

## ORDERED BACK TO ROOM

# Marcello Jury Reports 'Hopeless' Deadlock

By BARRY BROWNE  
(Special to the States-Item)

LAREDO, Tex.—The federal court jury in the trial of New Orleans underworld figure Carlos Marcello reported today it was hopelessly deadlocked.

District Judge Ben C. Connally of Houston, however, ordered the jury to return to its room and continue the deliberation. Connally set a late afternoon deadline for the jury.

"WORK ON this until 4 p. m. and then if you are unsuccessful, I will discharge you as a jury. I ask that you take no other look during the afternoon before we decide that you are in disagreement," Connally said.

The jury had returned to the courtroom at 1:54 p. m. after the noon recess. The jury foreman at that time told Judge Connally, "We can't work it out."

Judge Connally then asked, "You mean it is impossible to reach a verdict?" The foreman then replied "Yes, I am positive that is the case."

Judge Connally then said, "If a larger number is for conviction, the dissenting juror or jurors should consider

whether his doubt is a reasonable one. If a larger number is for acquittal the same reasoning should prevail for those who feel the man is guilty."

THE JURY began deliberating at 4 p. m. yesterday and continued until 6 p. m. It reconvened at 9 o'clock this morning and entered the courtroom briefly at 10:40 a. m. to ask Judge Connally to re-read portions of the jury charge.

The jurors apparently wanted clarification of the legal implications of the words assault and intimidation. The language of the charge against Marcello implies that intimidation is considered a part of an assault.

THE CASE OF Marcello, 58, went to the jury yesterday

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after two days of testimony about the Sept. 30, 1966, incident involving FBI agent Patrick J. Collins Jr.

When the jury reached no verdict after two hours yesterday, Judge Connally ordered the jurors sequestered overnight.

Both sides appeared optimistic of a favorable verdict in the case.

U.S. Attorney Mort Susman of Houston said, "We have more than a fighting chance for the conviction." Chief defense counsel Jack Wasserman, of Washington, D.C., indicated he expected an acquittal.

Connally had delivered his charge to the jury earlier yesterday afternoon.

"THE JURY IS the decision-rendering arm of this court," said Connally, "and you have to judge the credibility of the witnesses."

"In proceedings such as this one—in which there is discrepancy of testimony—you are the exclusive judges of the facts."

Connally referred to the testimony yesterday of defense counsel Mike Maroun, in conflict with earlier testimony of Collins.

Maroun—who took the stand shortly before noon—testified Collins had told him after the incident that Marcello "should not have been charged."

Maroun said Collins told him at a Shreveport lounge owned by Maroun that the incident was "an accident."

Collins earlier testified that Marcello deliberately attempted to punch him and the incident was indeed an assault.

Final arguments to the jury yesterday afternoon touched on the credibility issue.

"YOU'VE HEARD perjury," said Susman, "and now you've got to decide who's telling the truth."

"One point," he said, "is the interest in the outcome of the trial by the two persons whose testimony is in direct conflict—Maroun and Collins."

Susman said Collins' only interest was "to see justice done," while Maroun "is general counsel in this case and has been representing Marcello for 15 years."

"Maroun tells you he doesn't know if he has any business dealings with Marcello now," said Susman, "but he really did a little 'soft shoe' around that question."

Susman said the incident would not have occurred "if Marcello hadn't gotten mad."

"He (Collins) told Marcello he could handle any trouble Marcello could start—and Marcello tried to show him who was 'boss' in New Orleans," said Susman.

Susman said, "What Maroun said is astounding . . . you can't believe that man."

WASSERMAN countered by noting that the government evidence "didn't prove beyond a shadow of a doubt" that Marcello had assaulted the officer.

"Collins' inconsistencies in testimony, witness testimony, Maroun's testimony, and the contradictory nature of other government testimony are all to be considered," he said.

"Marcello didn't hurt Collins; he didn't intend to hurt Collins; and he didn't intimidate Collins," said Wasserman.

In final rebuttal argument, Assistant U.S. District Attorney Ronald J. Blask asked the jurors, "Do you think an FBI agent would go to the counsel for the defense and tell him what Mr. Maroun told us he said?"

"I submit to you that he wouldn't . . . and submit to you that what Mr. Maroun has said is preposterous."