

Denial of Ellsberg Plea Urged

The Justice Department urged the Supreme Court yesterday to reject as premature the claim of Pentagon Papers defendants Daniel Ellsberg and Anthony Russo that they have a right to see secret records of the wiretapping of a member of the defense team at their criminal trial.

Solicitor General Erwin N. Griswold said the court should ignore Ellsberg's petition and dissolve a stay which interrupted his trial July 29 after a jury had been selected and sworn.

Griswold said a full-scale Supreme Court hearing at this stage would flout time-honored rules against piecemeal appeals. He said it will be time enough to hear the case if Ellsberg and Russo are convicted.

Indicted on charges of conspiring to leak the classified Vietnam war history, Ellsberg and Russo contend they should not be forced to undergo a long trial without first settling their eavesdropping claims.

The defendants contend that their case raises questions left open by recent high court rulings, especially whether a judge can reject defense charges of illegal evidence-gathering without disclosing wiretap records to the accused.

In June the Supreme Court said records of wiretaps of suspected domestic subversives must be disclosed to the accused if the eavesdropping was conducted without a warrant. Lawyers for Ellsberg and

Russo say their case raises the issue for wiretaps for "foreign intelligence" information.

Also unsettled, according to the defense lawyers, is whether the disclosure rules apply when a defense lawyer or consultant rather than the defendant himself is the wiretap victim. The government has not said who in the defense camp was overheard.

Griswold said that if the court reaches the issue, it should agree with lower courts that no disclosure of the eavesdrop records and no hearing is required. The judge alone can decide whether the eavesdropping could possibly have contributed to the government's evidence, he said.

Numerous prosecutions have been dropped since the high

court's ruling on domestic subversives as the Justice Department has refused to go to trial rather than divulge surveillance records.

The court is expected to decide soon whether to hear the case.

Liberationist 'Patriots'

ROME, Oct. 13 (UPI) — They are fighting to oust Portugal from Africa, but the L'Unita referred to them today as "Portuguese patriots." The newspaper said delegations from the Angola, Mozambique and Guinea-Bissau Liberation movements had arrived in Rome. The headline — obviously a mistake — read: "Portuguese Patriots Guests of the Italian Communist Youth Federation."