

ROLE OF ELLSBERG IS CALLED SPECIAL

Defense Cites Authority He Had in Use of Papers

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The defense in the Pentagon papers trial set out today to show that Daniel Ellsberg was not only authorized to use the papers but that he also had a special relationship to them that went well beyond Government authorization.

In essence, the defense argument is that the copy of the Pentagon papers that Dr. Ellsberg in turn copied and helped make public did not belong to the United States Government but was instead the private property of three former Defense Department officials—in much the same way that the papers in a Presidential library are accepted to be the private papers of that former President.

The defense is also trying to prove that this special arrangement was accepted by the Rand Corporation and that Rand was in reality only the storage house for these private papers, the "library" for them. Dr. Ellsberg is accused of stealing the papers from Rand, the private "think tank" that does research on contract for the Defense Department.

The three former officials were Paul C. Warnke, then Assistant Secretary of Defense for International Security Affairs, and two of his top assistants, Leslie Gelb and Milton H. Halperin.

Mr. Gelb was head of the study group that compiled the 47-volume Pentagon papers, and Mr. Halperin is currently on leave from the Brookings Institution in Washington to work for the defense as a consultant in this case.

Different Procedures Cited

The points that the defense attempted to make were developed through the cross-examination of Richard H. Best, chief of security for the Rand Corporation, who was a prosecution witness.

Mr. Best, for instance, admitted under cross-examination that the Rand Corporation's procedures in handling the Pentagon papers were quite different from the standard procedures in the handling of other "top secret" documents.

Four main documents were offered into evidence to prove the defense's various contentions, and all were read to the jury by Mr. Best.

One was a memorandum for Henry S. Rowen, president of the Rand Corporation, which was written on stationery from the office of the Assistant Secretary of Defense and which was signed by Mr. Warnke, Mr. Halperin and Mr. Gelb.

The memorandum was received by Mr. Rowen on Dec. 18, 1968. It set forth the terms of the control and distribution of that particular copy of the Pentagon papers. In all, 15 copies of the papers were made at the time of their completion.

The memorandum says that "access to and distribution of" that copy of the papers must be approved by two of the three signers of the memorandum and that "access will be granted on a continuing basis to those Rand employees recommended by Rand" but that the three signers should be "informed in advance of Rand's granting access."

The second document consisted of Rand notes on exactly where the Pentagon papers were stored at Rand. One of those notes said that "file No. 85" contains "material in the top drawer to which Ellsberg [then a Rand employe] may have access."

Permission for Movement

This also gives permission to have Dr. Ellsberg "remove this material to S.M. if desired;" that is, Mr. Best testified, to remove it from Rand's office in Washington and transport it to Rand in Santa Monica.

One of the overt acts listed in the indictment against Dr. Ellsberg is that on March 4, 1969, he moved 10 volumes of the Pentagon papers from Washington to Santa Monica.

A third document, a letter from Mr. Gelb to Mr. Rowen, dated Oct. 6, 1969, gives permission to move the papers from Rand's Washington office to Santa Monica "for use by" Dr. Ellsberg. At that time, Mr. Gelb had left the Government and was at the Brookings Institution.

The fourth document was a Rand control sheet listing eight persons at Rand who had been given approval to use the papers. Dr. Ellsberg's name heads that list, being above Mr. Rowen's. In addition, a handwritten notation, according to Mr. Best, meant that before anyone at Rand could use the papers, Dr. Ellsberg had to give his "verbal approval."

Dr. Ellsberg and Anthony J. Russo Jr. are on trial in Federal District Court in connection with the release of the secret papers on the nation's involvement in Indochina. They are accused of espionage, theft and conspiracy.