

Ellsberg Takes Stand To Defend Disclosure

4/11/73

By Sanford J. Ungar

Washington Post Staff Writer

LOS ANGELES, April 10—Daniel Ellsberg, the former Defense Department official who disclosed the top-secret Pentagon Papers to the public 22 months ago, took the witness stand in federal court here today to defend himself against charges of conspiracy, espionage and theft of government property.

Smiling nervously at the jury of ten women and two men that has been sitting in the Pentagon Papers trial since Jan. 16, Ellsberg launched into a description of his educational and military background.

No, sooner had his chief at-

torney, Leonard B. Boudin, posed his first question—when and where Ellsberg was born—than David R. Nissen, the chief prosecutor in the case, objected that the information was “immaterial.”

U.S. District Court Judge W. Matt Byrne Jr. permitted the defendant to say that he was born in Chicago 42 years ago last weekend, but he drew the line a few minutes later when Ellsberg began to describe “conferences of scholars” which he attended over the years.

With his wife, Patricia, and his 17-year-old son by an ear-

See PAPERS, A12, Col. 1

PAPERS, From A1

Her marriage. Robert, beaming in the front row, Ellsberg told the packed, hushed courtroom of his studies of economic theory at Harvard and at Cambridge University in England and of his enlistment in the Marine Corps in 1954.

Ellsberg spoke so softly that Byrne had to remind him repeatedly to “keep your voice up.”

Most of the initial questions put to Ellsberg were intended to establish his “state of mind” in 1969, when he and Anthony J. Russo Jr., then a former colleague from the Rand Corp., first photocopied the classified history of American involvement in Southeast Asia.

Neither man denies copying the documents, but they say they broke no law by doing so.

As Russo described it in his final testimony this afternoon before Ellsberg took the stand, “We decided to get the documents to Sen. Fulbright (J. W. Fulbright (D-Ark.), chairman of the Senate Foreign Relations Committee), to the Congress and to the American people.”

Nissen completed his cross-examination of Russo this afternoon.

For hours, the Justice Department attorney sparred with the man he had unsuccessfully tried to bring before the federal grand jury here investigating disclosure of the documents in 1971.

Russo declined to give di-

rect answers to most of Nissen's questions about whether he was aware at the time of photocopying the papers that Ellsberg had no authority to remove them from the Rand Corp.

Asked about Ellsberg's use of the documents in the course of “official duties,” for example, Russo replied that “any American who cared about his country and knew (about the papers) would consider it a duty to get these documents to Congress and the American people.”

“I have problems with the narrow definition of ‘official duties,’” Russo continued before Judge Byrne cut him off.

At another point, Nissen asked the defendant whether he knew that no one was sup-

posed to have access to classified material without a security clearance.

Russo responded: “In Saigon (where he once worked for the Rand Corp.) I had seen government officials give out materials that were stamped classified all the time. The rules were designed to serve special interests in government. If a government official had information that made him look good, he would leak it. If it didn't make him look good, then the strict rules would apply.”

Although the judge struck many of Russo's rambling answers from the trial record today, he permitted that one to stand.

Russo also declined to accept the official government

definition of a “need-to-know” the contents of classified documents. He insisted that “every American citizen” had a “need to know” the contents of the Pentagon Papers and that this was why he helped Ellsberg copy them.

Russo's Attorney, Leonard I. Weinglass, fought a running—and generally unsuccessful—battle today to prevent Nissen from implying that Russo had copied more than the 10 top-secret volumes with which he is specifically charged in the indictment in this case.

But to his own legal team's exasperation, the defendant readily acknowledged that he “might have” copied others. The only guideline he had available, Russo said, was the testimony of an FBI finger-

print expert as to which volumes he had handled.

“If you have evidence that I copied others,” Russo told the prosecutor, “I wouldn't deny doing it. . . it's an honor.”