

Ellsberg Trial Told Data Did No Harm

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LOS ANGELES, April 4—Donald S. Luce, who along with two American Congressmen discovered the "tiger cages" in a South Vietnam prison in 1970, told the jury at the Pentagon papers trial today that disclosure of information about the "strategic hamlet" and "pacification" programs in Vietnam did not damage those programs. Both programs were operated by the United States.

Mr. Luce, 38 years old, who spent 14 years in South Vietnam, said that the "strategic hamlets program was ovtr by 1963" and that it became the "pacification" program, which in turn, by 1969, had become the Vietnamization program. He was called as a defense witness on three volumes of the Pentagon papers that contained information on those programs.

The witness, who speaks Vietnamese, first went to Vietnam in 1958 as a volunteer agriculturalist with the International Voluntary Services, becoming its director in South Vietnam in 1961. He resigned in 1967, but returned a year later under sponsorship of the World Council of Churches.

In 1970, he helped uncover the "tiger cages"—small cells jammed with prisoners—and in 1971 his visa was withdrawn by the South Vietnamese. He is now director in Washington of a

the Indochina Mobile Education Project.

Under examination by Leonard I. Weinglass, a defense attorney, he told the jury that there were "people being kept in jails—sizable numbers, about 50,000—who were neither Communists nor pro-Communists."

Another witness testifying for the defense today was John L. Martin of the Justice Department, who had previously testified out of hearing of the jury. Today he told the jurors that he had asked the Defense Department to prepare what he now calls "summaries" of the Pentagon papers.

These were prepared, he said, in December, 1971, and in January and February, 1972 at the behest of David R. Nissen, the chief prosecutor. He said that these "summaries" were sent to Mr. Nissen here.

Safe Was Installed

His testimony was important because portions of those "summaries" were declared to be exculpatory material by United States District Court Judge William Matthew Byrne Jr. The defense will attempt to use Mr. Martin's testimony in its summations to the jury to tell the jurors that Mr. Nissen ordered the reports and then failed to use them when he realized that portions of them said that the national defense was not damaged by disclosure of portions of the Pentagon papers.

Earlier, Dolores A. Donovan, a defense attorney, elicited

from Richard H. Best, chief of security for the Rand Corporation, the information that Rand installed a "top secret" safe in Dr. Ellsberg's office at Rand just before Dr. Ellsberg transported 10 volumes of the Pentagon papers from the corporation's office in Washington on March 4, 1969, to their main office in Santa Monica.

The implication of the testimony was that Rand—a "think tank" doing research mainly for the Defense Department—installed the safe in preparation for Dr. Ellsberg's use of the Pentagon papers. Dr. Ellsberg is accused of stealing the papers from the Rand office in Santa Monica in 1969.

Mr. Best had testified before, early in February, for the prosecution. Today he was called as the 20th defense witness.

The defense today informed the court that it had seven days more of direct testimony, including the testimony of Dr. Ellsberg and Mr. Russo. However, this estimate does not take into consideration the Government's cross-examination of the defense witnesses or the time that will be spent on the Government's rebuttal, the summations to the jury by both sides and the charge to the jury by the judge.

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