

One Verdict In, Deadlock on 9 In Plot Trial

By Betty Medsger ^{4/3/72}
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HARRISBURG, Pa., April 2—A federal jury convicted the Rev. Philip Berrigan today of smuggling a letter out of prison but announced that it was unable to reach a verdict on the other nine counts with which the Catholic priest and six other antiwar activists are charged.

* Among the charges the jury said it could not agree

on is the conspiracy charge—that the defendants conspired to kidnap presidential adviser Henry A. Kissinger, to bomb tunnels under federal buildings in Washington and to raid federal offices.

U.S. District Judge R. Dixon Herman sent the jury back to deliberate further on the nine remaining counts over the bitter objection of defense attorneys.

After another hour's deliberations, the jurors were allowed to recess until Monday.

Defense attorney Paul O'Dwyer described the decision to accept a partial verdict as "difficult to equal in the annals of jurisprudence."

"Very often when jurors continue to argue and debate they may change their minds," said O'Dwyer. "They may decide to change their minds, decide they were erroneous the first time."

Father Berrigan, now serving a six-year term for destruction of Selective Service records, was convicted by the jury on one of four counts that he violated a federal law that prohibits the passage of contraband—including letters—in and out of federal prisons without the approval of prison authorities. The conviction carries a potential 10-year sentence.

The letter for which Father Berrigan was convicted dif-

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Jury Recesses in Deadlock

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fers from the other four with which he is charged in that informer Boyd Douglas smuggled it out of Lewisburg, Pa., Federal Penitentiary before the FBI engaged Douglas as an informer on June 3, 1970.

Later, Douglas smuggled other letters in and out of the prison for Father Berrigan and Sister Elizabeth McAlister, another defendant, on behalf of the FBI and with the approval of prison officials.

Four of the 10 counts in the indictments pertain to four letters Father Berrigan wrote to Sister McAlister, and three other counts pertain to letters she wrote to him.

The fact that the jury could decide on only the first seven contraband counts, said O'Dwyer at a press confer-

ence, indicates that the jury might have been persuaded by the defense argument that Douglas, aided by the FBI, entrapped the defendants.

Former Attorney General Ramsey Clark, Father Berrigan's attorney, said this was the first time the government ever had prosecuted anyone for violating the prison contraband statute and that, therefore, Father Berrigan and Sister McAlister were the objects of discriminatory prosecution.

Clark argued that the contraband law was established in order to prosecute for the smuggling of weapons and drugs and not letters. But the law is unspecific and refers to the illegal entry into prison of "anything."

The usual punishment for smuggling contraband is a

short period of solitary confinement ordered by prison authorities, not by a federal judge, said Clark.

The defendants and their attorneys were generally optimistic on hearing the message of the nine women and three men after their 33 hours of deliberation.

The foreman of the jury, Harrisburg accountant Harold C. Sheets, summed up the jury's dilemma in this brief message to the judge: "The jurors, after long, serious and conscientious deliberation on all facts available and their recollection of testimony heard during the past weeks, are unable to arrive at a unanimous verdict on nine counts in the indictment. We will await further instructions from you."

When they entered the courtroom, several of the jur-

ors looked as if they had been crying. All of them appeared tired.

The defense objected to the judge ordering the jury to deliberate further, thus indicating their willingness to accept a hung jury.

If faced with a hung jury, the government would have to decide whether to drop the charges or to retry the case.

Hydrofoil Service

Reuter

COLOGNE, West Germany, April 2—A Soviet-built hydrofoil will whisk tourists from Cologne to the Rhine from Cologne in 90 minutes. The service will pay double the cost of a regular boat.