

at 3/24/72

Prosecution Rests Case Against 7 Activists in Plot Trial

By Betty Medsger

Washington Post Staff Writer

HARRISBURG, Pa., March 23—After producing 64 witnesses, the prosecution today rested its case against Catholic priest Philip Berrigan and six other antiwar activists on trial here.

Defense attorneys promptly filed a memorandum with U.S. District Judge R. Dixon Herman charging that the defendants were being prosecuted "not for their conduct alone but principally to vindicate the director of the FBI and the Justice Department."

They have been prosecuted said the attorneys, because of a "malice that arose because of the defendants' conscientious outrage at the government's war in Indochina and because of their outspoken dedication to civil disobedience as a way of bringing the war to a halt."

The case presented by the government in 24 days is based primarily on the testimony of Boyd F. Douglas Jr., who befriended Father Berrigan in 1970 when both were prisoners at Lewisburg, Pa., federal penitentiary.

No one other than Douglas has testified so far that any of the defendants ever discussed

the kidnaping of presidential adviser Henry A. Kissinger.

The general conspiracy which the seven are charged also includes a plot to bomb tunnels under federal buildings in Washington and to raid federal offices in several states.

Douglas and two other witnesses testified that they had been told that Father Berrigan and the Rev. Joseph Wenderoth, a Baltimore parish priest, in early April 1970 entered the tunnel system under the Forrestal Building in Washington to inspect the tunnels. No one, however, has testified to seeing them in the tunnels.

Only defendant John Theodore Glick has been linked to any of the three Selective Service raids cited in the indictment.

Glick is charged with being part of the conspiracy, and he will serve as his own attorney at a separate trial. He was convicted for the September 1970 raid on federal offices in Rochester, N.Y., one of the three raids cited in the indictment, and served a prison term in that conviction.

FBI fingerprint examiners testified today that fingerprints of Glick and Sister Elizabeth McAlister, another

defendant, were found on leaflets left at the scene of June 1970 draft office raids in Delaware.

Letters written by Sister McAlister, which were smuggled to Father Berrigan by Douglas, mention the Delaware raids and describe her role in the raids. She was not arrested for the raids at the time they occurred though the FBI had prior information about them through the letters and through telephone calls Douglas said she made to him from Delaware at the time of the raids.

Other letters written by the defendants in the fall of 1970 and introduced as evidence indicate that plans for a kidnaping and the "tunnels project" didn't develop. Indirect testimony, only Douglas's reports of conversations with a few of

the defendants in the fall of 1970 indicate that the idea of a kidnaping—suggested in the last two letters he smuggled for Father Berrigan and Sister McAlister before Father Berrigan was transferred to Danbury federal prison—touched upon a possible conspiracy.

The last of 21 FBI agents to testify in the trial told the jury today that he found Father Wenderoth's fingerprints on Army demolitions manuals. Douglas testified that he posed as a "demolitions expert" and gave the manuals to Father Wenderoth. The priest, Douglas said, told him he had copied the contents.

The defense attorneys' memorandum to the judge was in support of a motion to present, as part of the defense, evidence that the government exercised discriminatory prosecution against the defendants. The attorneys contend that the existence of two indictments against the defendants is evidence of the Justice Department's "motive to convict them at any cost."

When the case goes to the jury it will not be asked to give verdicts on each of the three parts of the alleged conspiracy. It would be possible, for instance, for the jurors to agree that any one defendant was guilty of conspiring to

raid draft offices but was not guilty of either kidnaping or bombing conspiracies. Still, the verdict would be guilty.

"When the jury comes in you won't know which conspiracy which defendant is guilty of if the verdict is guilty," said a U.S. attorney, S. John Cottle. He said agreement among the seven defendants on any one part of the conspiracy would not be necessary for conviction.

The defendants, in addition to Sister McAlister and Fathers Berrigan and Wenderoth are the Rev. Neil McLaughlin, Mr. and Mrs. Tony Scoblik and Eqbal Ahmad, a Pakistani scholar.