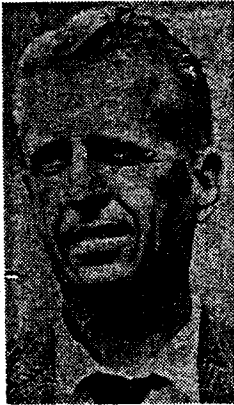


U.S. Expected to Drop Berrigan Case

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PHILLIP BERRIGAN
... awaits sentencing

LOS ANGELES, June 13—The Justice Department is expected to announce shortly that it will drop all remaining charges against the Rev. Phillip Berrigan and his six co-defendants, rather than retry the controversial case that ended with a hung jury in Harrisburg, Pa., in April.

Nixon administration sources said today that high Justice Department officials, discouraged that 10 of 12 jurors voted for acquittal on the key conspiracy count in the indictment the first time around, feel they could not win a conviction in a new trial.

The seven defendants—six

Catholic former or present priests and nuns and a Pakistani student—were charged with conspiring to kidnap presidential adviser Henry A. Kissinger, to bomb tunnels under federal buildings in Washington and to raid other federal offices.

Father Berrigan and Sister Elizabeth McAlister were convicted of smuggling seven contraband letters in and out of the Lewisburg, Pa., federal penitentiary in 1970.

But after 60 hours of deliberation, only two jurors held out for conviction on the more serious conspiracy charge.

U.S. District Court Judge R. Dixon Herman declared a mistrial and dismissed the jury on April 5.

A decision on whether to retry the Berrigan case is to be made by Attorney General Richard G. Kleindienst this week.

Before him, when he acts, will be a pessimistic report from the Justice Department's Internal Security Division, which supervised prosecution of the case.

Sources said today that the division believes that unless Herman were to reverse some of his pretrial rulings from the first trial, it would be virtually impossible to convict the defendants.

The division is dissatisfied, for example, with Herman's granting the defense more than four times as many opportunities to strike potential jurors as he gave the prosecution.

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It also feels that the judge was harsh in requiring the government to disclose its witnesses in advance, while the same requirement was not imposed on the defense.

(The defense in the Harrisburg case eventually decided to rest its case without calling any witnesses. It relied in large part on its efforts to undermine the credibility of Boyd Douglas, the ex-convict who was the government's key witness.)

Although the Internal Security Division report has yet to be submitted to Kleindienst, it is already taken as a foregone conclusion at the Justice Department that the Harrisburg case will not be retried.

Sources in the Internal Security Division described the special team of prosecutors assigned to the case as "breaking up" and returning to jobs they previously held.

Chief prosecutor William S. Lynch, ordinarily attached to the organized crime and racketeering section of the Department's Criminal Division, was reported today by his secre-

tary to be "on vacation" and not expected back before the end of June.

Another prosecutor, William Connelly, reached at the U.S. attorney's office in Toledo, Ohio, said he has no plans to return to Washington in the near future.

The prosecution team was said by administration sources to be "very discouraged," but as convinced as ever that the seven defendants were guilty as charged in the indictment.

A decision to drop the charges in the Harrisburg case has been under consideration by the Justice Department

ever since the jury was dismissed, but it was postponed by other problems, including the lengthy debate preceeding Senate confirmation of Kleindienst and the death of FBI Director J. Edgar Hoover.

Hoover was generally regarded as a major protagonist in prosecuting the Berrigan case.

During testimony before a congressional committee on Nov. 27, 1970, before a grand jury had been convened in connection with the case, the FBI director said that Catholic antiwar militants had been conspiring to kidnap Kissinger

and to bomb the Washington tunnels.

An indictment was returned in the case on Jan. 12, 1971, but it was amended on April 30, 1971—adding two new defendants and adding draft board raids to the objects of the alleged conspiracy.

The Justice Department move to drop the remaining counts in the indictment presumably will be made when the prosecutors next go before Judge Herman. Father Berrigan and Sister McAlister have yet to be sentenced on the counts on which they were convicted.