

U.S. RESTS ITS CASE IN I.B.M. TRUST SUIT

Computer Concern Calls Witness, a Turning Point in Trial, Now 473 Courtroom Days Old

By N. R. KLEINFELD

The Government rested its case yesterday in its massive antitrust suit against the International Business Machines Corporation, more or less marking the halfway point in a trial that began nearly three years ago.

At 12:35 yesterday afternoon, after having called 51 witnesses, the Justice Department completed its direct case. At 3 o'clock, I.B.M. summoned the first witness in its defense, which is expected to last as long as the Government's presentation. The trial is 473 courtroom days old.

A handful of people showed up at the United States Courthouse in Foley Square to observe the shift in the second-biggest antitrust case in history. (The Government has filed a larger suit against the American Telephone and Telegraph Company; that is nowhere near trial.)

No Defense Motion to Dismiss

Surprisingly, I.B.M. chose not to file a motion for dismissal when the Government rested. I.B.M. had indicated it would do so. Thomas Barr, I.B.M.'s lead counsel, said yesterday he did not want to burden the court and further delay the case.

Frank Cary, I.B.M.'s chairman, was critical of the length of the case last Monday at the computer company's annual meeting.

The last Government witness—Lee Preston, a faculty member of the State University of New York—left the stand Monday. Entering documents into the record took up Tuesday and yesterday morning.

When the Government rested just before lunch yesterday, Raymond Carlson, as he promised, stepped down as lead counsel for Justice. He was replaced by Robert Staal.

Witness for the Defense

The first defense witness yesterday was Richard Case, an I.B.M. group director of advanced systems development. He told how computers work, how they are designed, how they are used, and so forth.

He was, in actuality, the second I.B.M. witness. The first to testify—Ernest Hughes, a retired I.B.M. manager—was called out of turn more than a year ago, because he was in failing health. He lives in Florida, and the court flew down there to take part of his testimony.

There are 94 people on I.B.M.'s witness list, including Mr. Cary. But I.B.M. maintains that its witnesses will be less talkative than the Government's.

The suit charging I.B.M. with monopolizing the computer business and seeking to split the company up in an unspecified manner was started on Jan. 17, 1969, the final day of the Lyndon B. Johnson Administration. It went to court on May 19, 1975, and has been under way since.