

# Documents Expert Supports Ellsberg

SF Chronicle

MAR 20 1973

## Los Angeles

An expert on the government's system of classifying documents told the jury in the Pentagon Papers trial yesterday that he could not tell from looking at the papers whether or not they were classified.

The expert was a defense consultant and witness, William G. Florence, who had served 11 years in the Army and Air Force and an additional 21 years as an Air Force civilian employee — specializing all that time in the classification of secrets.

The implication of Florence's testimony was that if he, an expert, could not tell whether the papers were classified, how could Daniel Ellsberg, a nonexpert, tell? And if Ellsberg did not know they were classified, how could he be charged with espionage for disclosing them?

Florence gave this rather startling testimony despite the fact that the markings on the Pentagon Papers say "top secret-sensitive" and each page in the volumes is also labeled "top secret."

Still, Florence insisted that there was "no indication in the documents at all" to tell the source of their classification.

The Pentagon Papers were classified, in part, apparently under a system of derivative classification — that is, the system under which a document is classified at the highest classification given to any of the underlying source material, even if that material consists of one sentence classified "top secret."

Derivative classification is only used by the Department of Defense, and it was not covered by Executive Order 10501, which was signed by President Eisenhower in 1954 and under which the Pentagon Papers were classified.

The defense has been attempting to attack the entire classification system, but

District Judge William Byrne Jr., has said he will not allow that challenge to be made before the jury.

So Florence's testimony is, in a sense, a defense attempt to get around the judge's ruling. What Florence was trying to tell the jury was that he did not believe that in 1969 — the year in which Ellsberg is accused of stealing the documents — the Pentagon Papers were properly classified, despite their markings.

And the defense is attempting to show that, technically, there is no way of knowing whether the papers were ever properly classified without seeing the underlying source materials to determine whether they were properly classified. In short, the implication is that derivative classification has a pyramid like effect, and that each boulder in the pyramid must be examined separately.

It is a subtle form of attacking the classification system, and Judge Byrne is allowing this form of roundabout attack.

Ellsberg and Anthony J. Russo Jr. are accused of six counts of espionage, six counts of theft and one count of conspiracy in the case.

*N.Y. Times Service*