

# A Surfeit of Fervor

By Tom Wicker

IN THE NATION

The acquittal of most of the Camden 28 and the likely dismissal of charges against the rest is an interesting and not altogether reassuring sign of an age marked by moral and patriotic fervor.

Most important, the Camden jury decided courageously that the state has no right to lure people into a crime, aid them in committing it, then arrest them for doing so. This decision was taken after Federal Judge Clarkson S. Fisher had specifically instructed the jury that it was entitled to find the defendants innocent if, in fact, it believed the Government itself had helped bring about the crime.

The facts, as presented in court, leave little doubt that that is precisely what the Government did. A group of citizens in Camden who opposed the war in Vietnam had plotted to break into the draft board offices there and destroy draft records; but, so they testified, they abandoned the plan because they did not know how to make the break-in.

A local contractor then joined the group and revived the plan. He also was an F.B.I. informer. On the one hand, he provided the needed expertise for the break-in and most of the required tools, and constantly encouraged the project; on the other hand, he sent the F.B.I. daily reports on the planning of the raid over a two-month period. Throughout that time, therefore, the Government knew that a conspiracy was in existence, that a crime was being planned, but made no move to stop it until the act of commission. By hearsay, at least, the F.B.I. informer suggested in court that this waiting game was at the instigation of the White House. The defense contended that the idea was to catch the group in the act, then use the arrests to discredit the antiwar movement.

Of course, the defendants were caught in the act and arrested; but Judge Fisher said the jury could decide whether the Government's use of the informer to stimulate the commission of the crime was "offensive to the basic standards of decency and shocking to the universal sense of justice." The jury decided that it was, and acquittal followed.

If that were all, another triumph of the judicial system could be celebrated unambiguously, even by some who disapprove of what the Camden 28 did. Left to their own devices, they might not have done it; and anyway the Government could have arrested and stopped them at almost any point before they acted. Government, after all, has shown no reluctance in recent years to bring conspiracy charges in many other cases.

But one juror said after the acquittals that the jury also had been influenced by the defense's contention that the Camden 28 ought to go free as a

means of making it clear that the nation had had enough of an illegal and immoral war. The jury wanted to join the defendants in opposing the war, said this juror.

Another, in a letter left with the clerk of court, said "well done" to the defendants for opposing "men who failed the people by raining death and destruction on a hapless country." And one of the defendants said after the verdict that it had shown that the people were "fed up" with the war in Indochina.

But hold on a minute. It's a safe bet that most of the people who cheered the acquittal of the Camden 28 were outraged by the recent news that the office of Daniel Ellsberg's psychiatrist had been raided in an illicit search for Mr. Ellsberg's medical records. But the men who planned the raid believed that they were acting in "the national interest," just as the Camden 28 did. The two groups saw the national interest quite differently, of course, and it may be argued that the one wished to stop the war and the other to sustain it, or at least to sustain the kind of security and foreign policy attitudes and processes that had brought it about. The essential point remains, nevertheless, that each group decided to break the law out of what each conceived to be good motives.

Does anyone really wish to argue that because Mr. Egil Krogh conceived himself to be acting in the patriotic cause of national security a jury ought to acquit him of whatever complicity he had in the Ellsberg break-in? But that is uncomfortably close to what some of the jurors and defendants apparently thought in the Camden trial.

Just as the Camden 28 thought they were acting to stop what they believed to be an illegal war, Krogh was acting to stop what he believed to be illegal leaks of Government secrets. Krogh would not have thought the 28 were justified, as they surely do not believe he was justified; and that all considered themselves justified is important for their moral state but should not affect a jury's decision on whether they broke the law.

Moral gestures in violation of law are sometimes necessary. Strong government response in violation of law may seem necessary to those in office. But at some point in such a chain of action and reaction, the rule of law itself becomes endangered, and that point has been too closely approached in America. Nothing is more needed now than a scrupulous reliance on law, not on moral or patriotic fervor, by the President as well as every other citizen.