

Judge in Error: Harrisburg 7

HARRISBURG (Pa.) — (UPI) — The Harrisburg 7 jury began deliberations today following a charge by federal judge R. Dixon Herman which the defense termed "an argument for a verdict of guilty."

The two-hour charge ended at 2:11 p.m. (EST) when the jury left for a small jury room adjacent to the courtroom. Nine U.S. marshals were assigned to guard the jurors during their deliberation.

The Rev. Philip Berrigan and six other antiwar activists are accused of plotting to kidnap presidential adviser Henry Kissinger, blow up the heating tunnels in Washington buildings and vandalize draft boards.

Herman, 61, gave the usual analysis of the laws involved, then suddenly announced that he would "review my recollections of the testimony." He then listed the key evidence presented by the government during the trial which started Jan. 24.

'Never Before'

During his presentation of evidence, the defense charged, he made at least three errors which he refused to correct despite their vehement complaints.

"It constituted an argument for a verdict of guilty," Sister Elizabeth McAlister, a defendant, said after the case was presented to the jury.

"It was the best prosecution argument in the trial."

Defense attorney Paul O'Dwyer said judges have commented on evidence before but he added:

"Never has it ever been done quite so onesidedly."

O'Dwyer said even though the defense did not call witnesses, Herman could have brought out points made by the defense during cross-examination.

"We proved through our questioning that they had no case," he said.

Errors Cited

Defense attorneys charged that Herman was in error when he said Sister Elizabeth had told FBI informer Boyd F. Douglas in October, 1970, that "the kidnaping plans were continuing." This was never brought out during the trial.

The defense also said Herman had accused Mary Scoblick, another defendant, of being at a meeting in Philadelphia when there was no testimony to that effect.

Herman also said during his charge that a letter written by another defendant, the Rev. Neil McLaughlin, should be considered as evidence against him because it called persons who raided a Rochester, N.Y., draft board "our people."

Defense attorneys said Herman had taken the "our people" quote out of context. They pointed out that even the prosecution had never brought this out during the 10 weeks of the trial.

During the earlier part of his charge, Herman warned

the jury they could not consider the antiwar philosophies of the defendants.

"This is not a political trial," he said, "it is not a trial against the war in Vietnam."