

2 COUNTS DROPPED IN ELLSBERG CASE

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Judge Removes Espionage
Charges but Refuses to
Order Acquittal Verdict

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LOS ANGELES, Feb. 26 —
Federal District Court Judge
Matthew M. Byrne dropped one
espionage charge each against
Daniel Ellsberg and Anthony J.
Russo today, but he declined to
order a directed verdict of ac-
quittal in the Pentagon papers
trial.

After brief testimony from a
final prosecution witness to-
morrow, the lawyers for Dr.
Ellsberg and Mr. Russo are to
start presentation of their case,
with 35 witnesses to be called
over a seven-week period.

The two counts of the indict-
ment that Judge Byrne ordered
stricken dealt with disposition
of the papers concerning the
evolution of the Vietnam war.
He ruled, in effect, that the
prosecution had not proved its
case in those counts so far as
criminal intent was concerned.

Judge Byrne's ruling left 13
counts remaining against the
defendants, charging conspir-
acy, theft of government docu-
ments and espionage.

Judge Byrne rejected defense
arguments that the testimony
of 10 Government witnesses
was not sufficient to prove its

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case.

The defense had contended
that information in the Penta-
gon papers was stale, that the
Government had no right to con-
trol dissemination of the docu-
ments and that Dr. Ellsberg had
personal, privileged access to
the study.

The defense case will begin
with testimony from Rear Adm.
Gene Larocque, retired, head of
the Center for Defense Informa-
tion, a private Washington
group that studies dissemina-
tion of information on defense
matters to the public.

The second defense witness
will be Samuel A. Adams of
Leesburg, Va., an agent for the
Central Intelligence Agency,
who has submitted a memoran-
dum declaring that testimony of
an Army general about the sen-
sitivity of papers leaked by Dr.
Ellsberg was inaccurate.