One Verdict In, Deadlock on 9 In Plot Trial

By Betty Medsger
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HARRISBURG, Pa., April 2—A federal jury convicted the Rev. Philip Berrigan today of smuggling a letter out of prison but announced that it was unable to reach a verdict on the other nine counts with which the Catholic priest and six other antiwar activists are charged.

Among the charges the jury said it could not agree on is the conspiracy charge—that the defendants conspired to kidnap presidential adviser Henry A. Kissinger, to bomb tunnels under federal buildings in Washington and to raid federal offices.

U.S. District Judge R. Dixon on Herman sent the jury back to deliberate further on the nine remaining counts over the bitter objection of defense attorneys.

After another hour's deliberations, the jurors were allowed to recess until Monday.

Defense attorney Paul O'Dwyer described the decision to accept a partial verdict as "difficult to equal in the annals of jurisprudence. "Very often when jurors continue to argue and debate they may change their minds," said O'Dwyer. "They may decide to change their minds, decide they were erroneous the first time."

Father Berrigan, now serving a six-year term for destruction of Selective Service records, was convicted by the jury on one of four counts that he violated a federal law that prohibits the passage of contraband—including letters—in and out of federal prisons without the approval of prison authorities. The conviction carries a potential 10-year sentence.

The letter for which Father Berrigan was convicted dif- See PLOT, A7, Col. 3
Jury Recesses in Deadlock

PLOTTED FROM A1

Fensters from the other four, which he is charged in that
informant Boyd Douglas smuggled it out of Lewisburg, Pa.,
Federal Penitentiary before
the FBI engaged Douglas as
an informant on June 3, 1970.

Later, Douglas smuggled
other letters in and out of the
prison for Father Berrigan
and Sister Elizabeth McAlis-
ter, another defendant, on be-
half of the FBI and with the
approval of prison officials.

Four of the 10 counts in the
indictments pertain to four
letters Father Berrigan wrote
to Sister McAlister, and three
other counts pertain to let-
ters she wrote to him.

The fact that the jury could
decide on only the first seven
contraband counts, said
O'Dwyer at a press confer-
ence, indicates that the jury
might have been persuaded
by the defense argument that
Douglas, aided by the FBI,
entrapped the defendants.

Former Attorney General
Ramsey Clark, Father Ber-
rigan's attorney, said this was
the first time the government
ever had prosecuted anyone
for violating the prison con-
traband statute and that, there-
fore, Father Berrigan and
Sister McAlister were the ob-
jects of discriminatory pros-
ecution.

Clark argued that the con-
traband law was established
in order to prosecute for the
smuggling of weapons and
drugs and not letters. But the
law is unspecific and refers
to the illegal entry into prison
of "anything."

The usual punishment for
smuggling contraband is a
short period of solitary con-
finement ordered by prison
authorities, not by a federal
judge, said Clark.

The defendants and their at-
torneys were generally op-
timistic on hearing the message
of the nine women and three
men after their 33 hours of
deliberation.

The foreman of the jury,
Harrisburg accountant Harold
C. Sheets, summed up the
jury's dilemma in this brief
message to the judge: "The
jurors, after long, serious and
conscientious deliberation on
all facts available and their
recollection of testimony heard
during the past weeks, are un-
able to arrive at a unanimous
verdict on nine counts in the
indictment. We will await fur-
ther instructions from you."

When they entered the
courtroom, several of the jur-
ors looked as if they had been
crying. All of them appeared
tired.

The defense objected to the
judge ordering the jury to de-
liberate further, thus indicat-
ing their willingness to accept
a hung jury.

If faced with a hung jury,
the government would have to
decide whether to drop the
charges or to retry the case.

Hydrofoil Service

BEAVER

COLOGNE, West Ger-
April 2—A Soviet-built
foil will whisk tour-
thne from Cologne in 90 mi-
utes. The plan provides a
four

power unit, which will also
power the vehicle's nine
massive wheels and lift the
foil. The vehicle is expected
to transport 200 passengers
at a speed of 40 miles per
hour.\n