

Deadlocked Jury Is Ordered to Continue

By WALTER RUGABER

Special to The New York Times

MERIDIAN, Miss., Oct. 19—A deadlocked Federal Court jury was ordered today to continue its deliberations in the trial of 18 men charged with a conspiracy in 1964 to "eliminate" three young civil rights workers.

The all-white panel filed into the second-floor courtroom at 3:18 P.M. to report the impasse to the United States District Court Judge, W. Harold Cox. The jurors, who got the case yesterday afternoon, had deliberated 9 hours 40 minutes.

Judge Cox ordered the five men and seven women back to the jury room after urging each of them to "carefully re-examine and reconsider" their positions. He invited them to "take all the time you feel is necessary."

New Instructions Read

Judge Cox read the panel new instructions drawn from the so-called "Allen Charge," a set of directions used in the case of *Allen v. the United States* and upheld by the Supreme Court in 1898.

Lawyers also referred to the instructions as the "dynamite charge" because it is designed to help jog the jurors into a unanimous verdict. Its language is direct and legally somewhat controversial.

The jurors deliberated for several more hours without reaching a verdict. Then just before 9 P.M., Federal marshals cleared the courthouse to escort them to a nearby hotel for the night. They were scheduled to resume deliberation at 9 A.M. tomorrow.

The defendants include Cecil R. Price, the chief deputy sheriff of Neshoba County, and Sam H. Bowers Jr. of Laurel, identified repeatedly during the trial as the Imperial Wizard of the White Knights of the Ku Klux Klan.

The 18 are accused of participating in a Klan plot to deny the three slain youths their constitutional rights. A conviction carries a maximum



Associated Press Wirephoto

Edgar Ray Killen, left, and Deputy Sheriff Cecil R. Price in Meridian, Miss., yesterday

penalty of 10 years in prison and a \$5,000 fine.

Killed were Michael H. Schwerner, 24 years old, of New York, a white field worker for the Congress of Racial Equality; Andrew Goodman, 20, of New York, a white college student, and James H. Chaney, 21, of Meridian, a Negro plasterer.

The three disappeared in Neshoba County, northwest of Meridian, on June 21, 1964. Their bodies were found six weeks later beneath the earthen dam of a small farm pond in the county.

"This is an important case," Judge Cox told the panel. "The trial has been expensive to the prosecution as well as to the defense."

The case "must be disposed

of," he said, and another trial will be "equally expensive."

Moreover, the judge continued, a second jury will be drawn from the same area as the first and there is "no reason to believe" that it will be any more intelligent or competent in reaching a verdict. No juror should surrender

his "honest convictions," the judge went on, but each member of the panel has the duty to "consult and deliberate" with the others and no one should hesitate to change his opinion.

"You're not partisans," he said, "you're judges—judges of the facts."

Judge Cox then told the jury

YORK TIMES, FRIDAY, OCTOBER 20, 1967

Deliberations in Mississippi Slayings of

that it could bring in a partial verdict on some of the 18 defendants if it was unable to agree on all of them.

Judge Gets 5 Notes

After the jury filed out, Judge Cox said he had received five notes from it since yesterday. One had asked for a transcript of certain testimony and another had sought further legal instructions on the meaning of "reasonable doubt."

The judge had turned down both requests and said he thought it would be improper to repeat his earlier charge on just one point. To convict, the

jury is required to believe in a defendant's guilt "beyond reasonable doubt."

Judge Cox said that the five communications were more than he had received from any jury in the past. Agreement among 12 persons is always difficult, he observed, and the current case is "full of emotions."

Moves for Mistrial

The jurors gave no indication of how they were split or whether some of the 13 verdicts had been reached. The Government had asked for the acquittal of one defendant, Travis M. Barnette, on the

ground that it had insufficient evidence to convict.

The defense objected to the judge's use of the "Allen Charge" and moved for a mistrial. The attorney said that in suggesting changes in position the judge had implied that the jury's "minority should follow the majority."

Also, the defense complained, the expense of the trial should not be a factor for the jury to consider. The lawyers also argued that the judge was improper in permitting a partial

3 Rights Workers

verdict in the case.

As the jury deliberated, most of the defendants stood or sat on benches in the hallway outside the courtroom. Mr. Price thumbed through a copy of Gun Sport magazine.

Sheriff Lawrence A. Rainey, another defendant, told friends: "Even if they [the jurors] turn me loose, they'll have done the thing they [the Government] set out to do—break me and put me in debt for the rest of my life."

The sheriff will leave office in January.
