

3/25/72

No Witnesses Called by Plot Defendants

By Betty Medsger
Washington Post Staff Writer

HARRISBURG, Pa., March

24—Declaring that the government had failed to prove them guilty, the seven antiwar activists on trial for conspiracy here rested their case today without a word of testimony.

"The defendants shall always seek peace. They proclaim their innocence of these charges. The defendants rest," defense attorney Ramsey Clark told a stunned courtroom that was expecting late today to hear the beginning of the defense's case.

Five other defense attorneys rose and rested the case for each of the defendants.

Then, defendant Philip Berrigan, smiling broadly, stood and said, "Since I discharged my lawyers, I rest my own case."

It was the first time the Catholic priest had uttered a word in public since he went to prison in April 1970 for destroying Selective Service records. Early in the trial, in a legal maneuver, he dismissed Clark as his attorney in unsuccessful attempt to address the jury.

The defendants, in addition to Father Berrigan, are Sister Elizabeth McAlister; Eqbal Ahmad, a Pakistani scholar; the Rev. Neil McLaughlin; the Rev. Joseph Wenderoth; Anthony Scoblick, a former priest, and his wife, Mary Cain Scoblick, a former nun.

The judge, the spectators, and the prosecuting attorneys appeared shocked by the ac-

See PLOT, A5, Col. 1

PLOT, From A1

tion. Chief prosecutor William S. Lynch's first reaction was to accuse the defense of "some sort of trickery or fraud" for having issued subpoenas to numerous government officials.

Their case was prepared and witnesses were standing by, said the defendants. But since Tuesday they had begun discussing not presenting a case. Finally, in a one-and-one-half-hour meeting Thursday evening in Father Berrigan's cell in Dauphin County Prison they decided not to present a case.

In addition to their contention that the government put forth an unconvincing case, the defendants said U.S. District Judge R. Dixon Herman's refusal to let them present evidence of "discriminatory prosecution" was a factor in their decision.

The judge's refusal to extend immunity to defense witnesses also contributed to the decision, they said.

Their complaint of "discriminatory prosecution" is based, first, on their contention that they were indicted the first of two times in an attempt by the Justice Department to defend FBI Director J. Edgar Hoover.

A first indictment, handed up here Jan. 12, 1971, was issued less than two months after Hoover publicly announced the existence of a conspiracy to bomb tunnels under federal buildings and to kidnap a high official.

The first indictment named six persons and charged them with separate conspiracies to kidnap presidential adviser Henry A. Kissinger and to bomb the tunnels. They faced potential life imprisonment on the kidnap charge.

But a second indictment, returned April 30, 1971, reduced the potential sentence to five years and added two defendants, while placing the two earlier charges within a general charge that also included conspiracy to raid federal offices.

As the government interprets the charges, the jury will not be asked to give verdicts for each defendant on each of the three conspiracy charges. Rather the verdict will simply be on the general conspiracy.

The defendants said that as a part of their defense they had called as witnesses numerous persons who would claim a role in the 1970 raids of federal offices in Rochester, N.Y., Philadelphia and three cities in Delaware. The defendants are charged with conspiracy in connection with those raids.

However, when it became evident that the judge would not grant immunity to defense witnesses, said Sister McAlister, "We refused to subject them to an FBI fishing expedition that would result in more prosecutions."

Immunity was an issue because most of the potential witnesses have not been arrested. Of the three raids, only in Rochester were persons — eight — prosecuted. Four persons, none of them defendants here, were arrested in connection with the Philadelphia and Delaware raids, but charges were dropped.

In a message prepared by Father Berrigan and read by Ahmad at a press conference, the priest said, "I disagreed with resting, as humanly and as stenuously as I could. I felt we ought to face squarely the violent absurdity of this indictment (insofar as we could in this suffocating court); that we ought to submit to the requirements of truth, even toward the Nixon administration; that we owed people an explanation of our lives and resistance."

But he and two other defendants, Sister McAlister and Ahmad, bowed to the will of the majority at the Thursday night meeting. All three of them said Ahmad and Sister McAlister had wanted strongly to take the stand. They are the only defendants linked to the alleged kidnaping plot, which they have maintained was just an "idea that remained an idea."

"It was only a conspiracy to Boyd Douglas," said defense attorney Leonard Boudin earlier today in arguing a motion for directed acquittal. "For them it began as an idea and ended as an idea," said Boudin.

Saying that his disagreement with the decision to rest is "not important," Father Berrigan wrote, "What is important is the outcome—seven people coming to a position despite impressive moral and political differences.

"Indeed, the decision is our kind of conspiracy—a kind of conspiracy without which resistance becomes delusion, justice becomes fantasy and peace an impossible goal."

The defendants seemed jubilant over their decision. As the jury stood to leave moments after the defense attorneys' announcement, the defendants and their attorneys stood and faced the jury.

Afterward, as she entered the press room, defendant Mary Cain Scoblick expressed relief, saying, "I feel like I just had a baby."