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ELLSBERG DEFENSE SEEKS A NEW JURY

Long Delay in Start of Trial
Cited as Affecting Jurors

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LOS ANGELES, Nov. 30 — Lawyers for Dr. Daniel Ellsberg and Anthony J. Russo Jr. fought today for dismissal of a jury that has been in recess since it was sworn on July 26 to try the two men on criminal charges growing out of the Pentagon papers case.

The lawyers argued that the jurors by now must be biased and that a new jury must be selected.

The long delay in the trial began just before opening arguments were scheduled in the case. The dependents are accused of violating Government secrecy orders by releasing copies of the Vietnam war study to newspapers.

Supreme Court Justice William O. Douglas ordered the trial delayed until the full court could decide whether to order the Government to give the defense details about a telephone tap in which an unnamed member of the defense had been overheard.

No details of the electronic surveillance have become known except that it involved a foreign government installation. On Nov. 13, the Supreme Court cleared the way for a resumption of the trial when it

refused to hear an appeal from lower court decisions that had held that the Government did not have to reveal full details of the telephone tap.

Leonard E. Boudin, chief defense counsel for Dr. Ellsberg, argued today that the four-month delay between jury selection and offering of evidence was unprecedented.

"There is no case in the whole history of American jurisprudence that we or the Government can find where this has occurred," Mr. Boudin said.

Ruling Is Put Off

He contended that during the period of delay, the Presidential election campaign and other events occurred that would have focused the jurors' attention on events to be considered in the trial, and that their selection as jurors had "sensitized" them to these matters.

Awareness that they would be jurors would give them special interest in many matters discussed widely in the last four months, the lawyer asserted.

Mr. Boudin argued that questioning of the jurors by United States District Judge William Matt Byrne, which may occur tomorrow, would not uncover the bias accumulated during the recess. He also pointed out that since the jury was selected, a new law had become effective that now permits naming of jurors 18 to 21 years old so that the trial could have "a current instead of a past cross section of the community."