

Ellsberg Jury Completed in Dramatic Court Scene

By MARTIN ARNOLD

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LOS ANGELES, Jan. 12—At the end of a morning of drama and high tension, ten women and two men—including a badly wounded Vietnam veteran who wants the war to end now—were selected today to be the jury in the Pentagon papers case.

The defense was jubilant, for it had gotten three, and perhaps four, of the jurors it wanted. The prosecution was noncommittal.

"I'm in love with this jury," said Anthony J. Russo Jr., one of the co-defendants. "I think it's a great jury. . . . I'll be happy without having a bad jury nagging at me."

Daniel Ellsberg, the other defendant, said: "Our fate is in their hands, and I think to a large extent the liberties of all of us are in their hands. I think they're in very good hands. Women as a whole have clearer eyes about this war."

Dr. Ellsberg and Mr. Russo are charged with 15 counts of espionage, theft and conspiracy in the case. The opening arguments in the trial are expected

early next week, after six alternate jurors are selected.

The final day of jury selection reminded one of a great chess match, with the contend attorneys using their peremptor challenges with the same concentration and finesse that chess masters employ in moving their pawns.

The most dramatic move in the jury selection, as it developed today, involved the veteran, 24-year-old Wilfred Baltodano. Serving as a marine in Vietnam, he had suffered a concussion when the tank on which he was riding hit an unexploded American bomb that blew up and killed 13 of his friends. He was the only survivor, but lost his spleen and his teeth and suffered other severe injuries.

Questioned under oath, he had said:

"As a soldier I was obedient. I thought I was doing the right thing, a good job. But now [that] I've returned, I've changed my way of thinking. I don't believe we should be there [Vietnam]. At this moment I pray for peace."

The defense wanted him on

the jury, but had little hope that it could keep him. This morning, he sat in the jury box, wearing a shirt and tie, smiling calmly, for the final peremptory challenges to the jury. The prosecution had five left; the defense 12.

Smiles of Disbelief

The level of tension rose steadily as David Nissen, the chief prosecutor, started exercising his peremptories, and four prospective jurors considered favorable to the defense were dismissed. As Mr. Nissen stood up for his final challenge, the courtroom was completely still; the defendants and their lawyers leaned over the defense table and stared straight ahead; Mr. Baltodano sat in the corner of the jury box, still smiling.

"The Government thanks and excuses Mrs. Daley," said Mr. Nissen. There was an audible sigh throughout the courtroom and there were smiles of disbelief from the defense table. Mr. Baltodano had officially become a juror, the youngest of the 12.

Later, in the corridors, several theories were advanced

for the Government's allowing Mr. Baltodano to be seated. One was that the Government knew something about the veteran that the defense did not. The Government uses the Federal Bureau of Investigation to look into the background of prospective jurors, and the defense uses its own volunteers.

Mostly, however, it was believed that the Government decided to risk Mr. Baltodano on the jury rather than risk the reaction of the other 11 jurors if a wounded veteran were dismissed.

'Message' for Jury

In the words of one of the defense attorney, Charles Nesson, the Government "was sending a message" to the jury that its case was so strong, it could live with Mr. Baltodano in the jury box.

The former marine works for an oil company by day and attends college at night. Neither he nor any of the other jurors holds a college degree.

Most of the other jurors are middle-aged or older. The only other male, Morales Pittman, a

black, had said during questioning by United States District Court Judge William Matthew Byrne Jr. that when the United States first became involved in the war he thought it was "political."

He said, "When the U. S. sees that the economy is bad, and there is a war going on, we get involved somehow to step up our economy." He gave up this belief, he said, when the war lasted for so many years and now he has no opinion on whether or not the United States should be fighting.

For its part, the Government was happy with Mrs. Darlene Arneaud, an electronics assembler, who had used the phrase, "my country, right or wrong" during questioning, and said of the war, "I wish we weren't involved, I'd like to see it end, but I support my country in what they do."

Views on War Vary

The nine other women jurors gave varying answers to questions about the war. One said, "I don't like us to be in war, but no one likes war," and another said she wanted the war ended, but in an "admirable way."

A black woman juror said, "I can't say I am for one country or for another. If we are fighting for something right, those people may think they are fighting for something right, and who am I to judge?"

Today was the eighth day of jury selection. At the first Ellsberg-Russo trial, it took nearly three weeks to select a jury. It was dismissed on Dec. 12 after an appeals court said it would be "foolish" to continue with a jury that had sat idle for four months during litigation over a Government wiretap in the case. The defendants waived their double jeopardy rights to get a new jury and new trial.