

ELLSBERG TRIAL HEARS M'CLOSKEY

Representative Is Second
Witness for Defense

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LOS ANGELES, March 2—
Representative Paul N. McCloskey testified today at the Pentagon papers trial that disclosure of one of the volumes of the papers "could not have been used to the injury of the United States or to the advantage of a foreign nation."

The California Republican was the second witness in behalf of Daniel Ellsberg and Anthony J. Russo Jr., and he was allowed to testify as a former Marine colonel and as a member of Congress on whether the national defense had been damaged.

But United States District Court Judge William Matthew Byrne Jr. refused to let him testify at length on the Government's system of classifying documents.

Mr. McCloskey is a member of the House Committee on Government Operations and chairman of its Subcommittee on Government Information. As subcommittee chairman and as an outspoken critic of the war in Vietnam, he has, he testified, been studying the Government's policy on classifying information.

He said that he believed the Freedom of Information Act should be overhauled.

He said under direct examination by Charles R. Nesson, a defense attorney, that the Pentagon papers volume about the first Marine landing in Vietnam came to his attention in the spring of 1971, and that he read it then.

"There is nothing in this volume that could have been used to the injury of the United States and to the advantage of a foreign nation," he said.

Mr. McCloskey, in a sense, is the first celebrity witness at this trial, and the 10 women on the jury beamed at him when he appeared in the courtroom.

View on National Defense

Earlier, Rear Adm. Gene LaRocque, retired, the first defense witness, said under cross-examination that "nothing the United States did in Vietnam or happened to it in Vietnam in any way had any bearing on the United States' national defense." He reiterated his view this way:

"Nothing the United States did in Vietnam had any relation to the national defense."

Dr. Ellsberg and Mr. Russo are on trial on six counts of espionage, six of theft and one of conspiracy. To prove espionage, the Government must first prove that their actions damaged the national defense.

All of the documents in this case pertain to America's involvement in Vietnam, and two Army generals have testified for the Government that disclosure of those documents did damage the national defense.

Admiral LaRocque, now director of the Center for Defense Information in Washington, was asked by Mr. Nissen to suppose that the United States troops had been defeated in Vietnam. Would not that, he was asked, bear on the national defense?

"I cannot speculate about that," he said, adding, "The troops of the United States were not defeated in Vietnam."

He said that the United States had two "sets" of armed forces, one to defend the United States and its territories, and one that is deployed by the President around the world for other purposes. By his definition, only the former force is used for national defense, he said.

Then Leonard I. Weinglass, a defense attorney, asked him

on redirect examination for the basis of his opinion that nothing that had happened in Vietnam involved the national defense. He answered:

"On the basis of our statement of purpose in Vietnam by President Johnson, who said we were there to help South Vietnam. McNamara clearly indicated it was a Vietnamese war. General Wheeler said the purpose of North Vietnam was to take over South Vietnam."

Mr. Nissen had asked the admiral whether, if the United States had used the weaponry in Vietnam that it would use to defend the United States, the admiral would then say that the national defense had been involved in that war.

"No, because to defend the United States you have to have a creditable foe against the United States," he answered.

"We were not threatened by North Vietnam. We went through a very tortuous period resolving whether we should be

involved in that adventure or not, and the national defense of the United States was not involved in Vietnam when we had that option."