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Prosecution Rests in Berrigan Trial

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The Government rested its conspiracy case against the Rev. Philip F. Berrigan and six other antiwar activists today after authenticating letters that discussed a plot to kidnap Henry A. Kissinger, President Nixon's adviser on national security affairs, and blow up heating tunnels in Washington.

Handwriting experts of the Federal Bureau of Investigation said that Father Berrigan and Sister Elizabeth McAlister, a New York City nun, had been the authors of the two letters on which the Government's case heavily depends. The defense did not challenge the authenticity of the letters.

On Aug. 20, 1970, Sister Elizabeth wrote to Father Berrigan, then a prisoner at Lewisburg, Pa., Federal Penitentiary, proposing the kidnapping of "someone like Kissinger" who would be held for a week and then released unharmed after an underground trial by "big-wigs of the liberal ilk." She said that the idea had been outlined to her by Dr. Egbal Ahmad, a Pakistani scholar and the only non-Catholic among the seven defendants.

Berrigan Replies

Father Berrigan replied two days later. He cautioned that the kidnapping scheme "opens the door to murder." It was "brilliant but grandiose." However, he liked the plan. He suggested that the kidnapping be coordinated with an earlier plan to destroy heating tunnels serving Government buildings. Abducting Mr. Kissinger would take a good deal of preparation: "the thing to do," Father Berrigan counseled is find out where he goes for week-

ends or where he shacks up—if he does shack up."

The two letters were delivered to the F.B.I. by a paid informer, Boyd F. Douglas Jr., a fellow prisoner with Father Berrigan who was released daily to attend Bucknell University and who served as a conduit between the priest and militants of the Catholic Left.

But although the authenticity of the letters went unchallenged, the Government completed its case against the Harrisburg Seven without any evidence that the alleged conspirators had made any actual plan to carry off Mr. Kissinger.

And the bomb plot also remained inchoate. The Government had promised to prove that on April 1, 1970, Father Berrigan and another defendant, the Rev. Joseph Wenderoth, entered the utility tunnel system in Washington to determine the feasibility of bombing it.

Douglas testified that Father Berrigan had told him of the underground exploration by the two priests. Another witness, a student, said that Father Wenderoth had mentioned the same excursion to him during a peace rally at Catholic University in Washington.

But no witness was produced who could place the two priests in the tunnel.

The defense will move tomorrow for a directed verdict of acquittal, contending that the alleged bomb-kidnapping conspiracy was nothing more than a midsummer vapor in the minds of a few of the defendants and that most of the "overt acts" cited by the Government in furtherance of the

plot were instigated or provoked by Douglas, who has been described by his F.B.I. "handling agent" as "an accomplished confidence man."

In addition, J. Thomas Menaker, a defense attorney, submitted today a memorandum to Federal District Judge R. Dixon Herman charging that the defendants were being prosecuted "principally to vindicate the director of the Federal Bureau of Investigation [J. Edgar Hoover] and the Justice Department."

Discriminatory Prosecution

To support his contention that the Government was exercising "discriminatory prosecution" in violation of the Fifth Amendment, Mr. Menaker said that the F.B.I. had developed a "personalized animus" against the defendants because the agency was made to look ridiculous by the success of Father Berrigan's brother, the Rev. Daniel Berrigan, in evading arrest.

To capture "Father Dan," the F.B.I. undertook a massive surveillance of the defendants, Mr. Menaker said, and by September, 1970, Mr. Hoover and the Attorney General, John N. Mitchell, were telling Republican political leaders at the White House of a bombing-kidnapping conspiracy by "a group of Catholic radicals."

"The prosecution of the defendants, which began one month later, was not an effort to convict them for what they had done, but an effort to vindicate the Administration for charges it could not support," Mr. Menaker said. "It turned into a deliberate and purposeful effort to prosecute them at any cost to save face for the Government."