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**Berrigan Defense  
Calls No Witnesses  
And Rests Its Case**

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—Defendants in the Berrigan antiwar conspiracy trial rested their case suddenly today without calling a single witness after two adverse rulings that they felt would have crippled their hopes of an "affirmative" defense.

Their decision stunned the courtroom. The case may go to the jury next week after final arguments and a charge by Federal District Judge R. Dixon Herman to the panel of nine women and three men.

The surprise move came at 4:20 P.M. when Ramsey Clark, the former Attorney General, rose and said: "Your Honor, the defendants shall always seek peace. They continue to proclaim their innocence. The defense rests."

The seven defendants had reached their decision at a meeting last night in Dauphin County Prison, where one of them, the Rev. Philip F. Berrigan, is confined. Father Berrigan is described by the Government as leader of the group in a conspiracy to kidnap Henry A.

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Kissinger, President Nixon's adviser on national security affairs, blow up utility tunnels in Washington and raid draft boards.

The decision to rest the case was adopted by a 4-to-3 vote. Father Berrigan opposed it. So did Sister Elizabeth McAlister, a New York City nun, and Dr. Eqbal Ahmad, a Pakistani scholar and the only non-Catholic in the group.

Those in favor of not answering the Government's case were the Rev. Joseph Wendroth; the Rev. Neil McLaughlin; Anthony Scoblick, a former priest, and his wife, Mary Cain Scoblick, a former nun.

All of them felt that their chances of presenting a strong defense would be severely damaged if Judge Herman denied, as he did this afternoon, two defense motions.

One of these motions called for a hearing in front of the jury of the defense charge that the Government had singled them out for discriminatory prosecution. The other asked for immunity for defense witnesses who would describe non-violent acts of civil disobedience engaged in by the Catholic left, witnesses that would include Father Berrigan's older brother, the Rev. Daniel Berrigan, who has just been paroled from Danbury, Conn., Federal Prison.

**Philip Berrigan Disagrees**

But the Rev. Philip Berrigan, in a statement released at a news conference by his six co-defendants, said that he had "strenuously" disagreed with a majority decision to rest the rest.

"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, and that we owed people an explanation of our lives and resistance," he said.

His co-defendants maintained at the news conference that the Government, despite five weeks of testimony by 64 witnesses, had failed to prove the bombing-kidnapping conspiracy.

Some of the defendants would have admitted participation in draft board raids, but the group felt that the conspiracy count of the indictment was so broad in scope that even though the jury did not believe the more sensational elements of the alleged plot, it could still find them guilty of the draft board action.

**Announcement to Court**

Mr. Clark's announcement came immediately after Judge Herman turned down the defense motions. Spectators gasped as five other lawyers got up to confirm the defendants' decision. Father Berrigan, a husky, stern-faced man, who had tried to dismiss Mr. Clark as his attorney so he could submit his own defense, a move that was forbidden by Judge Herman, rose and said: "Since I've dismissed my lawyer, I rest my case."

"All right," Judge Herman said, "closing arguments Monday."

The chief prosecutor, William S. Lynch, rose to protest: "I must say I am surprised." He went on to accuse the defense of "trickery and fraud" in having caused the Government to issue subpoenas for witnesses who would not now be needed. Some of the defendants had pled poverty to oblige the government to pay for the calling of their witnesses.

Earlier Mr. Clark had an angry exchange with Mr. Lynch, his former subordinate at the Justice Department.

Commenting on the Government's case, Mr. Clark told

the court: "I am shocked that the United States Government should present such flimsy evidence. If I was still Attorney General I would never have permitted it to go before the grand jury, and you should enter a judgment of acquittal."

Mr. Lynch rejoined: "You approved the Spock trial (a reference to the 1968 Boston trial of the noted baby doctor and six others for encouraging resistance to the draft).

"Your Honor will recall what happened in the Spock case," Mr. Clark said. (Conviction of Dr. Spock was overturned on appeal.)

Mr. Lynch retorted: "When anybody stands up in open court and leans on the weight of his former office and makes an argument with no analysis of the testimony, I think it's fair to observe that his argument is less than rational."

Judge Herman took a 15-minute recess to consider the defense motions. When he returned he said that allegation of discriminatory prosecution was not a defense that should be presented before a jury. It should have been raised before the trial, he said. As for the other motion, Judge Herman

said that he had no authority to grant equal immunity for defense witnesses.

The Government's case against the Harrisburg Seven relied heavily on the testimony of a paid F.B.I. informer, Boyd Douglas Jr., who served as a courier between Father Berrigan, who was in Lewisburg, Pa., Federal Penitentiary, and the other defendants. He gave the F.B.I. an exchange of letters between Sister Elizabeth and Father Berrigan. The letters discussed a proposal to kidnap Mr. Kissinger, who would be released unharmed a week later, and whose abduction would be tied in with the destruction of the heating tunnels serving Government buildings in Washington.

A defense attorney, Leonard Boudin, said that the defendants had never tried to activate either the kidnapping notion nor the tunnel idea. Both were "left in midair," he noted, despite what he said were provocative nudges by the Douglas, who supplied explosives manuals to the defendants and suggested to them, according to testimony, that a gun might be necessary in the kidnapping of Mr. Kissinger.