

'EDUCATION' GIVEN ELLSBERG JURORS

FEB 9 1973

Defense Dwells on Secrets
and Character of War

NYTimes

By MARTIN ARNOLD
Special to The New York Times

LOS ANGELES, Feb. 8—The jury in the Pentagon papers trial started today to get an "education" about the Vietnam war and also about documents that the Government contends contain military secrets.

The education, offered by the defense, is shaped to influence the jury, to decide that it was a bad war, and further, that what one person considers a military secret another may feel is only an interesting bit of history.

This is being done through the cross-examination of Brig. Gen. Paul F. Gorman, the prosecution's major witness, who was the senior ranking military officer on the panel that put together the Pentagon papers and who was assigned by the Army to work on this case as an expert witness.

Today was his third day under cross-examination. Previously, he had testified to the effect that disclosure of the Pentagon papers could have helped Hanoi during the war and, therefore, had damaged this country's national defense. PPU 1st add ellberg

New Line of Questioning

Daniel Ellsberg and Anthony J. Russo Jr. are accused of eight counts of espionage, six of theft and one of conspiracy. To prove espionage, the Government must first prove that the national defense was damaged by their acts.

Leonard B. Boudin, one of Dr. Ellsberg's attorneys, started the cross-examination, attempting to destroy General Gorman's credibility as an expert witness on intelligence matters and as a military expert in the field of foreign relations.

Yesterday and today, Leonard I. Weinglass, one of Mr. Russo's attorneys, undertook the cross-examination. His job seemed to be to educate the jury about the war and about military secrets and to show that much of the information contained in the Pentagon papers had been public knowledge before the papers were disclosed.

He also sought to give the jurors their first slight knowledge that somewhere there exist secret Government analyses showing that disclosure of the papers did not damage the national defense. Presumably, he wanted to whet the jury's appetite for those analyses.

Portions of such analyses have been ruled by United States District Court Judge William Matthew Byrne Jr., who is presiding to be exculpatory material — that is, material in the hands of the Government that would tend to prove the innocence of the defendants. He ordered the material turned over to the defense.

Excerpts Read to Jury

Eighteen volumes of the 47-volume Pentagon papers are involved in this case, and today Mr. Weinglass started going through each one and having General Gorman read excerpts from them to the jury.

From one volume, dealing with the year 1954, he had the general read that the "loss of even all of Indochina is no longer considered to lead to the loss of all Asia to the Communists," a statement that contradicted one of the major justifications American officials had long used to continue the war.

He also had General Gorman read this line from a National Intelligence Board estimate: that "Almost certainly [the South Vietnamese Government] would not be able to defeat the Communists in a countrywide election." The board is the United States' highest intelligence unit, consisting of this nation's top six intelligence officials.

Whether the defense was making its points clear to the jury or whether the jury was accepting them as valid only time will tell. Eleven of the 12 jurors and six alternates carried notebooks and pens or pencils.

A good portion of the day was spent in having the general read excerpts from a volume that he had worked on with Dr. Ellsberg.

Reads From Article

The general also read from another document, a secret memorandum written by Edward G. Lansdale, now a brigadier general but during much of the Vietnam war a top agent of the Central Intelligence Agency who worked in Vietnam.

The Lansdale memorandum said that the United States could not "help create a Fascist state [in South Vietnam] and then get angry when it doesn't act like a democracy."

Mr. Weinglass also had the general read from an article in "The Journal of Foreign Affairs," for April, 1966, written by another C.I.A. agent, George

A. Garver Jr. Much of the material in the article covered the same events that were covered in portions of the Pentagon papers.

He also had the general read similar material from the Congressional Record.

"The Congressional Record is a public document, isn't it?" he asked.

"Absolutely," replied the general.

This, of course, touched on the public domain. It was also offered apparently to show that what General Gorman considered military secrets Mr. Garver and the Congressional Record seemed to think was merely history.

The general was next asked to read a statement from a Pentagon study that said the national defense had not been affected by the release of a particular volume of the papers. The study was written by William Gerhard, an intelligence expert.

"If you had seen the Gerhard study, would his conclusion have altered your own opinion?" the general was asked.

"Not necessarily."

Would the general have taken it into account?

"No, I don't believe so," was the answer.

"You would have just disregarded it?"

"Yes, I would have disregarded it," General Gorman replied.