

Part 8/31/92

Another Trial for Clair George?

IT IS SURELY a setback to Iran-contra prosecutor Lawrence Walsh's office that a federal jury here has failed to convict former CIA official Clair George on nine counts involving perjury, obstruction and making false statements. A mistrial was declared Wednesday after four weeks of prosecution and six days of deliberation. Craig Gillen, who tried the case for the special prosecutor's office, immediately requested a retrial, and one has been set for October 19.

Mr. George was charged with misleading Congress and the independent counsel in their investigations, but the jury could not agree that the verbal exchanges, evasive and incomplete as they may have been, amounted to a crime. Interviews with jurors after the trial revealed that a substantial majority voted for acquittal each time the jury was polled. The jury itself was representative of the community, and though one observer close to the prosecutor's office blamed the mistrial on a "very articulate, educated and forceful" foreman—attributes rather than negatives, we would say—there is no reason to doubt that each juror voted his conscience.

Will the prospects for conviction be better a second time around? We doubt it, and we think

it's a high-risk choice for Mr. Walsh. While many courtroom observers believed that the government had made a good case, the majority of the jurors did not buy that version of the facts. Both sides deny that this was a case of jury nullification—where the jury tacitly accepts the fact that the defendant has committed what is technically a crime, but refuses to convict for other reasons involving their own sense of justice. But that is certainly possible. Judge Royce Lamberth likened Mr. George's resumé to that of a war hero in the intelligence community. The combination of this background and the difficulty of proving criminal intent makes conviction at any time problematic.

Mr. Walsh's investigation, now in its sixth year, has accomplished a great deal. The facts of the conspiracy and the role played by the major participants have all been brought out. Some of those principally involved have paid a penalty, and a precedent has been set that should serve as a warning to future public officials who might ignore congressional directives and go off on detours of their own. Even if Mr. George is retried and convicted, little more will be gained. We think there should be no retrial.