

ELLSBERG JURY TOLD OF TAPPING

Ex-U.S. Aide Says Papers

Disclosure Did No Harm

3/29/73

By MARTIN ARNOLD

Special to The New York Times

LOS ANGELES, March 28—

Wiretapping on a grand, international scale is an accepted fact of diplomatic life, a defense witness testified today at the Pentagon papers trial.

The witness was Adrian S. Fisher, dean of Georgetown University Law School, who from 1961 to 1969 was deputy director of the United States Arms Control and Disarmament Agency.

He said that such international electronic interception of diplomatic messages was "a general fact of international life."

"It has been of general knowledge as far back as the Pearl Harbor investigation that every country monitors the communications of every other country," Mr. Fisher said.

Mr. Fisher, who has been per-

forming various diplomatic and negotiating chores for the United States since World War II, was called upon to testify by attorneys for Dr. Daniel Ellsberg and Anthony J. Russo Jr., the defendants, as a diplomatic expert.

The Government contends that in 1971 when the secret Pentagon study on the Vietnam War was published this country's national defense was injured, since the papers disclosed that in 1968 British intelligence was wiretapping conversations between the Soviet Premier, Aleksei N. Kosygin, then visiting London, and the Russian Communist party chief, Leonid I. Brezhnev, in Moscow.

The papers tells about the wiretap, and reveals that the contents of the tap were turned over to the United States Government.

But Mr. Fisher said that such taps were common, and that every nation knew they took place and acted accordingly.

Mr. Fisher is a large, expansive man, with the rugged looks of a retired heavyweight prizefighter. He listed a number of international negotiating sessions that he had attended since World War II, and he said that in most he had played "a junior role."

Mr. Fisher testified that disclosure of two of the so-called "diplomatic" volumes of the Pentagon papers had not injured the national defense, had not prejudiced the national defense and had not been of advantage to a foreign country.

He said that disclosure of the two volumes was not injurious to the United States in 1969—the year in which the defendants are accused of having stolen and copied them—because, among other reasons, by that time "events had overtaken them."

Under cross-examination by David R. Nissen, the chief prosecutor, Mr. Fisher said that negotiations were usually undertaken in secrecy, but that no negotiator could guarantee that the President of the United

States would keep the secrets of diplomacy; and, further, that such secrets were seldom kept for very long.

Mr. Nissen was attempting to make the point that disclosure of diplomatic secrets—such as those contained in the two volumes—was injurious to this country because it made foreign countries lose confidence in our negotiating efforts.

Dr. Ellsberg and Mr. Russo are accused of six counts of espionage, six counts of theft and one count of conspiracy.

F: Under cross-examination by David R. Nissen, the chief prosecutor, Mr. Fisher said that negotiations were usually undertaken in secrecy, but that no negotiator could guarantee that the President of the United