

# Search for Impartial Berrigan Jury Runs Into Snag

By HOMER BIGART

Special to The New York Times

HARRISBURG, Jan. 27—Two developments indicated today that it may be difficult to find an impartial jury for the conspiracy trial of the Rev. Philip F. Berrigan and six other anti-war activists.

A young black woman reported in court that she had overheard two fellow prospective jurors, both white males from rural southern Pennsylvania, discuss the seven defendants in terms of intense prejudice.

"You can look at them [the defendants] and see they are guilty," one man remarked, the woman said.

That discussion in the jury box occurred Monday before the men disqualified themselves by voluntarily admitting that they had fixed opinions in the case.

### Woman Allowed to Stay

A Lutheran woman told Federal Judge R. Dixon Herman that because of her respect for clergymen, she could not convict Mr. Berrigan and his co-defendants—two other Catholic priests, a nun, a former priest, a former nun and a Pakistani scholar—unless the Government presented absolute proof of their guilt.

The chief Government prosecutor, William S. Lynch, suggested to Judge Herman that the woman be excused. The Government, he pointed out, needs only to prove guilt "beyond reasonable doubt"; it does

not have to prove guilt to "a moral certainty."

But the judge allowed the woman to remain as a potential juror when she said that she would try to obey his instructions on the law.

The report that two prospective jurors had flouted the court's instructions to avoid discussion of the case caused some concern that others who had heard the conversation might have become "contaminated."

Subsequently, all members of the panel were asked today if they had heard jurors discuss the case. Only one other person, a middle-aged white woman, said that she had. However, she said that what she had heard had not influenced her.

The young black woman who

reported the conversation said that she had been sitting next to a farmer in a jury box when she overheard "a little discussion" between the two whites.

"One man, a farmer, said that a defendant was constantly would like to get him [the defendant] on the farm and work him," she said.

### Nine Persons Excused

Then, she said, the farmer added, "If they let him do it, everybody can get away with it."

To which, the woman said, the other man replied that the defendants certainly looked guilty.

The defendants are accused of conspiring to destroy draft

cards, kidnap Henry A. Kissinger, an aide to President Nixon, and blow up heating tunnels serving Government buildings in Washington.

Of the 28 persons questioned over two days, nine have been excused for various reasons, including prejudice and pleas of hardship.

Among the four excused today were a doctor's wife who said that she might be influenced by her "strong feelings" against the war; a woman who said that she "believed in law and order," which she interpreted as "being faithful to the President, Dr. Kissinger and other Government officials," and a woman who doubted whether she could "pass judgment on anyone."