

MAR 21 1973

NYTimes

ELLSBERG WITNESS EXPLAINS SECRECY

Says Nothing in Documents
Proves Their Authenticity

By MARTIN ARNOLD

Special to The New York Times

LOS ANGELES, March 20—
The late Ho Chi Minh would
have had to telephone the De-
fense Department to determine
whether one of the "top secret"
documents in the Pentagon
papers trial was genuine, a de-
fense witness testified today.

The witness was William G.
Florence, who spent 43 years
as an Air Force officer and a
civilian working in Federal
bureaucracy on the classifica-
tion of Government secrets.

During long cross-examina-
tion from David R. Nissen, the
chief prosecutor, Mr. Florence
said that one of the documents
in this case, a 1968 Joint Chiefs
of Staff memorandum, would
have been virtually useless to
foreign intelligence because
there was nothing in the docu-
ment itself to authenticate
whether it was genuine.

"It could have been counter-
feited?" Mr. Nissen asked.

"It could be a counterfeit,"
Mr. Florence replied.

"You mean he'd have to
telephone and say, 'This is Ho
Chi Min; I'd like to know
whether this is genuine?'" Mr.
Nissen asked.

"If he wanted to do it [to
know] I'm sure he would,"
answered Mr. Florence.

Indirect Defense Route

Mr. Florence, who has been
testifying for several days,
squinted through his black-
rimmed glasses at the jury and
the prosecutor, rattling off the
various divisions and sub-
divisions of the Government's
classification regulations.

He was there mainly to at-
tack the Government's system
of classifying documents, but
United States District Court
Judge William Matthew Byrne
Jr. has refused to allow Daniel
Ellsberg and Anthony J. Russo
Jr., the defendants, to mount a
direct attack on the system. As
a result, Mr. Florence is at-
tempting to do it indirectly.

His answers were long and
convoluted, and the judge often
interrupted him to keep him to
the point.

The essence of his testimony
was considered extremely im-
portant by the defense. It was
to the effect that there was no
real way to tell whether the
Pentagon papers were properly
classified "top secret-sensitive"
when they were compiled in
1967, let alone when they were
allegedly stolen by Dr. Ellsberg
in 1969.

There were many reasons for
this, he said, including the fact
that Leslie Gelb, the head of
the study group that compiled
the papers, did not have the
authority to give them an ori-
ginal "top secret" classification.

Derivative Classification

If this was so, Mr. Florence
testified, then the papers were
classified under a Defense De-
partment procedure called de-
rivative classification, that is,
a system under which a docu-
ment receives the classification
of classified research material,
even if that material is only a
single sentence that had been
previously classified.

Mr. Florence, over several
days, had insisted there was
no way of reading the Pen-
tagon papers to tell whether
its source material was
properly classified; if the
source material was not prop-
erly classified, then surely the
papers themselves were not
either, the defense contends.

In a sense, Mr. Florence's
testimony was aimed more at
the judge than the jury, for
the defense is attempting to
subpoena the source material
used in compiling the Pentagon
papers. If, through the develop-
ment of Mr. Florence's testi-
mony, Judge Byrne is
prompted to grant that sub-
poena, then the defense might
succeed also in prompting
the judge to allow it to attack
the classification system di-
rectly.

So the battle between the
consultant and the prosecutor
stretches over the hours, with
the former holding to the point
that he cannot tell without the
source material whether the
papers were properly classified
and the latter trying to make
the witness appear foolish.

Mr. Nissen asked whether in
the absence of any official
communication covering the
Pentagon papers, the papers
did not authenticate them-
selves.

"They do not for me," re-
plied Mr. Florence.

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