

## Cases of Historical Interest In the Southern District of New York

### **United States v. New York Times Co. (Pentagon Papers)**

Judge Murray I. Gurfein

On June 13, 1971, The New York Times began publishing a series of articles about a classified Department of Defense study of the origins and conduct of the war in Vietnam. Daniel Ellsberg, an author of the study, had secretly provided the study to The Times and The Washington Post. Attorney General John Mitchell requested The Times to cease publication because it would cause “irreparable injury to the defense interests of the United States.” In his first week as a judge of the District Court, Judge Gurfein presided over the case. On June 15, he granted a temporary restraining order until the application for an injunction could be heard. On June 19, Judge Gurfein denied the government’s request for a preliminary injunction. He held that the government had failed to show that the publication would “seriously breach the national security.” He wrote, “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.” On June 30, the Supreme Court upheld the right of the Times (and other newspapers) to publish the Papers.

<http://law2.umkc.edu/faculty/projects/ftrials/ellsberg/ellsberghome.html>

328 F.Supp. 324 (1971)



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