

U.S. Opens Case Against

By Betty Medsger
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Berrigan, 7 Others

If it were a peaceful time, the Rev. Philip Berrigan might be the pastor of St. Mary's Catholic Church somewhere. He might be just a big, likable priest mothered by little old ladies, liked by teenagers and frequently asked to drink with his buddies in the priesthood.

But one Justice Department lawyer has said in court that Father Berrigan and some of his friends are a bigger threat to the nation than organized crime.

Today in a Harrisburg, Pa., courtroom. The government is due to begin trying to prove that Philip Berrigan and seven others conspired to raid draft boards, to kidnap presidential adviser Henry Kissinger and to shut off the heat in federal buildings in Washington by blowing up the government's underground heating system at five locations.

At first there were six defendants. They were charged with conspiracy to kidnap and conspiracy to bomb. Conviction on the kidnap charges involved potential life imprisonment.

But a later indictment named eight defendants. They were charged with a general conspiracy that included kidnaping, bombing and raids on Selective Service offices. Neither of the two dramatic original charges—kidnaping and bombing—need be proven for the defendants to be convicted. And the maximum sentence was reduced to five years.

Besides Berrigan, the defendants, all but two of them Catholics, are:

- Sister Elizabeth McAlister, 32, a professor of art history at Marymount College in Tarrytown, N.Y.

- Dr. Eqbal Ahmad, 40, a Pakistani who is a fellow at the Adlai Stevenson Institute of International Affairs in Chicago.

- Theodore Glick, 21, of

Harrisburg, a member of the Church of the Brethren, presently free on bail pending an appeal after serving 11 months of an 18-month sentence for a raid on federal offices in Rochester, N.Y., in September, 1970. Last week trial judge R. Dixon Herman ordered that Glick be tried separately.

- The Rev. Neil McLaughlin, 30, a parish priest in Baltimore and a member of the New York Eight, a group that took public responsibility for a draft board raid in that city in 1969.

- The Rev. Joseph Wenderoth, a parish priest in Baltimore and member of a self-named "East Coast Conspiracy" that took credit for the Feb. 6, 1970, draft board raids in Philadelphia.

- Anthony Scoblick, 30, a former Josephite priest from Baltimore who was part of a group that took public responsibility for raids on Selective Service offices in Boston in November, 1969.

- Mary Cain Scoblick, 32, a former Notre Dame de Namur nun from Baltimore, who also took credit for the Boston raid. She is the wife of Anthony Scoblick.

The eight have not denied a commitment to civil disobedience as a form of protest. However, they have denied that they would kidnap or bomb.

"We reaffirm our declaration made before this court that, unlike our accusers, we are neither bombers nor kidnapers nor conspirators," said the defendants at their second arraignment in May.

They are all identified with the Catholic peace movement, a loosely knit group of persons who espouse non-violent radical protest to oppose the war in

Vietnam.

Molded at first largely by Philip Berrigan, it is a movement that has prayed, marched, visited congressmen and others in positions of civic and military power including Dean Rusk.

Then it moved to pouring blood on Selective Service records in 1967 in Baltimore. In 1968 nine persons, including Father Berrigan, burned draft records with napalm in Catonsville, Md.

Raids since then, are among the conspiratorial acts charged to the eight defendants.

The defendants have charged in court that the "behavior of the prosecution

has been little more than a conspiracy to bolster the public image and to pander to the injured ego of the director of the Federal Bureau of Investigation."

That statement, made in an affidavit filed in U.S. District Court in Harrisburg by defense attorney Paul O'Dwyer, was a reference to J. Edgar Hoover's announcement of the alleged conspiracy before a grand jury had been convened in the case.

The defense attorneys maintained that the grand jury was convened and the first indictment was handled down merely to protect Hoover, who had been criticized in Congress by Rep. William R. Anderson (D-Tenn.) for "using newspaper headlines and scare dramatics rather than the due process of law he has so proudly upheld in his distinguished career . . ."

The government prosecutor takes a different view of who is scornful of legal processes.

Organized crime, said chief prosecutor William S. Lynch at a pretrial hearing,

becomes involved in violence "only to further its greed." But, referring to the Harrisburg defendants, "there are those who reject society's definition of law and criminality, people who would overthrow the society under which we live."

The shape of the case has changed significantly since it first made headlines in November, 1970.

Hoover made his accusations to a closed session of a Senate Appropriations Subcommittee Nov. 27, 1970. On Dec. 18, 1970, a federal grand jury in Harrisburg, Pa., began hearings in the case, and, on Jan. 12, 1971,



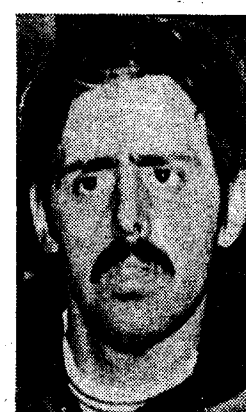
EQBAL AHMAD
... Chicago teacher



ELIZABETH McALLISTER
... art historian



PHILIP BERRIGAN
... Catholic priest



ANTHONY SCOBLICK
... former priest



MARY SCOBLICK
... former nun



JOSEPH WENDEROTH
... Baltimore priest



NEIL McLAUGHLIN
... Baltimore priest

handed down an indictment naming Ahmad, Berrigan, Sister Elizabeth, Father McLaughlin, Scoblick and Father Wenderoth. They have pleaded not guilty.

Even after the grand jury handed down its indictments, however, it continued to hear witnesses in the case, some of whom were cited for contempt after refusing to testify.

On April 30, 1971, the grand jury handed down a new indictment which replaced the original. Two new defendants were added—Mary Scoblick and Glick, at that time in jail for the raid on federal offices in Rochester.

Within the past two months, additional unindicted co-conspirators have been named, bringing the total to six.

Names of three unindicted co-conspirators were dropped in the new indictment. They include Philip Berrigan's brother, Father

Daniel Berrigan—who the FBI director had said was one of the ringleaders of the plot.

But the most significant change was in the charges themselves.

Attached to the second indictment were two letters allegedly exchanged between Philip Berrigan and Sister Elizabeth.

A letter allegedly written by Sister Elizabeth and smuggled in to Father Berrigan in Lewisburg federal prison includes a suggestion "to kidnap—in our terminology, make a citizen's arrest of someone like Henry Kissinger . . . because of his influence as a policy-maker."

The government says Father Philip Berrigan, in a reply smuggled out of prison, said he thought the idea was "brilliant, but grandiose," and added, "nonetheless, I like the plan and am just trying to weave some element of modesty into it.

Why not coordinate it with the one against the capital utilities?"

The defense says that though there was speculative discussion of a "citizen's arrest" and turning off the heat in government buildings, the ideas were rejected on the grounds that such actions probably could not be carried out non-violently.

The changes in the superseding indictment increased defense claims that the original indictment had been compiled hastily as a defense of Hoover's reputation.

Justice Department officials have remained silent on why they substantially changed the first indictment. The only comment by high officials has been that they think they have an airtight case and that it is one they will be proud of.

The man selected as the chief prosecutor, Lynch, was moved over from his job as chief of the organized crime section of the Justice Department for this case.

Lynch, a Harvard Law School graduate, will be facing his old boss, former Attorney General Ramsey Clark, in the Harrisburg courtroom.

Clark is one of the three main trial attorneys in the case. The other two are famed constitutional lawyer Leonard Boudin, who is chief attorney for Daniel Ellsberg in the Pentagon papers case, and Paul O'Dwyer, well-known New York politician and recently appointed co-chairman of Eugene McCarthy's New York state campaign for the Democratic nomination for President.

As attorney general in 1968, Clark prosecuted pediatrician Benjamin Spock and four others in another set of conspiracy charges that brought strong criticism from civil libertarians who accused Clark of playing havoc with First Amendment rights.

Both the defense and the government have spent substantial amounts of money on this case. Defense spokesmen estimate their expenses, including trial costs, will be about \$500,000. Government costs, considering the number of FBI agents

who have worked on the case over the past two years, would undoubtedly be many times the defense figure.

Both the prosecution and defense have said that self-serving publicity generated by the other side may prevent a fair trial.

Several times during pretrial hearings, the chief prosecutor has criticized the coverage generated by the numerous speeches the defendants have given around the country and to news releases sent out by their defense committee in New York.

Defense Attorney O'Dwyer charged in court last spring that the case ought to be dismissed because Hoover had announced a "verdict" in the press before there was either an indictment or a trial. He also accused the government of leaking copies of letters allegedly exchanged between Sister Elizabeth and Philip Berrigan to news magazines before they were made part of official records.

" . . . There is not a corner of land in this country where the headlines have not been the same," said O'Dwyer in court. Lynch retorted: "The government's publicity has been a drop of gentle rain in the ocean of publicity generated by the defense."