

Harrisburg 7 Jury, Reporting Progress, Told to Go On

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The deadlocked jury in the Berrigan antiwar conspiracy trial was ordered by a Federal judge late today to continue its deliberations after the foreman reported "progress" toward a decision.

Federal District Judge R. Dixon Herman earlier had denied a motion for a mistrial by defense attorneys, who said that after six days of deliberation the jurors were being "coerced into a compromise verdict."

Judge Herman said he would excuse the jurors only if the foreman, Harold C. Sheets, a Harrisburg tax accountant, reported that the jury of nine women and three men was "hopelessly deadlocked."

The case of the Rev. Philip F. Berrigan and six other antiwar activists charged with conspiring to kidnap Henry A. Kissinger, the President's foreign affairs adviser, went to

the jury last Thursday afternoon. The defendants were also charged with a conspiracy to blow up heating tunnels serving Government buildings in Washington and to vandalize draft boards in several areas.

At the insistence of defense counsel, Judge Herman called the jurors into the courtroom at 3:48 P.M., after they had deliberated more than 50 hours over a span of six days. They looked benumbed.

The judge told them: "I called you in to inquire if any continuation of deliberations would help you to arrive at any decision. I told you Sunday if you felt you were hopelessly deadlocked this court would have no choice but to discharge the jury. I want to reiterate that again."

"Mr. Sheets, can you tell me if you have made any progress?"

Mr. Sheets replied: "For the past two hours there has been progress made."

"Do you think," asked the

judge, "that there would be more progress if you continue to deliberate?"

"That is right."

But the foreman added: "I do not think we could do that yet today. We would like to be relieved at 6 P.M."

Judge Herman sent the jury to its motel at 6 P.M. and ordered it to return for deliberations tomorrow. He forbade a visit to her dentist by the only black on the panel, Mrs. Vera Thompson, who had some teeth pulled recently. The defense objected.

On Easter Sunday the jury brought in a verdict on a minor count of the 10-count indictment. It found Father Berrigan guilty of smuggling a contraband letter out of the Lewisburg, Pa., Federal prison. But it said it could reach no agreement on the other nine counts and asked Judge Herman twice for clarification of his instructions on conspiracy law.

The conviction could mean a maximum sentence of 10 years for Father Berrigan, who is

now serving a six-year term for destroying draft board records in Maryland.

The defense motion for a mistrial observed that the jurors had been sequestered since Feb. 8 and that the hours of deliberation they had assigned themselves since receiving the case Thursday were unusually long—they worked until 9 o'clock the first night and to 9:30 the second.

"Further forced deliberation by this jury would be prejudicial to the defendants," the motion said.

On trial with Father Berrigan are Sister Elizabeth McAlister, a New York City nun; the Rev. Joseph Wenderoth; the Rev. Neil McLaughlin; Anthony Scoblick, a former priest, and his wife, Mary Cain Scoblick, a former nun, and Dr. Eqbal Ahmad, a research fellow at the Adlai Stevenson Institute for International Affairs. Dr. Ahmad, a Pakistani Moslem, is the only non-Roman Catholic in the group.