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## U.S. Seeking a New Indictment Replacing One in Berrigan Case

By BILL KOVACH

HARRISBURG, Pa., April 20—United States Attorney William S. Lynch confirmed today the Government had renewed deliberations of the grand jury that indicted the Rev. Philip F. Berrigan and five others on conspiracy charges to examine the possibility of returning a "superseding" indictment to replace the one originally handed down in January.

Mr. Lynch told the court here today that the grand jury was being asked to "consider additional matters in such superseding indictment and possibly additional defendants."

The statement came as United States District Judge R. Dixon Herman heard, and reserved decision on, motions by at least 13 witnesses called before the grand jury that their subpoenas be dismissed and that they not be required to appear.

### O'Dwyer Scores Move

On April 15, teams of F.B.I. agents moved through a half dozen cities in the Northeast, serving subpoenas on antiwar activists to appear before the grand jury, adding what appears to be a new dimension to the Government's conspiracy charges.

Father Berrigan and the others were originally indicted on charges of conspiring to destroy Government buildings and kidnap Henry A. Kissinger, President Nixon's personal adviser on foreign affairs.

Paul O'Dwyer, of New York, one of the attorneys for those indicted, charged at the hearing today that the move to renew deliberations was an attempt "to bolster faulty indictments" and added:

"This court may not be blind

to tricks—to the fact that the peace movement has been and is being harassed."

The statement, the first move to develop in court the political arguments surrounding the case, evoked a swift denial by Mr. Lynch.

"This grand jury is looking into violations of Federal law," Mr. Lynch said, "not a peace movement. No Federal law that I know of says the Federal Government is against peace."

Judge Herman, at the conclusion of the four-hour hearing, reserved decision on the motions—ranging from charges of illegal surveillance by the Government to arguments of confusion about the application of immunity laws for grand jury witnesses.

This action postponed at least until Thursday any attempt to take further witnesses before the grand jury. Attorneys for most of those scheduled to appear this week indicated that their clients probably would not answer questions put to them by the grand jury if and when they are required to appear.

The attorney for one suspended witness, however, said his client had already given the Federal Bureau of Investigation a statement and "wants to cooperate" with the grand jury provided his right to immunity can be clarified by the court.

Patrick T. McGhan Jr. of Atlantic City said his client, the Rev. Vincent DePasquale, had already talked to the F.B.I. and did not join the other witnesses in their efforts to have the subpoenas dismissed.