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Ellsberg's Delayed Trial

LOS ANGELES — Daniel Ellsberg is leading a very public life during the preliminaries of his trial for divulging government secrets. It is, to say the least, unusual to give press conferences, and appear on television, while a jury was prepared to weigh evidence of your alleged misdeeds.

Dan Ellsberg's team knows what it's up to. It seeks every kind of publicity for their principal. The concern here is less for law — though they appear to be having quite a legal frolic — than for ideology. Like the Chicago Seven, the point they want to make is extra-legal.

DAN ELLSBERG is concerned to publicize his case against the United States government and the Vietnam war, and he assumes that the lawyers will take care of the matter of keeping him out of jail.

Ellsberg has been indicted on 15 counts for stealing and mishandling government property, improperly receiving and communicating documents relating to the national defense, and conspiring to defraud the United States by obstructing its control over classified documents. Not many people expect him to go to jail at all.

The government has not chosen to go after Ellsberg on the Big Count — the Espionage Act that forbids the disclosure of a government secret "with intent or reason to believe that it is to be used to the injury of the United States or the advantage of a foreign nation."

Now if one agrees that an invasion of North Vietnam is a disadvantage to North Vietnam, and that Ellsberg intended, by releasing the Pentagon Papers, to diminish the chances of such an invasion, then it follows that Ellsberg's intent was that the information he released should be used to the advantage of a foreign nation.

Sure, he also believed that it was to the advantage of the United States to desist

from further military action in South Vietnam, even as Klaus Fuchs thought it to the ultimate advantage of Great Britain to give away our atomic secrets to the Soviet Union.

Ellsberg isn't Benedict Arnold. He is rather one of the new breed of international moralists who discern a great abyss between themselves and the rest of the world. The rest of the world, as far as this breed is concerned, consists of moral cretins, "liars" (one of Ellsberg's favorite words).

Ellsberg likes to introduce himself before college audiences by saying "I come before you as a war criminal." Students of rhetoric know the device as self-serving. What he means is: The gang in Washington are war criminals. I was a war criminal because I was one of them — until I saw the light.

So that the point he is really stressing is not that he was once a war criminal — a part of his background that no one in the United States is at this point disposed to criticize — but that he no longer is one.

The force of the remark is therefore to brand people like John Kennedy, Lyndon Johnson, Richard Nixon, McGeorge Bundy, Arthur Schlesinger, Robert McNamara, by dissociation with them, as war criminals.

THAT CHARGE, historically and morally preposterous, is an index of the moral egomania of Daniel Ellsberg concerning whom Murray Kempton, always an opponent of the war, wrote recently that he "always goes too far . . . too far then, in his moral allegiance to the war, too far now in his moral wrath against its authors."

Meanwhile the trial has been held up by Supreme Court order for the time being and there are those who wonder whether the government of war criminals will ever have enough self-confidence actually to enforce its own regulations.