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HARRISBURG JURY OUT FOR A 2D DAY

Asks for Clarification of the
Statute on Conspiracy

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HARRISBURG, Pa. March 31 — The jury in the conspiracy trial of the Harrisburg Seven war foes spent its second day of deliberation reviewing the testimony of the Government informer Boyd F. Douglas and asking clarification of the murky conspiracy law.

After hearing Federal District Judge R. Dixon Herman repeat the definition of conspiracy that he had given in his charge yesterday, the jury was still perplexed. It returned several hours later with more questions.

To prove conspiracy was it necessary to determine that all seven defendants had conspired to break the law? the jury wanted to know.

The judge replied that this was not necessary, explaining that they could find some of the defendants guilty, some not guilty.

The defendants are charged with conspiring to kidnap the Presidential aide Henry A. Kissinger, blow up heating tunnels to Government buildings in Washington and vandalize draft boards in several states.

The jury was told that it may return a guilty verdict on the conspiracy count even if it rejected the bombing-kidnaping allegation and believed only the draft board charge.

Some of the defendants had accepted the responsibility for draft board raids. The maximum penalty for a conspiracy count is five years.

Transcript Requested

The jury foreman, Harold Sheets, a tax accountant, asked for the transcript of four days of testimony by Douglas, the Government's star witness.

Included in the testimony was Douglas's account of an exchange of letters in August, 1970, between the Rev. Philip F. Berrigan, alleged leader of the conspiracy, who was then serving a sentence in Lewisburg, Pa., Federal prison and Sister Elizabeth McAlister, a New York City nun.

Copies of the letters were given to the Federal Bureau of Investigation by Douglas, a convict who had become a prison confidant of the priest.

Douglas was a courier of messages between the priest and activists of the Catholic Left. Although he had served seven years in prison on Federal convictions for fraud and assault with a gun, Douglas was allowed to leave the prison each day to attend classes at Bucknell University.

The Berrigan-McAlister letters outlined a proposal to abduct Mr. Kissinger, hold him for a mock trial on war crimes, and then release him, unharmed.

Sister McAlister attributed the proposal to Dr. Egbal Ahmad, a Pakistani scholar and the only non-Catholic among the defendants.

Father Berrigan reluctantly approved the plan, although finding it "grandiose" and possibly "opening the door to murder." But the priest wanted the kidnapping tied in with an earlier proposal to destroy the utility tunnel system.

Informer's Testimony

Apart from the letters there was nothing to implicate Dr. Ahmad except the word of Douglas. Douglas testified that Dr. Ahmad had telephoned him twice on a laundromat telephone in Lewisburg and said that while he had never met Dr. Ahmad he could identify the Pakistani's accent. But Judge Herman threw out the Government's offer of testimony on voice identification.

The judge cleared Dr. Ahmad of the second count, a charge that he and Sister Elizabeth had sent through the mails a threatening letter (proposing the kidnapping of Mr. Kissinger) and also of the ninth count, charging that Dr. Ahmad and Sister Elizabeth had tried to send contraband — the kidnap letter — into Lewisburg prison.

Actually this letter and other contraband letters carried

by Douglas passed in and out of the prison with the knowledge and consent of prison officials and the F.B.I.

In the transcripts requested by the jury were references to three other defendants, the Rev. Joseph Wenderoth, and a former priest, Anthony Scoblick and his wife, Mary Cain Scoblick, a former nun.

Two days of cross-examination of Douglas were included in the transcripts sent to the jury. They dealt with the informer's purported role as provocateur and recruiter. Douglas admitted under cross-examination that he had written a Bucknell coed that he was "totally committed" to civil disobedience, was ready to "give his life to the struggle" and suggested that she become involved.

"The whole letter is a lie," he said under cross-examination.

The jury foreman also asked for a transcript of the closing arguments made earlier this week by the prosecution and defense. Judges Herman denied this, explaining that the summations were not evidence.