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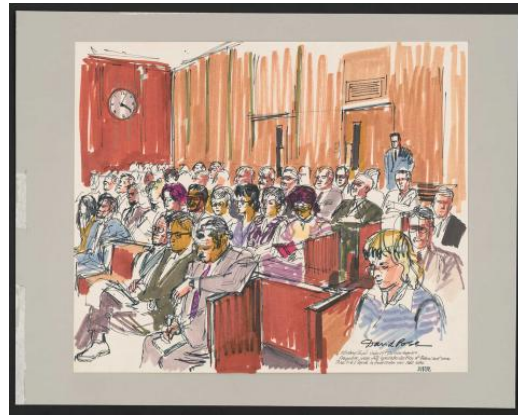
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David Rose created this illustration of a scene which occurred on 14 July 1972 in a federal courtroom in LA. With three FBI agents taking notes in the front row, prospective jurors wait to see if their numbers will be called to decide the fate of Daniel Ellsberg and Anthony Russo. Rose gifted this work to the Library of Congress where it is maintained today. Copyright Estate of David Rose; online via Library of Congress. Click on the image for a full-page view.

Within two weeks of the government's efforts to quash and/or "spin" the story (the links are audio clips of President Nixon discussing the situation with various advisors), the U.S. Supreme Court allowed the press to publish the secret documents (known, collectively, as "The Pentagon Papers").

Although the Court issued a *per curiam* (unanimous) decision, in *New York Times Co. v United States*, Justice Black wrote a scathing concurring opinion (joined by Justice Douglas):

In the First Amendment, the Founding Fathers gave the free press the protection it must have to fulfill its essential role in our democracy.

The press was to serve the governed, not the governors.

The Government's power to censor the press was abolished so that the press would remain forever free to censure the Government.

The press was protected so that it could bare the secrets of government and inform the people.

Only a free and unrestrained press can effectively expose deception in government.

And paramount among the responsibilities of a free press is the duty to prevent any part of the government from deceiving the people and sending them off to distant lands to die of foreign fevers and foreign shot and shell.

In my view, far from deserving condemnation for their courageous reporting, the New York Times, the Washington Post, and other newspapers should be commended for serving the purpose that the Founding Fathers saw so clearly. In revealing the workings of governments that led to the Vietnam war, the newspapers nobly did precisely that which the Founders hoped and trusted they would do.

By July, everyone was reading about the government's non-disclosures, misrepresentations, faulty planning and manipulation of facts.

Soon after the first story ran in the *New York Times*, the government obtained indictments against Daniel Ellsberg, and fellow whistle-blower Anthony Russo, but a federal court declared a mistrial on May 11, 1973. The reason? The judge was outraged by evidence disclosed during trial:

- The government had tapped Ellsberg's phone without a permit and then claimed the wiretapping logs were "lost."

- The Nixon Administration's "plumbers," looking for incriminating material against Ellsberg, broke into his professional office. (They found nothing of value.)

Insuring that the government would not attempt to try Ellsberg and Russo again, the court stated:

Under all the circumstances, I believe that the defendants should not have to run the risk, present under existing authorities, that they might be tried again before a different jury. (Quoted by Daniel Ellsberg in his book, *Secrets: A Memoir of Vietnam and the Pentagon Papers*, at page 456.)

See Alignments to State and Common Core standards for this story online at:

<http://www.awesomestories.com/asset/AcademicAlignment/CASE-DISMISSED-Pentagon-Papers>

See Learning Tasks for this story online at:

<http://www.awesomestories.com/asset/AcademicActivities/CASE-DISMISSED-Pentagon-Papers>