments is so intense that they spy on one another like suspicious spouses. The armed forces, for instance, watch each other jealously. The Central Intelligence Agency never makes a move without the Defense Intelligence Agency keeping close surveillance. And when a State Department employee enters the Pentagon he takes the same precautions as if he were entering enemy territory.

No daily document is more sensitive than "The President's Daily Intelligence Briefing," which the CIA prepares for President Nixon. It is loaded with SI (Special Intelligence) items, country by country, on long sheets tucked into a white folder with blue lettering.

To possess a copy of the President's private intelligence digest is the ultimate status symbol. Those who see it are men of consequence, indeed. But for the DIA, which is eager to know what the CIA knows, access to this exclusive document is a matter of utmost priority.

Our own spies tell us that

the DIA regularly gets a copy. It is smuggled to them by Adm. Thomas Moorer, the joint chiefs' chairman, who has sufficient standing to get on the distribution list.

To make unauthorized copies of this sensitive presidential digest is akin to counterfeiting holy writ. Yet our spies have spotted a Moorer aide, who is entrusted with the admiral's eyes-only messages, furtively running off copies on a DIA copying machine.

Another supersecret document is the State Department's intelligence round-up from embassies around the world. The department guards this so jealously that it is stamped, "NODIS," which means it isn't supposed to be distributed outside State's own elite.

What they don't know, however, is that a Pentagon pigeon in their midst runs off unauthorized copies and sneaks them in a plain brown manila envelope to the joint chiefs chairman and the DIA director.

Thus do government agencies, in the best cloak-and-dagger tradition, snoop upon one another.

L. B. J. Library Near Completion

STAT

By MARTIN WALDRON
Special to The New York Times

AUSTIN, Tex., April 10--The Lyndon Baines Johnson Library, now nearing completion, will be somewhat smaller than the Great Pyramid at Giza, but it will have a lot more in it.

Among other things, the L.B.J. Library, which will be the sixth Presidential library, will have 31 million pages of documents, 500,000 photographs of former President Johnson and thousands of bits of memorabilia of his career, some only sentimental, others of historical importance.

The library is to be dedicated May 22. This week, dozens of workmen, some trudging around slowly filling small carts, were putting the finishing touches on the library in an \$18-million complex on the University of Texas campus.

Harry Middleton, the director of the library, said it would be about two years before any of the Presidential papers were open to researchers.

It may be decades before most of the really important papers are declassified, he said. These are now classified top secret or even higher--ratings of such agencies as the State Department and the Central Intelligence Agency.

Some Samples Shown

To give some of the flavor of Mr. Johnson's papers during a press preview, the museum staff picked a dozen examples that will go on display when the library opens.

They included the following:

Two pages of notes that Mr. Johnson made during a meeting in June, 1967, with Premier Aleksai N. Kosygin of the Soviet Union.

A handwritten invitation from Ambassador Anatoly F. Dobrynin to visit the Soviet Union. It was delivered to Mr. Johnson on Aug. 19, 1968, the day before the Soviet invasion of Czechoslovakia.

A memorandum from President Kennedy directing Mr. Johnson, who was then Vice President, to speed up the United States space program.

A handwritten note from Mrs. Johnson to President Johnson on the day the National Democratic Convention opened in 1964, reading: "Beloved, you are as brave a man as Harry Truman--or F.D.R.--or Lincoln. You can go on to find some peace, some achievement amidst all the pain. You have been strong, patient, determined beyond any words of mine to express."

"I honor you for it. So does most of the country. To stop now would be wrong for your country, and you can see nothing but a lonely wasteland for your future. Your friends would be frozen in embarrassed silence and your enemies jeering."

"I am not afraid of time or loss or losing money or defeat. In the final analysis, I can't carry any of the burdens you talked of--as I know it is only your choice. But I know you are as brave as any of the 35."

"I love you always, Bird."

Many Floors, Unfinished

Although many of the library's floors still are unfinished and some doors, walls and display cases are not in place, Evans Walker, the assistant director of the library, said it would be completed on time.

The library, a nine-story cube without windows or outside ornamentation, was begun in September, 1967, some months before Mr. Johnson decided not to seek a second full term as President.

The building will be air-conditioned with humidity control to protect the vast files through which historians and other scholars will be poring for years.

Other Presidential libraries are those of Herbert Hoover at West Branch, Iowa; Franklin D. Roosevelt at Hyde Park, N. Y.; Harry S. Truman at Independence, Mo.; and Dwight D. Eisenhower at Abilene, Kan. Construction of the John F. Kennedy Library at Cambridge, Mass., has not begun.

Although the L.B.J. Library will be on the campus of the University of Texas, it will be administered by the National Archives and Records Service of the General Services Administration. It will have 35 staff members.

Alongside it is the Lyndon Baines Johnson School of Public Affairs. Who's dean is Dr. John A. Gronouski, Ambassador to Poland and Postmaster General in the Johnson Administration.

The \$18-million cost of the library complex includes the Sid Richardson Hall, which houses the School of Public Affairs. The long slender hall, named after the late Fort Worth oilman, who was a friend of Mr. Johnson--already is in use. It is 235 feet long and 60 feet wide.

Great Hall Dominates

The library itself is dominated on the inside by a "Great Hall," a tremendous room with 60-foot ceilings. On the south side of the room, there will be a panel of photographs depicting Mr. Johnson's political career. The panel will be 8 feet high and 50 feet long. Above it, about 15 per cent of the Presidential papers will be stored in red buckram boxes, which, set through glass walls, will add a dimension of color to the cream-toned travertine marble of which the building is made.

On the north wall of the Great Hall, artists have carved a Presidential seal 34 feet in diameter. Ceiling lights illuminate it.

Scattered about the first and eighth floors and the Great Hall--the only areas which will be open for tourists--there will be a dozen or so television monitors where the life and times of Mr. Johnson, his family and his friends will be depicted from 9 A.M. until 5 P.M. daily.

Some treasured personal items, on loan from the Johnson family, will be on view in brass-bracketed display cases.

On the eighth floor, there will be a copy of the Oval Room, one of the Presidential offices in the White House. Because of space limitations, it will be only seven-eighths the size of the actual White House office.

Mr. Walker said Mr. Johnson, who has taken an active interest in the planning and the furnishing of the library, will use the Oval Room as an office on occasion.

Mrs. Johnson Active

Mrs. Johnson has also taken an active role in helping develop the public displays in the library. Workers in the building have become accustomed to seeing her striding purposefully around, suggest-

Many of the items and documents to be displayed in the library were preserved because of Mr. Johnson's foresight.

Since he was majority leader of the Senate, he has had an employe to collect and preserve his papers and mementos.

In 1938, Mrs. Dorothy F. Territo was assigned to this job by the Library of Congress and she has remained on his staff. She is special assistant to the director of the L.B.J. Library and is helping develop a filing system for the papers.

During Mr. Johnson's White House years, Mrs. Territo was kept busy claiming items for the library. In her book, "Ruffles and Flourishes," Mrs. Elizabeth Carpenter, who was Mrs. Johnson's press secretary, referred to Mrs. Territo as the "string saver."

When Luci Johnson was married on Aug. 6, 1936, Mrs. Territo was on hand to grab a bridal bouquet for a special exhibit planned for the library.

Two 12-foot glass display cases have been erected in the library to hold mementos from the weddings of the Johnsons' two daughters.

Mr. Walker, the assistant director of the library, said that declassification of the top-secret documents would be held in a routine way. Periodically, he said, reviews will be made by the State Department, the Central Intelligence Agency and the library staff to determine which papers can be made available. Pending their declassification, the classified documents will be stored in vaults in the basement.