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AN ABSTRACT OF THE THESIS OF Susan Baker for the Masters of Arts
in Speech-Communication presented July 19, 1977.

Title: The Berrigans at Catonsville

A Case Study in Symbolic Behavior as Rhetoric

APPROVED BY MEMBERS OF THE THESIS COMMITTEE:

Alfred Sugarman, Chairman

David H. Newhall

Francis Gibson

John McKenna

In May of 1968, Father Daniel Berrigan, a Jesuit priest, and his brother, Father Philip Berrigan, a Josephite priest, and seven others entered the draft board offices in Catonsville, Maryland where they removed 378 draft files and burned them with homemade napalm.

This paper examines that event as a case study in symbolic behavior as rhetoric. In doing so, the author first seeks a definition

of rhetoric, and a definition of symbolic behavior. Background material, both on the Berrigans, and on symbolic behavior as rhetoric is provided.

The major portion of the paper deals with the analysis of the event as symbolic behavior as rhetoric. This is done from three viewpoints: 1) the legal, 2) the ethical, and 3) the rhetorical. In analyzing the legal dimension, the author deals with the questions of legal limits, of conscience in conflict with the law, and of civil disobedience and the First Amendment, freedom of speech. In the ethical analysis, the author deals with the problems of violence as a means of social protest, and the individual's responsibilities to his conscience, and to society. The analysis of the rhetorical dimension discusses the intent to communicate on the part of the demonstrators at Catonsville. This section deals with the message of the "Catonsville 9", its place as symbolic action as rhetoric, the audience and its reactions, and finally analyzes the success of that action.

The author concludes that legally, the courts had little choice but to find the "Catonsville 9" guilty, and to send them to jail. That appears to be the penalty for such demonstrations. Ethically, the event is seen as an eloquent statement of conscience which the defendants felt compelled to express. The group was sincere and dramatically demonstrated their ethical objections to the status quo. The question of violence is a difficult one, and the author concludes that the group was violent, but within a non-violent attitude. The violence was done to things, never to people. Rhetorically, the event

was often misunderstood and condemned for being too radical. The author concludes that the group was legally guilty, ethically innocent, and rhetorically as effective as possible under the circumstances of that time.

Appendixes include the press statements, and an explanation of the participants' motivation as presented by Daniel Berrigan in the preface to his book, Night Flight to Hanoi.

THE BERRIGANS AT CATONSVILLE
A CASE STUDY IN SYMBOLIC BEHAVIOR AS RHETORIC

by
SUSAN BAKER

A thesis submitted in partial fulfillment of the
requirements for the degree of

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in
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1977

TO THE OFFICE OF GRADUATE STUDIES AND RESEARCH:

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CHAPTER I

INTRODUCTION

In May of 1968 Fathers Daniel and Philip Berrigan, well-known opponents of the Vietnam War, with seven others filed into the office of the draft board in Catonsville, Maryland. There, the nine participants, including a former nun, a former priest and a former State Department employee, proceeded to remove 378 draft files to the street where they burned them with homemade napalm. The nine made no attempt to avoid arrest. On the contrary, they waited quietly for the police to arrive.

This rather unusual event is an example of many incidents of symbolic rhetoric which took place in the 1960's. It raises several questions: Was this incident an attempt on the part of a few to communicate to many? Or did "the Catonsville 9" destroy those files simply to disrupt the system? Is there rhetorical material to be studied in that event? Is that occurrence one example of many events embracing symbolic behavior as rhetoric which became increasingly frequent during that decade?

This paper will examine the incident involving the Berrigan brothers at Catonsville as a case study in symbolic behavior as rhetoric. In doing so, hopefully the answers to the above questions will become clear.

The tension and turmoil of the 1960's marked that decade as one of discontent, conflict, and frustration. It was a time of great

participation in and attempts at communication, of deep involvement and commitment, but also a time of challenging and tearing and mending of the fibre of American democracy. It was a decade of strife--external war, internal unrest. The issues of discontent hovered over almost every group in America, touching each person in one way or another. The issues were overlapping, interwoven, often poorly defined, but vehemently and sincerely espoused. They grew from the civil rights movement for Blacks to include rights for Indians and Chicanos, the young, the old, women, and the poor, in short, for all alienated "have-nots". Challenges were made to the financial, military, and political establishments and power structures. In addition to the civil rights movement, the war in Vietnam and America's continued escalation in that foreign country created in a growing number of Americans a strong anti-war sentiment, and waves of protest in many forms were demonstrated against the existing financial, political, and military establishments.

As so many people found themselves profoundly involved in the issues of the day, communication became a vital factor and new approaches to rhetoric appeared. Traditional forms of advocacy were used by many, but more and more people felt the need to demonstrate their feelings in ways which extended the generally accepted meaning of the term "rhetoric".

Several reasons for this phenomenon have been suggested. First, a suspicion and distrust of the written and spoken word was felt by many dissidents, and indeed, by many Americans, due partly to the

apparent inability of mere words to induce change.¹ Many who opposed status quo policies felt that their words fell on deaf ears. Indeed, one "tactic" of the establishment was simply to ignore, or divert attention from dissenters. Traditional forms of verbal rhetoric appeared to many to be ineffective, time-consuming and placating. In 1968 Daniel Berrigan felt that "it must be evident by now that the government would allow men like myself to do what we were doing almost indefinitely; to sign statements, to picket, to support resisters in court."² In short, many dissenters felt that the traditional methods of protest were useless. Another reason for the partial abandonment of verbal persuasion was the willingness of many people to silence or suppress those with whom they disagreed as evidenced by the many times audiences shouted down controversial speakers. A third reason for the distrust can be found in the words themselves. Countless verbal promises or commitments were unfounded or judged mere tokens to legitimize the establishment. Words were easily twisted or distorted. Talk became associated with unscrupulous politicians, sophists and demagogues. Time and time again Presidents promised to end the war, proclaimed themselves "doves" and then proceeded to conduct the continued escalation of the war.

As a result of these sentiments, coupled with growing urgency and frustration, rhetoric became increasingly agitative and symbolic. Protest such as that registered in Catonsville by the Berrigan group became largely non-verbal in form and demonstrators symbolically attacked

¹ ~~Howard H. Martin and C. William Colburn, Communication and Consensus~~, (New York: Harcourt, Brace, Jovanovich, 1972) p.2.

² Daniel Berrigan, S.J., No Bars to Manhood, Bantam Books, (New York: Doubleday & Company, Inc., 1970) p. 15.

institutions judged to be unjust in ways which more quickly and dramatically alerted the public to the issues.

Rhetoricians have traditionally studied moderate persuasion, characterized by a significant amount of rational, reasonable, logical argument. The efforts to persuade and convince which took place in the 1960's often demonstrated none of these qualities. Militant agitators confronted the issues, personalities and institutions in a more direct, visual, dramatic style. Often, militant persuaders depended on action rather than words, on alienating their opponents rather than indentifying with their supporters, on demonstrations of power rather than rational process. They sought to change the actions of their targets without much effort to change their attitudes. Conversely, traditional moderates proposed changes in attitudes in order to achieve new and acceptable action by the status quo.³

In view of these changes in tactics and style, a number of authorities in the field believe that the contemporary rhetorician must attend to the area of symbolic behavior as rhetoric, used by dissidents such as the Berrigans, by going beyond verbal persuasion and extending the definition of rhetoric to include such action. Professor Edward P. J. Corbett in "The Rhetoric of the Open Hand the the Rhetoric of the Closed Fist" has stated that "any new rhetoric that develops will certainly have to give increasing attention to the nonverbal means of communication."⁴ The 1970 report of the National Developmental Project of Rhetoric included the following recommendation:

³Herbert W. Simons, "Confrontation as a Pattern of Persuasion in University Setting", Central States Speech Journal, 19, (Summer, 1968) p. 164.

⁴Edward P. J. Corbett, "The Rhetoric of the Open Hand and the Rhetoric of the Closed Fist", College Composition and Communication, 20, (December, 1969) p. 292.

The technology of the twentieth century has created so many new channels and techniques of communication, and the problems confronting contemporary societies are so related to communicative methods and contents that it is imperative that rhetorical studies be broadened to explore communicative procedures and practices not traditionally covered. At the second conference the committee on criticism declared in its final report:

The effort should be made to expand the scope of rhetorical criticism to include subjects which have not traditionally fallen within the critic's purview: the non-discursive as well as the discursive, the nonverbal as well as the verbal, the event or trans-action which is unintentionally suasive.⁵

Rhetoricians need to understand the legal and ethical responsibilities of discourse, whether public or private, militant or moderate, verbal or nonverbal, direct or symbolic. The limits of speech and action need to be examined. The answers at this point are neither clear nor definite nor absolute.⁶ It is part of the responsibility of rhetoricians to clarify the issue of symbolic behavior as rhetoric.

Because the study of symbolic behavior as rhetoric has been largely ignored until the last few years, much of the documentation in this paper will be derived from authorities who are political scientists, philosophers, agitators, and social scientists as well as those who are rhetoricians. These authorities all contribute to a better understanding of the rhetoric of such action, though few discuss rhetoric per se. It is part of the rhetorician's responsibility, however, to establish a relationship between the field of rhetoric and other related fields of learning.⁷

⁵Lloyd Bitzer and Edwin Black (eds.), The Prospect of Rhetoric, (Englewood Cliffs, N. J.: Prentice-Hall, Inc., 1971) p. 238.

⁶James W. Gibson (ed.), A Reader in Speech Communication, (New York: McGraw-Hill Book Company, 1971) p. 1.

⁷Marie Hochmuth Nichols, Rhetoric and Criticism, (Baton Rouge, La.: Louisiana State University Press, 1963) p. 63.

In keeping with these concepts of rhetorical criticism, this paper will attempt to:

1. Define the "new" rhetoric extended by symbolic behavior.
2. Describe the incident involving the Berrigan brothers et.
al. at Catonsville as a case study in symbolic behavior as rhetoric.
3. Analyze and evaluate the Berrigan incident in terms of its implications as a strategy and the legal, ethical and rhetorical effectiveness of such action.

CHAPTER II

TWO DEFINITIONS

A DEFINITION OF RHETORIC

There are as many definitions of rhetoric as there are rhetoricians. All share elements of commonality, but each varies slightly in its more subtle interpretations of the term. There is no dispute with the contention that rhetoric is a part of communication. Communication, however, is equally difficult to define. Broadly, it has been defined as "one of the two basic processes of all living systems--one, the transformation of food into energy; the other, the transformation of event-data into information."¹ Most definitions differ from this in that they deal more specifically with what is transferred and how. Communication implies a sharing or sending of messages. Some representative definitions may help at this point. Communication is:

. . . any dynamic, information sharing process.

Theodore Clevenger, Jr.

. . . all deliberate uses of language by human beings as well as voluntary or involuntary exclamations, movements, gestures, singing, crying, laughing, dancing, in so far as they are informative.

A. J. Ayer

The transmission of information, ideas, emotions, skill, etc., by the use of symbols. . .

Bernard Berelson
Gary A. Steiner

¹ Lee Thayer, "People, Communication, and Organization: Some Basic Perspectives", in A Reader, ed. by Gibson, p. 125.

. . . the communicator's selecting and arranging symbols that have a certain meaning to him and his audience's sensing those symbols and inferring their intended meaning.

Wayne C. Minnick

. . . situations the central characteristic of which is the production and utilization of signs, symbols, and symbolic acts . . . for the sharing of experience, achievement of goals, gaining of insight, and; in general, mastering one's environment. The sign or symbol material used in these situations is subject to the perceptual processes of the individuals involved.

Franklin Fearing².

. . . the mutual interchange of ideas by any effective means.

. . . the imparting or interchange of thoughts, opinions, or information by speech, writing, or signs.

American College Dictionary³.

Communication can be defined as the sharing of one's perception and understanding of reality with another or others by any effective means whether through words, gesture, touch, creation, or action.

Most of the above definitions are concerned with transferring meaning through symbols. Accepting that as the essence of communication, the next problem is to incorporate rhetoric into that definition, for rhetoric is part of communication.

Rhetoric has been defined very broadly as "any theory about communication".⁴ As attractive as that catch-all definition may be, it is a difficult framework to use. In a provocative article, "On Not Defining Rhetoric", Robert L. Scott stated that ". . . rhetoric is present and is sensed as a part of the normal experiencing of one's

² Howard H. Martin and Kenneth E. Anderson, (eds.), Speech Communication: Analysis and Readings, (Boston: Allyn and Bacon, Inc., 1968) pp. 50-52.

³ Thayer, "People", p. 122.

⁴ Otis M. Walter, "On the Varieties of Rhetorical Criticism", in Essays on Rhetorical Criticism, Thomas R. Nilsen, (New York: Random House, 1968) p. 165.

environment."⁵. He went on to say that

people generally have a sense of rhetoric. This sense or feeling, which preceeds any definition of rhetoric, is immediately rooted in experience. . . one's sense of rhetoric is mediated by his set toward reality.⁶

What Scott wants us to realize by not defining rhetoric is that rhetoric must not be too limited. Rhetoric is not restricted to formal Chautauqua circuit speeches on Sunday afternoons, nor to Presidential State of the Union messages. It is an ongoing, constant, immediate part of each person's environment, and indeed, it structures to a large extent our perception of reality. Rhetoric organizes and reflects our world. It gives reality meaning. It influences our behavior, beliefs and thoughts. Rhetoric was traditionally considered to be a theory of persuasion limited to verbal messages, but it is being broadened by necessity to mean "all the available means of influencing human behavior. . . some of these means are persuasive, and some are not. Rhetoric, then, may be either persuasive or coercive."⁷ It becomes more coercive and less persuasive as the number of options available to the audience decreases,⁸ and it ceases to be rhetoric when its aim is other than communication.

Kenneth Burke also extends the definition of rhetoric beyond mere verbal persuasion, but by expanding the meaning of "persuasion" rather than "rhetoric". He would say that "wherever there is meaning,

⁵.Robert L. Scott, "On Not Defining Rhetoric", Philosophy and Rhetoric, 6, (Spring, 1973) p. 84.

⁶.Ibid., p. 85.

⁷.James R. Andrews, "Confrontation at Columbia: A Case Study in Coercive Rhetoric", Quarterly Journal of Speech, 55, (February, 1969) p. 10.

⁸.Ibid., p. 10.

there is persuasion, and wherever there is persuasion, there is rhetoric."⁹.

Perhaps the best known definition comes to us from Aristotle.

"Rhetoric may be defined as the faculty of observing in any given case the available means of persuasion."¹⁰. Many rhetoricians have taken that phrase to mean all available means of persuasion, and that would include symbolic behavior as well as the symbols traditionally identified with persuasion, ie., words. Burke would agree. Nichols says that "Burke would bring within the scope of rhetoric any and all symbolic resources that function to promote social cohesion, and all symbolic resources that induce attitude or action."¹¹.

Bowers and Ochs' definition coincides with this. They state in concise language that rhetoric is "the rationale of instrumental symbolic behavior." (a message or act is considered instrumental if it induces or contributes to a responding or new message or action.)¹². Rhetoric in this definition comes closest to the broad concept of an ongoing, dynamic, immediate part of each person's environment, while still providing a frame in which to work. This definition also accepts the idea that rhetorical criticism must explain the rationale or the thoughts, perceptions and interpretations of social reality that the communicator seeks to express. The definition accepts the idea that meaning is persuasion, that persuasion may occur in many media, not

⁹. Nichols, Rhetoric and Criticism, p. 84.

¹⁰. Aristotle, Rhetoric I. 2, trans. by W. Rhys Roberts, in "On Not Defining Rhetoric", by Scott, p. 86.

¹¹. Nichols, Rhetoric and Criticism, p. 84.

¹². John W. Bowers and Donovan J. Ochs, The Rhetoric of Agitation and Control, (Reading, Mass.: Addison-Wesley Publishing Company, Inc., 1971) p. 2.

all of which are verbal. It encompasses and inherently incorporates the concept of symbolic behavior--verbal or nonverbal, persuasive or coercive, agitative or passive. It is, then, this definition--that of "instrumental symbolic behavior"--that provides the basic definition of rhetoric upon which this paper is constructed.

Having thus defined rhetoric, it would seem appropriate to more carefully define "symbolic behavior" or "symbolic action".^{13.}

A DEFINITION OF SYMBOLIC BEHAVIOR

It has been suggested that symbolic action is a continuum running from arbitrary symbols (eg. words) to more naturally symbolic behavior.^{14.} Certainly words are symbols. Kenneth Burke bases his entire discussion of rhetoric on the symbolic nature of language. He writes that rhetoric is rooted in an essential function of language itself. . . the use of language as a symbolic means of inducing cooperation in beings that by nature respond to symbols.^{15.}

The focus of this paper, however, is less-verbal symbolic action. This is not to say that in the Berrigan incident words were entirely ignored and unused, but only that they were secondary to the action. Often, symbolic action occurring nonverbally sets the stage for negotiation which takes place in traditionally rhetorical, verbal style. Symbolic action, however, often serves to alert the public or the establishment to a grievance which requires a negotiated settlement.^{16.}

^{13.}Although there is a fine distinction to be made between the words "action" and "behavior", for the purposes of this paper, the two terms may be considered synonymous, ie: all behavior considered in this paper is active behavior.

^{14.}Bowers and Ochs, Agitation and Control, pp. 2-3.

^{15.}Kenneth Burke, The Rhetoric of Motives, (New York: Prentice-Hall, Inc., 1950) p. 43.

^{16.}Corbett, "Open Hand, Closed Fist", p. 292.

The more naturally symbolic behavior on the other end of the continuum is hard to define because it is so much less arbitrary. Any action may be symbolic behavior, but not all action is. In order to be considered symbolic, behavior must have as its primary aim, a desire to communicate. Generally, this communication is persuasive in nature, although the participants often wish to express concern or communicate a grievance. In any case, the major intent is to communicate.¹⁷

A second requirement that behavior must meet in order to be considered symbolic is that its communicative aspect must be understood by the intended audience. If one attempts to communicate through action, but the receiver or observer of the behavior perceives the behavior alone, void of any extra-communicative meaning, then that action can not be considered to be symbolic.

Bosmajian offers perhaps the best definition of symbolic behavior.

"Symbols" and "Symbolic behavior" . . . mean objects, sounds, or actions to which are attributed meanings and messages not implicit in the objects, sounds or actions. . . . Unless there is agreement on the "meaning" of the object, sound, or behavior, it can not be looked upon as symbolic.¹⁸

Accepting this as the working definition of symbolic behavior for this paper, and combining that definition with that of rhetoric, a new interpretation for the term "symbolic behavior as rhetoric" is created. "Symbolic behavior as rhetoric" may be defined as actions which have understandable and agreed upon meanings not implicit in the action per se. It is, then, according to this definition that the incident at Catonsville will be considered.

17. Haig A. Bosmajian, Dissent: Symbolic Behavior and Rhetorical Strategies, (Boston: Allyn and Bacon, Inc., 1972) pp. 4-5.

18. Ibid., p. 2.

BACKGROUND OF SYMBOLIC BEHAVIOR AS RHETORIC

Symbolic behavior as rhetoric has been used as a tactic since earliest times. It has been primarily a tool for the poor and the powerless. Martin Luther King reflected this belief when he said, "We will try to persuade with our words, but if our words fail, we will try to persuade with our acts."¹⁹

One of the first examples of such action was the refusal of women in Lysistrata to have sexual relations with their men. Martin Luther burned the Papal Bull Exurge Domine in protest over the ban on his writings. In 1634 John Endicott cut the red cross of St. George from a banner flag to demonstrate his refusal to pledge allegiance to that flag.

United States history is full of examples of such behavior. The liberation of the United States from England came about due to several symbolic actions, the most celebrated being the Boston Tea Party. Throwing tea overboard did not destroy the market, but rather it dramatically and visually registered the feelings of those patriots against the British tax system. Henry David Thoreau refused to pay taxes. In 1863 the Irish in New York burned draft offices to protest the Civil War and to focus attention on ethnic rivalry. Suffragettes burned copies of Woodrow Wilson's speeches in public. The labor movement dissented against General Motors by initiating a sit-down strike in 1937 and has continued to call for numerous subsequent strikes against other companies to demand better pay and working conditions.

19. Martin Luther King, Stride Toward Freedom, (New York: Harcourt and Row, 1958) p. 216.

Mahatma Gandhi used many tactics of symbolic action as rhetoric in his efforts to liberate both South Africa and India from British rule. The best known example is surely the Salt March to the sea. Another method used often by Gandhi was that of fasting.

The Civil Rights Movement in this country has been heavily based on symbolic means of expressing dissent. Rosa Parks used symbolic behavior rather than traditional rhetorical appeals when she refused to surrender her seat on a Montgomery, Alabama bus in 1956. In doing so, she inspired a 381 day bus boycott by Blacks. The first sit-in by Black students occurred in 1960 in Greensboro, N.C. and other sit-ins occurred often in Southern lunch counters, bus depots and other places openly discriminating against Blacks. The Congress on Racial Equality (CORE) and the Student Nonviolent Coordinating Committee (SNCC) sponsored Freedom Rides beginning in 1961. Numerous marches were held-- notably the one on Washington in 1963 and from Selma to Montgomery in 1965 led by Martin Luther King.

Protest against American involvement in Vietnam also used many tactics of symbolic behavior as rhetoric. Perhaps, in this movement such strategies may have been used more as harassment. There were many activities "borrowed" from other movements. These included sit-ins, marches, and vigils. However students and others against the war in Vietnam often stretched and intensified the symbols. It has been suggested that they learned to "violate the taboos of decorum and thus embrace Vice-President Humphrey, the C. I. A., Dow Chemical and other enemies in an ugly scene, hoping that the unpopularity of the radicals will rub off on those embraced."²⁰ Besides the accepted

²⁰ Donald K. Smith and Robert L. Scott, "The Rhetoric of Confrontation", Quarterly Journal of Speech, 55 (February, 1969) p. 5.

marches and demonstrations, many dissidents also blocked traffic and violently confronted police with rocks and bottles. In addition to sit-ins, students milled-in and occasionally seized buildings, especially administrative or military (ROTC) buildings. At Stanford, Berkeley & other universities, ROTC buildings were burned. Strikes occurred on many campuses, notably at Columbia, Berkeley, Harvard, and San Francisco State. Speakers were harrassed and shouted down. Some of these behaviors may not have had communication as their primary aim. The incidents are less and less rhetorical as they are more and more designed to destroy or harm rather than to communicate. To that degree they are more coercive than persuasive. Certainly, there is a point where rocks and bottles can not be considered symbolic, and simply function as weapons.

Image and appearance became important. Many found it necessary to stage demonstrations for the press--especially the visual medium of television. Dress and hair length served as an identification. Symbols for peace were numerous and frequently displayed. Armbands were worn. Flags were used in previously unacceptable ways such as when Abbie Hoffman wore a shirt made of an American flag to testify before a House UnAmerican Activities investigation in the fall of 1968. Flags were burned, cut and sewn into garments, used as curtains, flown upside-down and otherwise desecrated.

Many used symbolic action to dissuade others from accepting the draft. Young men burned their draft cards or surrendered them to clergy or returned them to their draft boards. Recruiting offices were often harrassed by demonstrators who chained themselves to doors, chanted, sat-in, or marched. Many draft offices were looted, burned,

and bombed.

From this lengthy, yet sketchy and incomplete outline of symbolic action, two conclusions may be drawn: 1) Symbolic action as dissent is not a new phenomenon, but it experienced a period of tremendous growth during the 1960's. 2) It has definitely shown itself to be a force in society which needs to be examined and understood.

Tactics have been varied and often appear to have little in common with each other. Few people agree with all the tactics listed above, but few reject them all as well. Some of these tactics are violent, others painfully and carefully nonviolent. Some depend on persuasion, others use coercion. Some are protected legally, while others are not. Some alienate whereas others consolidate. Some are effective in their efforts to communicate, others fail to persuade. They are similar to the extent that they place the act above the discourse. All express dissent and intend to communicate that dissent. All are used by "have nots" to protest policies of the powerful. All are actions which have understandable and agreed upon meanings not implicit in the action per se.

CHAPTER III

BACKGROUND ON THE BERRIGANS

In 1968 two men, both brothers and priests, entered the draft board office at Catonsville, Maryland with seven others and destroyed draft files by burning them with homemade napalm. Most of the participants were closely affiliated with the Catholic Church. Why would they as good Catholics risk their reputations, their positions, and their freedom to engage in a clearly illegal act of defiance? In order to understand the act, it is important to learn about the backgrounds of the two principal dissenters, Daniel and Philip Berrigan.

Daniel Berrigan was the fifth of six brothers. He was born May 9, 1921 to Tom and Frieda Berrigan. His father was an Irishman, active in the labor and socialist movements. He was a lover of poetry and brawls. His mother was a kindly and generous German who recalled Daniel as being obsessed with the suffering of the world from the age of six.

As a child, Daniel was the most sensitive, studious and devout of the six boys. He was also the frailest. He inherited his father's passion for writing poetry and later was acknowledged by numerous publications and awards as an outstanding American poet.

Three of the Berrigan brothers entered seminary, but it was Daniel who led the way. In 1939 at the age of 17, he applied for the Jesuit order and the next year, began his thirteen-year study for the priesthood. Jesuit training was extremely demanding and strict, and Daniel did not visit home for seven years. Seminary was difficult for him since his family had not been able to afford to send their

six boys to Catholic prep school as most of the other seminarians.

From 1946-49 he taught at St. Peter's Preparatory School in Jersey City, New Jersey. In the fall of 1949, he entered West College, Weston, Massachusetts to study theology. On June 19, 1952 he was ordained.

Philip Berrigan, Daniel's younger by two years, shared many common qualities, but in a remarkably different way. He was the active athlete, whereas Daniel was the poet and philosopher. They were best friends despite their different interests. After high school, Philip scrubbed locomotives for a year to earn money for college. During that time he played first base on a semi-professional baseball team. After one semester at St. Michael's College in Toronto, he was drafted into the army in 1943. His basic training took place in the South and served to awaken him to racial problems there. He served with distinction as a lieutenant in Europe. After returning and earning his English degree from Holy Cross College, he followed his brother Jerome into the Josephite priesthood in 1955 at the age of 34. Philip joined the Josephites because of their reputation as workers for the Negro cause. Although he remained in that order, he soon discovered that they were typical of many timid White liberals who condescendingly allowed Blacks equal position. Philip has always had strong feelings about Blacks and has never viewed them as children who need guidance from Whites. Instead, he believes they are superior in wisdom, grace, gentleness and maturity. He was able to communicate with even the most militant Blacks. Stokely Carmichael has said that Phil Berrigan is the only White man who "knows

where it's at."¹.

The Berrigans were greatly influenced by their stays in Europe. They were especially impressed by the French Revolution and the worker-priests. This was a group of about 100 priests in France and Belgium from 1944-54 who took jobs in factories, docks and warehouses to demonstrate their feelings that traditional priests were too removed in their chanceries from the people they intended to serve. The worker-priests lived in small groups, or alone, and were treated exactly like their fellow workers. It was a great challenge to work all day at labor and to fulfill their priestly duties during the rest of the day. Philip Berrigan has said that Cardinal Suhard of the worker-priest movement was the greatest single influence in his life. From the worker-priests the Berrigans learned that it is not the job of the church to convert the world, but rather that the church must be converted to the world. Daniel regarded France, where he studied for a year after his ordination in 1953, to be his spiritual home. Pius XII was heavily suppressing the worker-priests during this time, and their militancy in the French underground and in German prisons influenced Daniel's later philosophy of civil disobedience. It was in France that he first became aware of Vietnam and the French role in the country. For two months in 1954 he served as a military chaplain in West Germany without questioning American military involvement around the world.

John Grady, a Catholic educator who worked closely with Daniel during the years after his return to the United States in 1954 has said:

¹Francine duPlessix Gray, Divine Disobedience, (New York: Alfred A. Knopf, 1970) pp. 80-81.

From the time he was ordained, Daniel was obsessed with two issues: Alienating poverty, and breaking down the traditional structures of the priest-laymen relationship. . . In the 1950's, he was revolutionizing the role of the layman in the Church faster than any other priest in the country.².

From 1954-57 Daniel taught Puerto Ricans at Brooklyn Prep School where he earned national recognition for the honors system he introduced. In 1957 his first book of poems, largely religious in content, was published. The volume, entitled Time Without Number was awarded the Lamont Poetry Selection of the Academy of American Poets. It was also in 1957 that he became professor of New Testament at Le Moyne College in Syracuse, New York where he was reunited with his parents and Jerome who had left seminary a year before ordination. At Le Moyne where Daniel taught until 1963, he was granted permission to establish an off-campus house in which to conduct live-in training sessions for a Peace Corps type program. For several years he helped students prepare for and participate in work projects in rural Mexico.

Philip had been ordained in 1961 and was teaching in an all-Black high school in New Orleans. In 1963, he made plans to travel to Jackson, Mississippi to participate in a sit-in at bus terminals protesting segregation. He wanted to make his point by going to jail, but before arriving in Jackson, he was called back to New Orleans by his Superior.

In 1963 Daniel found himself in some disfavor. He had made some radical changes in the liturgy, eg., he turned the altar toward the congregation and said part of the mass in English. He also . . .

² Gray, Divine, p. 71.

requested permission to join Philip on a Freedom Ride, a request which was denied. As a result of these three actions, he was sent for a year's sabbatical in France. His Superiors evidently thought his removal would encourage him to reconsider his ideas and return to the flock. His experiences there, however, were to further radicalize him. During this year of travel, he was one of the first American priests to be granted permission to visit several countries behind the Iron Curtain. He traveled somewhat in Africa as well. His travels confirmed for him the theology of poverty. He found that the "truest Christians are the ones who are poor and persecuted, who pay no obeisance to secular power, who live in a community of risk."³ In Czechoslovakia, Hungary and Russia, Daniel saw the church as a "dissenting and impoverished minority" struggling against the state and demonstrating the zeal of early Christian martyrs. In Africa where he spoke with survivors of the Sharpeville massacre, he became convinced that racism there was encouraged and indeed made possible by American dollars. In contrast to his Superiors' hopes, his year of travel spiritualized and deparochialized him further.

Philip, too, accepted the concept of a dissenting and impoverished priesthood as his actions in the civil rights movement clearly show. His earnings from lectures were always used to support families in need. His dissent included political issues as well—principally the question of the arms race and nuclear weapons which he opposed.

After six controversial years teaching in New Orleans, Philip was transferred to Newburgh, New York in 1967. It was apparent that

³ Gray, Divine, p. 76.

this move was intended to remove him from the civil rights movement, and to make him a less controversial priest. The stir he created, however, in the conservative town of Newburgh by instituting a social center offering food, shelter, and other aid for the poor, surpassed even the trouble he had caused the Josephite order in New Orleans.

After Daniel returned from his second stay in France in 1964, he began a three year assignment as associate editor of Jesuit Missions, coupled with heavy lecturing and prolific writing. He also participated in civil rights sit-ins and teach-ins. He became friends with the Kennedys, thought about adopting a child, and created much controversy by celebrating poetic and unorthodox liturgies which were soon gladly overlooked by his Superiors as his Vietnam protests crescendoed and became more threatening to the good name of the Jesuits.

Daniel was convinced that the war in Indochina was a mistake which could only get worse. All that he had seen in Western Europe, Africa and the Eastern European countries of Hungary, Czechoslovakia and the Soviet Union bore that out. With such knowledge and foresight, Daniel Berrigan began to say "no" to the war as loudly as possible and in as many ways as possible.

In 1965 the Berrigans were the only two Catholic priests in the United States to sign a declaration of conscience against the war in Vietnam--the first such petition. Both immediately became active dissenters against the war. Commonweal, a liberal Catholic journal, noted in the March 5, 1965 issue that the Berrigans were the first Catholic priests to publically denounce American Asian policy and praised them for their courage.⁴ The Catholic hierarchy,

⁴. John Deedy, "News and Views", Commonweal, 82, (March 5, 1965) p. 126.

however, continued to support the government and the war both silently and with statements such as "My country, right or wrong" made by Bishop Sheen.

Daniel Berrigan began to feel some frustration both about the progress of the anti-war movement, and his future participation. Later he recalled:

Within a year's time, I had taken part in the forging of those methods of protest against the war which, from our present vantage point, we perhaps are justified in calling conventional. We fasted, marched, picketed, sat-in, followed every step of escalation as well as we could with our halting methods and means; at least we were dogging the iron heel of Mars. We never succeeded, and we never quite gave up. That is the best that can be said for us. We must be content if it is to be our obituary.⁵

Philip helped to form the Emergency Citizens' Group Concerned About Vietnam and was consequently threatened by his Superior with transfer if he did not abandon his peace activities. Philip responded with a letter explaining his position, and continued working for peace. He lectured extensively. A public discussion he sponsored in Newburgh created so much adverse reaction to his "communist inspired ideas" that he was again ordered to resign as chairman of his peace group and refrain from speaking out against the war. He complied--for four days. While speaking to Newburgh's Community Affairs Council on race relations, he launched into criticism of the Vietnam War saying that the two problems were inseparable. "Is it possible for us to be vicious, brutal, immoral and violent at home and be fair, judicious, beneficent and idealistic abroad?"⁶ This violation of his Superior's orders resulted in his immediate

⁵ Daniel Berrigan, S.J., No Bars to Manhood, Bantam Books, (New York: Doubleday & Company, Inc., 1970) p. 11.

⁶ Gray, Divine, p. 88-89.

transfer to Baltimore.

In addition to these individual activities, both Berrigans were active in organizations against the war. The Berrigans, together with Dorothy Day and Thomas Merton founded the Catholic Peace Fellowship in 1965. Its purpose was to counsel conscientious objectors. Daniel also founded and led Clergy Concerned About Vietnam (later Clergy and Laymen Concerned About Vietnam) with Lutheran Reverend Richard Neuhaus and Rabbi Abraham Heschel. This group included countless prominent churchmen and became the most powerful peace group in the United States. Daniel's leadership in this group, plus his reaction to incidents involving opposition to the war by two Catholic Workers caused another great stir in the hierarchy. Daniel refused to condemn David Miller, a former student of his at Le Moyne, who had burned his draft card in violation of a new law. He said:

I think this was the highest expression of loyalty. I believe this was an attempt on his part to illustrate the urgency of the situation and his own personal refusal to collaborate with government policy. His action expressed that at a certain point, the Christian has to say "NO" to something so foreign to his own beliefs.⁷

The second Catholic Worker was Roger Laporte who immolated himself on the steps of the United Nations in New York City to protest the Indochina War. Although they had met only once, rumors began to link his death with his friendship with Daniel. Daniel agreed to offer the memorial service sermon in which he did not censure the suicide. Instead, he ended the sermon by saying, "His death was offered so that others may live."⁸ These two incidents combined with his leadership in Concerned Clergy resulted in his imposed vacation

⁷. Gray, Divine, pp. 99-100.

⁸. Ibid., p. 102.

to Mexico and Latin America in November, 1965. This exile was hotly protested by students, clergy and laymen and condemned by numerous publications.

Exiles imposed on the Berrigans--Newburgh and Baltimore for Philip, France and Brazil for Daniel--did not keep them out of sight as intended, but rather radicalized them still further. While in Latin America Daniel wrote:

To turn others toward peace: One does not walk out of that vocation in walking across a border. Not even when one is forced across. For one cannot be forced out of his own peace, nor out of the making of peace. One can only be forced by the hand of God into another ambiance, another opportunity. In this sense, one is forced into the realization of what is always struggling to be born in the Church, of what cannot be brought to birth without a struggle. The intelligence of Christ so often took up this theme; in death, in new birth, in new age of man, in new quality of life.⁹

Confronted with poverty in Brazil and in other Latin American countries, he again realized the injustice of American policy. "The scandal of this incessant misery of millions perpetuated by American investments which are to the tune of billions, the scandal of our missionary policy, which supports a reactionary church standing in the way of human progress." ¹⁰ radicalized Father Berrigan and his companion, Father Alden Stevenson further than ever before. He was allowed to return to the United States after about five months and ten Latin American countries, due in great part to pressure from his friends and admirers. Upon returning, he published two new books; They Call Us Dead Men, a collection of

⁹. Daniel Berrigan, S.J., Consequences: Truth and . . ., (New York: Macmillan Company, 1965, paperback, 1971) p. 77.

¹⁰. Gray, Divine, p. 105.

articles, and a new poetry volume, No One Walks Waters. He also received assurances from his Superior that his peace movement activities would not be curtailed.

After working during the summer of 1967 with an Upward Bound program in Pueblo, Colorado, Daniel Berrigan received the honor of being the first Catholic priest invited to teach at Cornell University. He was appointed co-chairman of Cornell United Religious Work which combined religious and progressive political work in such fields as Black liberation and Vietnam dissent. There he found new friends and inspiration and great joy in dealing with students once again. Soon it was agreed that Daniel Berrigan was the spiritual director for Cornell's peace movement. He supported draft resisters and conscientious objectors in every way possible. He went with war objectors to their draft boards, induction refusals, court hearings, and press conferences. He helped them by acting as a character witness, fund raiser, advisor and consoler. The SDS (Students for a Democratic Society) also became enamored with his charismatic leadership. Several entered seminary because of his influence. There were, however, occasional disagreements on style and strategy. Daniel once said, "The New Left suffers from American pragmatism. It fights violence with the tools of violence, I fight it with the Gandhian and Christian dimensions of nonviolence. They measure effectiveness by pragmatic results, I see it as immeasurable, as the impact of symbolic action."¹¹ Daniel Berrigan taught the

¹¹. Gray, Divine, p. 140.

SDSers to be charitable and disciplined in their dissent.

Meanwhile, Philip had been working hard in the Black, inner-city Baltimore parish of St. Peter Claver to which he had been assigned. He organized the community and focused most of his efforts on its greatest problem, housing. He accepted strict orders to remain silent about the war. After three months, however, he began to talk to his Black friends about the war and its injustice to Blacks particularly. He found that they were unwilling to join the peace movement, feeling that their own struggle to survive was paramount. The frustration he felt from his inability to move Blacks caused him to take more active steps to protest the war and to convince others of its importance and influence on their lives. He formed a new group called the Baltimore Interfaith Peace Mission. He spoke with numerous national Congressional figures with little resulting action.

In 1966 Philip was one of twenty men who picketed the homes of Secretaries Rusk and McNamara. The result was an invitation by Rusk to hear Philip's views. A few weeks later he led fifty protesters in picketing the homes of the Chiefs of Staff at Fort Meyers. He returned to Fort Meyers the next week, hoping the threats of being arrested would be realized so that from jail he could offer a stronger witness to all. He was not arrested, but was instead told that he would be sentenced to three years in prison if he returned for a third time.

In June, 1967, twelve men including Philip Berrigan and seven other clerics, returned to Fort Meyers for a third time to kneel in prayer around the flagpole. They were ordered to leave and refused. They were carried limp to buses in which they calmly debated with

the Provost. After a lengthy wait (presumably while the M.P.'s conferred with the Pentagon) the dissenters were released outside the Fort.

In an eight-hour meeting that evening in Baltimore, the protestors decided to escalate the confrontation by destroying government property instead of returning to Fort Meyers for a fourth time. After considerable subsequent discussion, it was decided to pour blood on draft files. The group was composed of 28-year old artist Thomas Lewis, 26-year old poet and teacher David Eberhardt, 38-year old former army chaplain in Korea and minister of the United Church of Christ James Mengel, and Philip Berrigan. These men continued to protest policies through traditional means, but felt increasingly that the electoral processes established by the Constitution were futile in this case. Several friends, including Daniel Berrigan, Thomas Merton, and Father McSorley of Georgetown University expressed reservations and tried to persuade the group to be more moderate. In the end, however, they agreed with the action.

The United States Customs House in Baltimore, housing many federal offices, was the decided target. October 27, 1967, six days after the large anti-war demonstration at the Pentagon, was the decided date. The following is a portion of the statement that was delivered to the press in advance in sealed envelopes to avoid the possibility of involving the press in complicity. (see appendix I)

On Friday, October 27th, 1967, we are entering the Customs House in Baltimore, Maryland, to deface the draft records there with our blood. We shed our blood willingly and gratefully in what we hope is a sacrificial and constructive act. We pour it upon these draft files to illustrate that with them and with these offices begins the pitiful waste of American and Vietnamese blood ten thousand miles

away. We implore our countrymen to judge our action against this nation's Judeo-Christian tradition, against the horror in Vietnam and the impending threat of nuclear destruction. We invite our friends in the peace and freedom movements to continue moving with us from dissent to resistance. . . . We ask God to be merciful and patient with all men.¹²

They entered the draft board, sent the clerk upstairs to check some requested files, and led the newsmen in. Berrigan, Lewis and Eberhardt then walked to the files and calmly but quickly poured a mixture of duck blood and their own blood bottled in Mr. Clean plastic over the open drawers. Mengel passed out copies of the New Testament as the clerks, guards and officials began to react. The men then sat calmly for one-half hour to await arrest. (Police arrived in five minutes, but because the protesters were on federal property, the F.B.I. had to make the arrest.) The four were arraigned on charges of mutilating federal property, and interfering with the Selective Service. Berrigan and Lewis refused to be freed on their own recognition.

At this time both Berrigans began a week long fast in prison. Daniel Berrigan had been incarcerated as a result of the Pentagon march for refusing to move on when told. He declined to post bail. Both men had begun to feel that marching, picketing and other traditional means of protest were not helping to end the war quickly enough. They felt that organizations such as the Catholic Peace Fellowship and Clergy and Laymen Concerned About Vietnam, were regarded as polite, fashionable and acceptable groups. These organizations demanded little risk, and their efforts seemed too timid to the Berrignas. They, therefore sought independent action in a more controversial style and

¹². Gray, Divine, p. 120.

involving a richer symbolism to more dramatically present their objections to the Vietnam War. This action was, however, very confusing for many observers.

Father (Philip) Berrigan was aware that his action--the pouring of blood--turned many people off, and provided some among the lukewarm and the faint of heart an excuse to cop out on the peace movement. But he has no apologies or regrets. He and his colleagues decided on blood as the element for their protest, since blood is the biblical symbol for life and because they wished, by the drawing of their blood to dramatize the wasteful shedding of blood in Vietnam. They'd do it again, if only for the exorcising effect it had on them personally.¹³

The action, in all its vivid symbolism of liturgy and war had also a realism that alienated many onlookers. It was real blood they used to really destroy real government property. And they were priests! That perhaps was the most disconcerting of all. The Catholic Church had been among the strongest supporters of the United States government and the Vietnam War. Such radicalism belonged to students or possibly to Protestants, but Catholics had never before been part of any kind of Vietnam War protest resembling this raid. James Mengel explained part of the meaning of the act in his statement at the trial:

This is a time to act, and not with words or letters. . . . Our act of anointing the draft files is such a beautiful thing, pregnant with Judeo-Christian tradition. Blood was used to mark the doors of the slaves in Egypt, thereby saving them from slaughter. For the draft files to be anointed heralds the coming of the Holy Spirit, meaning a new life in a dead and dying world.¹⁴

The trial began on April 1, 1968, more than five months after the raid. The four were defended by Fred Weisgal, an attorney from Baltimore. The charges were: 1) entering government property, and

¹³. John Deedy, "News and Views", Commonweal, (January 12, 1968) p. 426.

¹⁴. Marianne Hinckle, "Lives of the Baltimore Saints", Ramparts, (vol. 7, September 28, 1968) p. 15.

2) destroying government records. A third charge, that of conspiracy, was dropped three days before the trial began. In their defense, Thomas Lewis pleaded innocence in his statement:

I stand here in moral outrage, as a witness against what is being done by my government to the poor and the helpless. What kind of insanity is this? While we eat lunch two-thirds of the world is starving and the children in Vietnam are burning. I am guilty of no crimes, neither against God, nor against men, nor against the United States. If I am guilty of anything, it is of taking the New Testament and the Catholic Church seriously. If that is a crime, I welcome a sentence.¹⁵

The government chose Stephen H. Sachs, the only Black U.S. prosecutor in that district, to handle the case, an unusual move given Philip Berrigan's and James Mengel's involvement with urban Blacks. Nonetheless, Sachs pushed for conviction and maximum sentence. He told the Judge Edward S. Northrup that "Their act was not mere symbolism, neither should their punishment be mere symbolism."¹⁶ Judge Northrup agreed as he accused the defendants, "All of you hide behind words to accomplish your ends--to bring down this society."¹⁷ All four were found guilty. At the sentencing on May 24, 1968, Philip Berrigan eloquently explained his position:

One acts as we did because of a certain view of man and of man's world. We claim to be Christian, but that is a claim never really verified or completed. It is, rather a process of becoming, since man is by definition one who becomes himself--a painful but glorious process as history tells us. . . . Becoming a man, we feel, is becoming what Christ was. And this we have tried to do.¹⁸

¹⁵.Hinckle, "Lives", Ramparts, p. 14.

¹⁶."Fiery Brotherhood", Newsweek, (June 3, 1968) p. 56.

¹⁷.Ibid.

¹⁸.Philip Berrigan, Prison Journals of a Priest Revolutionary, (New York: Holt, Rinehart and Winston, Inc., 1967, Ballantine Books, 1971) pp. 9-10.

He went on to describe the horrendous military power wielded by the United States and followed closely by other major nations. He showed through statistics the power of the "haves" over the "have nots" in terms of wealth, influence and necessities. He pointed out the domestic turmoil that the injustices of military power and wealth perpetrated, and he accused the country of lawlessness in its continuation of these policies.

These are not times for building justice; these are times for confronting injustice. This, we feel, is the number-one item of national business--to confront the entrenched, massive, and complex injustice of our country. And to confront it justly, nonviolently, and with maximum exposure of oneself and one's future.¹⁹

Acting as they did in Baltimore was a requirement of their beliefs and moral stance.

As a Christian, I must love and respect all men--loving the good they love, hating the evil they hate. If I know what I am about, the brutalization, squalor, and despair of other men demeans me and threatens me if I do not act against its source. This is perhaps why Tom Lewis and I acted again with our friends. The point at issue with us was not leniency or punishment, nor courage or arrogance, not being a danger to the community or a benefit to it--but what it means to be a democratic man and a Christian man. And if we provide the slightest light upon those two momentous questions, it is enough for us.²⁰

Judge Northrup was severe in sentencing: For James Mengel, who did not actually destroy files, but instead stood with the defendants and passed out copies of the New Testament, Good News for Modern Man, 90 days of psychiatric study, for David Eberhardt, three years, for Thomas Lewis and Philip Berrigan, six years. Many observers including the New York Times felt that these sentences were

¹⁹. Philip Berrigan, Journals, p. 13.

²⁰. Ibid., pp. 13-14.

excessive and disproportionate to the crime. Father Philip Berrigan nevertheless earned the distinction of being the first Catholic priest in American history to serve sentence as a political prisoner.

Howard Zinn had approached Daniel Berrigan late in January, 1968--- with an invitation from the peace committee of North Vietnam to visit and return three captured American pilots. They spent seven days in Laos and seven days in Hanoi where they visited, among other things, a farm cooperative, the Hanoi Museum of Art, a group of Catholics, and Premier Phan Van Dong. They also experienced an American air strike. The conversations, observations and events of those days reconfirmed for Daniel the immorality of that war, and he recorded them carefully in his book, Night Flight to Hanoi. The events of these days served as a strong influence in his later decision to join Philip and seven others to destroy draft files in Catonsville with napalm. Even before the case of the "Baltimore 4" was decided, Philip along with Tom Lewis had gathered forces for one final demonstration.

CHAPTER IV

CATONSVILLE--1968

THE EVENT

In mid-May of 1968, Philip Berrigan (free on bail and awaiting sentencing for the Baltimore incident) and some friends visited Daniel at Cornell after his return from Hanoi. They were planning one more action against another draft board and wanted Daniel to join them. He was very reluctant. After the others left, he and Philip talked until dawn.

Philip opened before me the facts of the case. . . It must be evident by now that the government would allow men like myself to do what we were doing almost indefinitely; to sign statements, to picket, to support resisters in court. Even if they did pick us up, it was the government who were (sic.) choosing the victim and the time and place of prosecution. The initiative was entirely in their hands. But in the plan under consideration, the situation was entirely reversed. A few men were declaring that the initiative of action and passion belonged to the peaceable and the resisting.

Toward dawn, I can remember seeing the light. I told Philip that I was with them. They should allow me some twenty-four hours to subject my decision to possible change of mood, but if they had not heard from me within that period, they could assume that I would be a member of the Catonsville group.¹

The decision was not an easy one for Daniel and the ideas presented to him by Philip were unsettling. After Catonsville was over, he recalled his apprehension from the Baltimore County jail:

I struggled with this for weeks. I had done everything else, including a short stint in jail, fasting, all the tried--and by now untrue--forms of demonstrating. I had a sense, only just under the skin, that I was at the end

1. Daniel Berrigan, S.J., No Bars to Manhood, Bantam Books, (New York: Doubleday & Company, Inc., 1970) p. 15.

of something. I had been to Hanoi and seen the charnel house our military had made of a quite beautiful society. Easter Sunday, I visited a boy in Syracuse who had immolated himself in front of the cathedral. He later died. And then there was Martin Luther King's murder. Suddenly I saw that my sweet skin was hiding out behind others marching and resisting and disappearing into kangaroo courts and jails. I was in danger, as the good liberals began to nod assent to my noble sentiments, of hooking onto their gravy train. I had to risk my skin to save my soul.²

There were, perhaps, three major influences which immediately contributed to Daniel Berrigan's decision to go to Catonsville. The first, of course, was Philip. There was a mutual love, admiration and trust between the two brothers of blood and Christ. Daniel had felt almost guilty that his brother had risked more than he for a cause they felt equally. The second influence was his trip to Laos and Hanoi where he had seen a culture destroyed and people burned and dying. The third reason he joined the others was the self-immolation of Roger LaPorte, a 16-year old boy, in front of a Syracuse cathedral. For these and countless other reasons and experiences, he joined his brother, Thomas Lewis (another member of the "Baltimore 4") and six others at Catonsville.

George Mische was the first to join Philip Berrigan and Thomas Lewis. His background was similar to the Berrigans in that his parents were strict Catholics and Minnesota labor organizers dedicated to helping the poor and Blacks. As an honor student and college graduate, he was introduced to AID (the Association for International Development) founded by a progressive Catholic college. Its purpose was to train laymen for community work in Latin America in a peace corps type program. While in the AID program, he advised several

2. "Fiery Brotherhood", Newsweek, (June 3, 1968) p. 56.

Latin American presidents on U.S. aid programs. He resigned in protest against American policy and its support of two military coups in Honduras and the Dominican Republic. He also worked organizing for the AFL-CIO, and he helped delinquents in Harlem, New York City, and New Jersey for four years. In 1968, he was 30 years old, and married with a one-year old daughter.

The next to join were Marjorie and Thomas Melville. He had been in Guatemala since 1957 and had been a pastor in the Maryknoll order since 1961. Marjorie spent 14 years (from 1954) in Guatemala as a teaching nun of the Maryknoll order. They were married and consequently excommunicated, although they still considered themselves tied to the church. They were also ejected from Guatemala because they identified with and gave aid to the poor peasants and guerrilla fighters there. They saw the church as an encouragement for the "oligarchic status quo" and American intelligence as supporters of right wing terrorists who assassinated social reformers. Their removal was requested by the American ambassador.

Another member of the group was John Hogan, also of the Maryknoll order. He also had spent time in Guatemala (since 1961) and also was requested to leave because of his sympathies toward the Christian Guerrilla Movement.

Mary Moylan had served as a nurse in Uganda, East Africa for three years with the Women's Volunteer Association. She later served as the organization's director. Earlier she had been a nurse in Baltimore and active in militant civil rights activities.

The last member, David Darst, was the youngest of the group. He had graduated summa cum laude from Saint Mary's College in

Minnesota and was awarded a full scholarship to Harvard Divinity School. He taught as a Christian Brother in a St. Louis Black, inner-city school and had turned in four successive draft cards. At first, the others suspected him of being a plant; he was so clean cut and new to the movement compared to the others. It soon became apparent, however, that he was as dedicated and resolute as any of them.

Daniel Berrigan was the last person to commit himself to the group. Others were invited, but it was Catholics who responded. The final nine included four priests (the Berrigans, Hogan and the excommunicated Thomas Melville), one former nun, (Marjorie Melville), one Christian Brother (Darst), and three laymen (Lewis, Moylan, and Mische). Three were married (the Melvilles and Mische) and all but Darst had traveled and lived abroad. Daniel Berrigan later wrote of the group:

For it will be easy, after all, to discredit us.
Our record is bad; troublemakers in church and state,
a priest married despite his vows, two convicted felons.
We have jail records, we have been turbulent, uncharitable,
we have failed in love for the brethren, have yielded
to fear and despair and pride, often in our lives. For-
give us.³

Plans were carefully made, the site was selected and scouted. Catonsville, eight miles north of downtown Baltimore was chosen because of its conservative, white WASP character. Tom Lewis carefully mapped the Knights of Columbus building in which the draft board offices were located. A medium had to be agreed upon. Should

3. Daniel Berrigan, Night Flight to Hanoi, Perennial Library, (New York: Harper & Row, Publishers, 1968) p. xvii.

it be blood, ink, paint, fire? Blood was rejected because it had been too misunderstood, too liturgical, too abstract. Philip suggested napalm and agreement was unanimous. A recipe was found in an excerpt from the Special Forces handbook published by the Army's School of Special Warfare, at Fort Bragg, North Carolina, and reprinted in Ramparts magazine. Ivory soap was used to make the napalm since it was "99.44% pure".

Two explanations were prepared. The first was the preface to Night Flight to Hanoi (see appendix II) which Daniel sent to his publisher and selected friends only hours before the raid. Some have suggested he did this to make it easier to be convicted. It reads in part as follows:

Some ten or twelve of us (the number is still uncertain) will, if all goes well (ill?) take our religious bodies during this week to a draft center in or near Baltimore. There we shall, of purpose and forethought, remove the A-1 files, sprinkle them in the public street with homemade napalm and set them afire. For which act we shall, beyond doubt, be placed behind bars for some portion of our natural lives, in consequence of our inability to live and die content in the plagued city, to say peace peace when there is no peace, to keep the poor poor, the homeless homeless, the thirsty and hungry thirsty and hungry.

Our apologies, good friends, for the fracture of good order, the burning of paper instead of children, the angering of the orderlies in the front parlor of the charnel house. We could not, so help us God, do otherwise. For we are sick at heart, our hearts give us no rest for thinking of the Land of Burning Children. And for thinking of the other Child, of whom the poet Luke speaks.⁴

We see the sign, we read the direction; you must bear with us, for His sake. Or if you will not, the consequences are our own.⁵

⁴.Daniel Berrigan, Night Flight, p. xvi.

⁵.Ibid., p. xvii.

We say killing is disorder; life and gentleness and community and unselfishness is the only order we recognize. For the sake of that order, we risk our liberty, our good name. The time is past when good men can remain silent, when obedience can segregate men from public risk, when the poor can die without defense. . .

We have chosen to say, with the gift of our liberty, if necessary of our lives, the violence stops here, the death stops here, the suppression of the truth stops here, the war stops here.⁶

The second explanation was a statement to the press (see appendix III) carefully released in sealed envelopes an hour before the incident. It read in part:

All of us identify with the victims of American oppression all over the world. We submit voluntarily to their involuntary fate.

We use napalm on these draft records because napalm has burned people to death in Vietnam, Guatemala, and Peru; and because it may be used in America's ghettos. We destroy these draft records not only because they exploit our young men, but because these records represent misplaced power, concentrated in the ruling class of America. Their power threatens the peace of the world; it isolates itself from public dissent and manipulates parliamentary process. And it reduces young men to a cost-efficiency item through the draft.⁷

Above all, our protest attempts to illustrate why our country is torn at home and harassed abroad by enemies of its own creation. . .

Peace negotiations with the North Vietnamese have begun in Paris. With other Americans, we hope a settlement will be reached. . . However, this alone will not solve our nation's problems.⁸

We believe that some property has no right to exist. Hitler's gas ovens, Stalin's concentration camps, atomic-bacteriological-chemical weaponry, files of conscription, and slum properties have no right to exist. When people

⁶ Daniel Berrigan, Night Flight, p. xvii.

⁷ Philip Berrigan, S.S.J., A Punishment for Peace, (London: The Macmillan Company, Collier-Macmillan Ltd., 1969) p. 171.

⁸ Ibid., p. 172.

starve for bread and lack decent housing, it is usually because the rich debase themselves with abuse of property, causing extravagance on their part and oppression and misery in others.⁹

We have pleaded, spoken, marched, and nursed the victims of their (the church, and the American ruling class) injustice. Now this injustice must be faced, and this we intend to do, with whatever strength of mind, body, and grace that God will give us. May He have mercy on our nation.¹⁰

So, with these convictions and plans, at about noon on May 17, 1968, the "Catonsville 9" (as they became known) entered the second floor offices of draft board #33 in Catonsville, Maryland and removed the contents of several file drawers to wire trash cans which they carried outdoors to the parking lot. The two clerks, Mrs. Murphy and Mrs. Mosberger, protested their actions. After the 90 seconds the raid took, one of the clerks recovered from her astonishment enough to throw a telephone through a window to attract a passerby. In the parking lot, the wire basket's contents were dumped into a pile and doused with napalm, which was lit. The nine joined hands in song and prayer over the flames until police arrived to arrest them. They had destroyed 378 files.

The next day, the jailed group sent the clerks flowers and a note of apology for the inconvenience caused. They spent eight days in the Baltimore County jail in Towson, Maryland fasting, talking, reading, studying and worshipping. After arraignment on both state and federal charges, all were released on bail except Philip Berrigan and Thomas Lewis, since this was their second offense.

⁹. Philip Berrigan, Punishment, p. 173.

¹⁰. Ibid., p. 174.

The church reacted differently to each of the three active clergymen. David Darst's order at first refused him any aid, but later provided bail. Daniel Berrigan's Jesuits announced that they would neither pay his bail nor censure him. The Cardinal of Baltimore, however, deprived Philip Berrigan of his priestly functions. He could not preach nor hear confession nor offer mass in public, even to his fellow prisoners.

THE TRIAL

On October 5, 1968, the trial of the "Catonsville 9" began in 4th Federal District Court, Baltimore, Maryland. The nine Catholic defendants were charged with three counts" 1) destruction of U.S. property, 2) destruction of selective service records, and 3) interference with the Selective Service Act of 1967. (A previous charge of conspiracy was dropped on the first day of the trial.) All nine pleaded innocent to the three charges. They did not deny destroying the records, but they contended they did so without "criminal intent". They argued that what they had done was not a crime in these circumstances, but rather their moral and political duty as Christians.¹¹

The presiding judge was Roszel Thompson. He was 66 years old, gentle and fatherly. His efforts to pacify and be kind were very compatible with the warm camaraderie apparent in the defendants. This was not to be a spectacle of confrontation, but a courteous, respectful trial. There was a sort of begrudging respect felt by

¹¹. Philip Berrigan, Journal, p. 126.

the nine for the prominent and influential citizen-judge of Baltimore.

Daniel Berrigan felt that the prosecution was insultingly second-string, and believed the government was attempting to demonstrate its confidence in conviction. Ironically, the chief prosecutor, Arthur Murphy, was the only Black federal prosecutor in the state of Maryland. This was his first political case. He was aided by Barnet Skolnik.

The defense team was headed by William Kunstler, the civil libertarian and defender of such people as Rap Brown, Morton Sobel, Jack Ruby, the Black Panther and the "Milwaukie 14". He was aided by an inter-denominational group composed of Harrup Freeman, a Quaker and defender of conscientious objectors from Cornell Law School, Harold Buchman, a Jewish labor lawyer from Baltimore, and Father William Cunningham, a Jesuit professor of law from Loyola University.

The prosecution's case was simple: to prove destruction of the files by the group--a statement which none of the defendants denied. The defense would argue that the nine used "reasonable force" against "unlawful power" and had acted to save lives. The prosecution would show that the law had been broken, while the defense would plead for a higher, divine law and a political duty to break unjust law. The government would argue that the intent and motive were the same, but the defense would deny this, saying their motive was to destroy the files while the intent was to end the genocide in Vietnam and the corruption in America. The court would rule that statements concerning ghettos, starvation, Vietnam, and Guatemala were inadmissible, thus ruling out the opportunity to justify the Catonsville action.

The nine regarded the trial in extra-legal terms. They intended to use the court as a forum in which they could confront the government and be heard. Previous attempts to talk with military and political leaders had either been unanswered or unproductive. The accused felt the trial and Catonsville dealt with the human issues of community, decency, and justice. They wanted to talk about the injustice of law which protects the powerful and persecutes the poor, of freedom of speech and protest, of a society of death executed by the military, the society, the technology and the legal system. They wanted to be examples of a new hope for life, both human and spiritual which would turn against death and injustice. Mostly, they wanted to talk about the legality and morality of war--especially of American war in Indochina. All nine felt their case in court was hopeless, but their cause was hopeful. They all expected to be convicted and to receive prison sentences. In the courtroom, they hoped to be heard and to serve as an example for others to follow. "One does not look for justice; one hopes for a forum from which to communicate ideals, conviction, and anguish."¹².

Before the trial, the nine sent invitations to thousands of people across the country urging them to come to Baltimore and celebrate the teach-in drama. About 2,000 answered the invitations by coming to the trial and its accompanying marches and demonstrations.

The defense agreed to a swift trial and therefore, on the first day, refused to question or challenge any prospective jurors.

¹². Philip Berrigan, Journal, p. 125.

There were four reasons for this surprising action: 1) the defense wanted an extremely brief trial, 2) the defendants wanted only to tell their story and to eliminate all irrelevant legal devices intended to justify testimony, 3) the defendants felt the prospective jurors were of similar enough backgrounds that a hung jury was unlikely, and 4) they wanted to express an indifference to their own fate and a distrust for any jury selected by the court, thereby lending more authority to the conviction motivating the incident at Catonsville. William Kunstler spoke for the group when he explained that the defendants did not want anything to do with the selection of the jury because they did not recognize the court as a forum in which the matter could be solved. For the defendants, the court was a place to express their views, and a place for the government to find them guilty and assign punishment. Their trial would not bring about the improved society they desired.

After two hours of questioning by the bench and the prosecution, a jury was selected. There were no Blacks, no young people, no students, no poor, no radicals or leftists. Daniel Berrigan described them at an evening rally during the trial.

They've been through all three wars and they lump them into one. Sunday they go to church. Monday they go to the National Guard, Tuesday they go back to church, Wednesday they go to the Rotary Club. . .¹³.

The average age of the jury was 56, although two women and one man were over 70. Their occupations ranged from an engineer and an insurance agent to a truck driver and a merchandise girl. Philip

¹³Francine duPlessix Gray, Divine Disobedience, (New York: Alfred A. Knopf, 1970) p. 175.

Berrigan wrote of them in his journal, "They represent those on voting registration rolls, with solid credit ratings, with Rotary Club, PTA, and Knights of Columbus membership."¹⁴.

The prosecution began by presenting evidence designed to prove that the event took place and that the defendants were present and participants, a truth no one denied. Witnesses included the FBI agent who made the arrest and the two women who worked in the draft board office. The prosecution also outlined issues they considered to be irrelevant, eg. conscience, morality, sincerity, justice, law, Vietnam, ghetto poverty, and U.S. international intervention. The issue was simple, according to the prosecution. It was merely whether or not those accused had destroyed draft files. The reason for doing so was not important, according to the prosecution.

Each defendant would have an opportunity to speak from the stand. They would impress the jury with their educated respectability and their high ideals and morals. They were not to fit the preconception of wild radicals, acting passionately instead of rationally. They were men of the cloth, women of the church, humans of good will. They identified themselves with the poor and oppressed of this country and of the world. They contended that breaking the law by destroying draft records was intended to save lives and should be rewarded rather than condemned. If a person breaks into a house on fire to save those inside, that person is not found guilty of breaking and entering. If a car speeds out of control toward children, a passerby has a moral duty to divert the car in any way possible

¹⁴. Philip Berrigan, Journal, p. 128.

in order to save the children--even if it means harm to himself, to the driver or to the car. If actions such as Catonsville had taken place in Nazi Germany in the 1930's an effective resistance to the Hitler government might have been built. This type of action should be applauded, not punished, said the defense.

Judge Thompson had a reputation for being more lenient by far than the other judges presiding over similar cases during that time. He allowed the defendants reasonably wide ground in which to speak. He permitted some explanation of the events in each defendant's life which brought that person to such a commitment. He listened sympathetically to their experiences with American intervention in Guatemala. He allowed bibliographies of material influential in their decisions to oppose the American military. His decision, however, was arrived at within the strict letter of the law.

David Darst was the first of the nine to testify. He was the only one of the nine who had not worked abroad. At the time of the trial he was under indictment in Missouri for draft evasion. He explained:

I simply could not comply with the war effort any more. I changed my mind about the merits of a long legal battle with the draft board and acted in Baltimore. To resist by defying the draft board with lawyers and letters is not really taking any active part against the war. That action (napalming the files) was.¹⁵

He explained that his purpose at Catonsville was to raise an anguished cry for help, to stop the "crime of an unnecessary suffering, a clear

¹⁵•Marianne Hinckle, "Lives of the Baltimore Saints", Ramparts, (vol. 7, September 28, 1968) p. 16.

and wanton slaughter."¹⁶. Secondly, he wanted to:

halt the machine of death. . . in the same way, perhaps, a person in Czechoslovakia when tanks invade his country throws bricks into the wheels of the tanks and sometimes a puny effort stops a tank. This was my hope, to hinder this war in a literal way, an actual physical way.¹⁷.

He also spoke of billions of American dollars to overseas wars while ghetto children starve. He, as would all defendants, testified that some property had no right to exist such as draft files, slum property, concentration camps, napalm, etc.

Philip Berrigan seemed tired and worn from his days in jail. He described his protest attempts at Fort Meyers and his discussions with top political figures, including Senator Fulbright and Secretary Rusk among others. He was able to elicit from the prosecution an agreement that his views were sincere and could be held by reasonable persons. Philip Berrigan outlined briefly the tradition of American civil disobedience including the blood-pouring in Baltimore. In explaining his reasons for striking again at Catonsville, he testified:

The issue was not my life or my future. The issue was the deepening involvement of America around the world, not only in Vietnam, but in Latin America. The issue was the most powerful empire the world had ever seen, and what this had done to us as a people. My life, I judged to be slightly irrelevant in terms of these overriding considerations.¹⁸.

. . .our dissent runs counter to more than the war, which is but one instance of American power in the world. Latin

¹⁶. Daniel Berrigan, The Trial of the Catonsville Nine, (Boston: Beacon Press, 1970) p. 34.

¹⁷. Ibid., p. 35.

¹⁸. Gray, Divine, p. 206.

America is another instance. So is the Near East. This trial is yet another. From those in power we have met little understanding, much silence, much scorn and punishment. We have been accused of arrogance, but what of the fantastic arrogance of our leaders. What of their crimes against the people, the poor and the powerless. Still no court will try them. No jail will receive them. They live in righteousness. They will die in honor. For them we have one message. For those in whose manicured hands, the power of the land lied, we say to them, Lead us. Lead us in justice and there will be no need to break the law.¹⁹

He concluded his testimony by admonishing the powerful (the President, Congress, judges, lawyers, bishops and superiors) to humanize and reform the system.

George Mische outlined his past experiences as well, paying special attention to his work in Central America and the Caribbean organizing labor, housing and land programs. He, through working with the two governments, began to understand anti-American sentiments and the frequent "coup d'etat" revolutions supported by the American Pentagon. He told of his decision to leave the Alliance for Progress. Later he spoke of an illegal, undeclared American war in Vietnam and compared his position as a Christian to the position presented at the Nuremburg trials. By not protesting the war in Vietnam, he would have become guilty of the napalm murders and other atrocities in Vietnam.

I felt the crisis in this country needed something drastic--something people could see. But the act had to be nonviolent. We were not out to destroy life. There is a higher law we are commanded to obey. It takes precedence over human laws. My intent was to save lives--Vietnamese lives, North and South American lives. To stop the madness, that was the intent.²⁰

¹⁹. Daniel Berrigan, Trial, p. 30.

²⁰. Ibid., p. 74.

Thomas Melville told of his experiences in Guatemala. He spoke of the poverty and misery of 85% of the population there; of the American financial interests, especially that of the United Fruit Company, in that country; of American troops and American execution of Guatemalans. He and his wife Marjorie had participated in Catonsville hoping to bring the attention of Americans to their government's activities in South America, and therefore to possibly avoid another Vietnam.

Mary Moylan also spoke about American foreign policy, this time in Uganda where American planes piloted by Cubans "accidentally" bombed while she was working there as a nurse. She told also of domestic policy when Blacks in Washington, D.C. were denied justice often because the government broke the law. She spoke of inhuman napalm:

As a nurse my profession is to preserve life, to prevent disease. To a nurse the effect of napalm on human beings is apparent. I think of children and women bombed by napalm, burned alive by a substance which does not roll off. It is a jelly. It adheres. It continues burning. This is inhuman, absolutely.²¹

To pour napalm on pieces of paper is much preferable to using it on any human being. Human life is sacred . . . what I really want to do, by pouring napalm on draft files, is celebrate life, not to engage in a dance of death that the American Government seems intent upon. . . some property, as we have said in our statement, has no right to exist. By this we mean the gas ovens of Hitler's regime, or slum properties, or the files of conscription which continue the imperialistic policies of the American government; which continue the slaughter of people overseas. . .²²

21. Daniel Berrigan, Trial, pp. 65-66.

22. Gray, Divine, p. 189.

Thomas Lewis explained his baptism into the civil rights movement which later led him to become active in CORE and the Catholic Interracial Council. He became active in peace activities in 1965 when his brother left for Vietnam and the full scale bombing began. After hearing Pope Paul address the United Nations, he and Philip Berrigan founded the Baltimore Interfaith Peace Mission. He reviewed his many peace activities: marches, demonstrations, fasting, letters, vigils, discussions and talks with leaders, and concluding with the blood-pouring in Baltimore. Realizing that he would probably serve time in prison for pouring blood in Baltimore, he chose again to be in jeopardy. "In a sense, it was a choice between life and death. It was a choice between saving one's soul and losing it. I was saving my soul."²³.

I went in there with the intent of stopping what the files justify. The young men whose files we destroyed have not yet been drafted--may not be drafted--may not be sent to Vietnam for cannon fodder. My intent in going there was to save lives. A person may break the law to save lives.²⁴.

John Hogan had been recalled from Guatemala at the same time as the Melvilles. He compared Catonsville to an out of control car threatening to destroy innocent children's lives. His intent at Catonsville was to let people live.

Marjorie Melville also reviewed her experiences with American power in Guatemala and her fears that in that country was the next Vietnam.

I know that burning draft files is not an effective way of stopping a war, but I certainly can't find any other

²³. Daniel Berrigan, Trial, p. 46.

²⁴. Ibid., p. 48.

way of stopping this war. . . I have really racked my brain, and I have talked to all kinds of people. . . There is no real answer to stopping it. The thing continues. We have been talking about the war in Vietnam for six years, and it is getting worse all the time. . . I wanted to make as effective a protest as possible to U.S. military intervention across the world, not only in Vietnam, but in Guatemala where I had seen it.²⁵

Daniel Berrigan offered his biography and the events which influenced his decision to participate at Catonsville. His intent at Catonsville was to prevent the children and grandchildren of the judge and jury to be burned with napalm. "The great sinfulness of modern war is that it renders concrete things abstract. I do not want to talk about Americans in general."²⁶ He said later that his action was a way of carrying out his religious beliefs. "I went to Catonsville and burned some papers because the burning of children is inhuman--unbearable."²⁷

On October 10, the fourth and final day of the trial, the prosecution delivered its summation. It was brief and simple: Murphy acknowledged the defendants' frankness, honesty, and sincerity, but went on to say that social, religious, political and moral views were no defense. He outlined alternatives the nine could have pursued to express their views without breaking the law. Finally, he discussed motive and intent. Motive, according to Mr. Murphy, could not be considered as an acceptable defense.

I may have a motive to feed my family and to keep a roof over my family, or the person in the ghetto might have that same feeling. The motive there is what? Give his

25. Gray, Divine, p. 187.

26. Daniel Berrigan, Trial, p. 82.

27. Ibid., p. 92.

family food and shelter. But that motive may become so strong, because the man is unemployed, that he goes out and robs a bank. Is he to be excused because the motive was good? No, he is not to be excused. And this is the situation you have with these defendants.²⁸

Prosecutor Skolnik accused the nine of "fantastic arrogance" by imposing their views on people who disagree. He said that although the country was not perfect, it would improve, but its problems would not be solved by people who deliberately break the law.

The defense summary was delivered by Mr. Kunstler. He began by expressing his personal love and admiration for the nine defendants. He agreed with the prosecution that the nine did destroy the files, but justified this by pointing out that the files were not driving licenses or brewery licenses, but papers of life and death.

The defendants did not go to Catonsville to act as criminals, to frighten Mrs. Murphy, or to annoy or hinder her. They were there to complete a symbolic act (first of all) which we claim is a free speech act. And secondly, they were there to impede and interfere with the operation of a system which they have concluded (and it is not an unreasonable belief, as the government has told you) is immoral, illegal, and is destroying innocent people around the world.

The defendants weren't burning files for the sake of burning files. If they were, I would not stand in this court to defend them. They burned the files at Catonsville for two reasons, both of which they admitted:

They wanted, in some small way, to throw a roadblock into a system which they considered murderous, which was grinding young men, many thousands of them, to death in Vietnam.

Also, they wanted, as they said, to reach the American public, to reach you. They were trying to make an outcry, an anguished outcry, to reach the American community

²⁸. Gray, Divine, p. 210.

before it was too late. It was a cry that could conceivably have been made in Germany in 1931 and 1932, if there were someone to listen and act on it. It was a cry of despair and anguish and hope, all at the same time. And to make this outcry, they were willing to risk years of their lives.²⁹

Kunstler reminded the jury that the government agreed that the defendants were sincere and truthful, and that reasonable men could hold such views. The jury's responsibility, according to Mr. Kunstler, was to determine if the defendants were guilty or innocent of a crime.

During the noon recess, the nine decided to ask for permission to once more address the court while the jury deliberated. After the recess, Judge Thompson instructed the jury:

The law does not recognize political, religious, moral convictions, or some higher law, as justification for the commission of a crime, no matter how good the motive may be. . . The protester. . . may, indeed, be right in the eyes of history, or morality, or philosophy. These are not controlling in the case which is before you for decision. It is the state's duty to arrest and try those who violate the laws designed to protect private safety and public order. . .³⁰

Judge Thompson failed to charge the jury, as the defense had requested, to find the nine innocent if they determined the Catonsville act was done with reasonable belief that the war in Vietnam was invalid.

After the jury was dismissed, Judge Thompson surprised the court by allowing further discussion of the case. For about an hour, the defendants questioned and the judge answered regarding the balance of law and justice. Much of the questioning centered around the

²⁹. Daniel Berrigan, Trial, pp. 103-104.

³⁰. Gray, Divine, pp. 214-215.

consideration of the inspiration, moral passion, and soul which initiated the decision to destroy draft records. By excluding that part of the act, the defendants argued, the law ignored the meaning and import of the symbolic behavior. During the trial, Daniel had clearly said:

May I say, if my religious belief is not accepted as a substantial part of my action, then the action is eviscerated of all meaning, and I should be committed for insanity.³¹

The judge, always patient, answered that in spite of his personal sympathies, he was bound by oath to a tradition of legal court functions and limits within which he was forced to stay. In effect, he pointed out that this country is "one of laws, and not of men", regardless of their moral passion. Judge Thompson expressed his admiration for the group and their ideals:

You speak to me as a man and as a judge. As a man, I would be a very funny sort if I were not moved by your sincerity on the stand, and by your views. I agree with you completely, as a person. We can never accomplish what we would like to accomplish, or give a better life to people, if we are going to keep on spending so much money for war.³²

The defendants continued to press. If he opposed the war and if he loved the law, would he allow the war--the legality of the undeclared conflict in Vietnam--to be tried in his court and his decision to be reviewed by the Supreme Court? The judge replied, "But you have to have a case--" to which George Mische answered, "You have to break the law first."

It was Daniel Berrigan who ended the discussion:

We want to thank you, your honor. We do not want, however, the edge to be taken off what we have tried to say by any implication on our part that we are seeking mercy

31. Daniel Berrigan, Trial, p. 83.

32. Ibid., p. 115.

in this Court. We welcome the rigors of this Court. And we do not wish that primary blade of intention to be honed down to no edge at all by some sort of gentleman's agreement whereby we would conclude that you have agreed with us and we with you. We do not, and we thank you.³³

Following the interaction, the defendants asked if they could finish with a prayer. "The government has, your honor, no objection whatsoever, and rather welcomes the idea." The defendants rose as the spectators, prosecution, judge and even the marshalls recited the "Our Father".

When the jury returned, all nine had been found guilty on each of the three counts. The gallery responded. "You have just found Jesus Christ guilty," shouted one man. Many sobbed. Judge Thompson ordered the room cleared. As they were escorted out by the marshalls they began to sing, "We Shall Overcome".

Daniel Berrigan spoke the last recorded words of the trial:

We would simply like to thank the Court and the prosecution. We agree that this is the greatest day of our lives.³⁴

A few weeks later, the nine returned for sentencing. Judge Thompson sentenced David Darst, Mary Moylan, Marjorie Melville and John Hogan to two years in prison. Daniel Berrigan, Thomas Melville and George Mische were sentenced to three years. Philip Berrigan and Thomas Lewis received three and a half years to run concurrently with the sentence of six years from the Baltimore blood-pouring. The press regarded the sentences as lenient, since they were lighter

³³.Gray, Divine, p. 221.

³⁴.Daniel Berrigan, Trial, p. 122.

than some draft resisters had received and since Dr. Spock had been assessed two years at his trial for conspiracy to aid draft leaders. (This decision, however, was later reversed.)

The nine, although convicted and facing jail terms, felt joy, hope and success. They also felt freedom since their consciences were free. The trial was over.

CATONSVILLE AS SYMBOLIC RHETORIC

Symbolic rhetoric was defined in Chapter II as:

1) actions, objects or sounds to which are attributed meanings and messages not implicit in the actions, objects or sounds. In other words, the behavior must have communication as its primary aim. And

2) the communicative aspect must be understood and agreed upon by observers.

It is against these two criteria that the symbolism of Catonsville will be measured.

Did the nine participants at Catonsville have communication as their primary aim and did they choose actions and objects which would have meanings and messages not implicit in the actions and objects themselves? The answer is yes to both parts of the question.

The "Catonsville 9" obviously intended to communicate. To take the action at face value would, as Daniel Berrigan stated during the trial, mean they should be committed for insanity. Marjorie Melville agreed that the action was an ineffective and futile way to stop the war. Certainly the group did disrupt, at least temporarily, the draft board offices at Catonsville, but this most obvious,

non-symbolic result of the protest was certainly not the major intent. The participants were too well disciplined and intelligent to imagine that this event would seriously disrupt the military draft. The event took place because the nine had a statement to make. That was the primary aim of the action.

The actions and objects had meanings attributed to them which were not inherent in the actions and objects themselves. The site selected was, in effect symbolic since it was located in a well-to-do suburb of Baltimore. It was a conservative, White, middle-class, WASP-y town, the kind that nodded its patriotic approval to the war in Vietnam. It was typical of the complacent communities across the country which turned away from speeches and demonstrations and marches. It was people such as those who lived in Catonsville that the Berrigans hoped to awaken to the horror and destruction of war. The nine wanted people not only to understand the power of war over those who live in a far-away country called Vietnam, but also over those who live in a nation at war.

The files represented lives--but even more so, they represented innocent lives, chosen at random, by the American military to die by the random choice of the Vietnamese military. They clearly stood for the faceless names of American boys chosen to join the Army at random and perhaps to be destroyed. They also signified the Vietnamese youth and women and children and men and elderly who were chosen at random to die. Daniel Berrigan further symbolized the files when he wrote: "For the papers destroyed at Catonsville in May of 1968 were in fact hunting licenses issued against human beings,

licenses declaring a 12-month open season on Vietnamese men, women and children."³⁵ The files called attention to those whom war destroys, but they also indicated the power of government over the lives of its citizens and even over those who are not its citizens. The draft files were only one example of the information the government keeps on those who live inside its boundaries, and the careful watch it keeps over their lives. Other examples of this include FBI and police files on students and other "subversives", the spying the government does on its citizens and even its own political parties. The files, according to the "Catonsville 9" were an example of property which had no right to exist as they were the first step in the march toward killing and death. Philip Berrigan wrote of American reverence for property.

The Jews had their golden calf, Americans have their own property. Its misuse and disparity is our most sinister social fact. . . no people have cherished and celebrated property as we have, even to the point of obsessions and orgy.

Americans would not quarrel with destroying German gas ovens or the Nazi and Stalinist slave camps. We would not quarrel with violent destruction of war materiel threatening us. But let the issue become nonviolent destruction of "weapons for defense". . . and the issue suffers an abortive death.³⁶

The medium of napalm also carried profound symbolic meaning. It was important to the total message and impact that napalm was used instead of gasoline or torches. Napalm was a widely used weapon during the war. It destroyed at random from a distance,

³⁵ Daniel Berrigan, America is Hard to Find, (Garden City, N.Y.: Doubleday & Company, Inc., 1972) p. 29.

³⁶ Philip Berrigan, Prison Journals, pp. 21-22.

and if it did not destroy, it maimed dreadfully. Mary Moylan described its effects from the point of view of a nurse who had seen its destructiveness in Uganda.

As a nurse my profession is to preserve life, to prevent disease. To a nurse the effect of napalm on human beings is apparent. I think of children and women bombed by napalm burned alive by a substance which does not roll off. It is a jelly. It adheres. It continues burning. This is inhuman, absolutely. To pour napalm on pieces of paper is certainly preferable to using napalm on human beings.³⁷

Daniel Berrigan expressed his experiences with napalm when he visited North Vietnam:

The horror pictures of death and damage by napalm are already familiar. There is a kind of family line of napalm bombs, constantly improved. We are far advanced from the days of merely preparing jellied gasoline. The combination of polyesterin and other chemicals makes the napalm both much hotter and more adhesive. . . We saw a picture of the pitiful, crisped remains of a woman, burned to a twisted black remnant in the midst of which there remained only a patch of flesh as evidence of the unborn child.³⁸

Napalm vividly dramatized its own destructiveness. The nine felt it was better to burn paper than children. However, as Daniel Berrigan wrote:

This was an audacious, arrogant, and finally intolerable form of reasoning. . . The boxes of paper ash were wheeled into court on the first day of the trial as evidence against us. But the bodies of napalmed children could not be produced; they were abstractions, distant, debatable objects unrelated to the brute facts of the case.³⁹

The symbol of napalm was chosen instead of repeating the pouring of blood as in Milwaukee because it was less confusing and therefore a

37. Daniel Berrigan, Trial, pp. 65-66.

38. Daniel Berrigan, Night Flight, p. 67.

39. Daniel Berrigan, America, p. 28.

more precise sign. Blood, as a symbol was richer, more liturgical, but it was also more alienating and complex. Most people found it to be too vivid, too dramatic and mostly, too gory! Philip Berrigan interpreted blood as a symbol used by the "Milwaukee 4":

Blood is life--the Bible says so; lose enough or shed enough, and death results. Blood is redemption (freedom) also, depending on how it is shed; the contrast between Cain and Christ shows that. Our point was simply this; We could claim no right to life or freedom as long as the Viet Nam war--U Thant calls it one of the most barbarous in history--deprives Americans and Vietnamese of life and freedom. If we said no to the war, we could say yes to its victims, and to sharing their predicament.⁴⁰

By drawing their own blood, Philip Berrigan and his colleagues wanted to dramatize the wasteful shedding of blood in Vietnam.

It was through the use of these symbols, that the "Catonsville 9" tried to communicate. Their message was complicated and broad. It was a statement rich with ambiguity, hopefully forcing people to contemplate and struggle with the questions they tried to raise. The message of Catonsville can be summarized on three levels.

Most obviously, the action was a statement of protest against what the demonstrators considered to be an illegal, immoral war in Vietnam. It was also a protest against the way in which the war was being conducted, against the weaponry used and the method of selecting manpower for that war. But the action was intended to express much more. It was not simply opposition to the war and the draft that brought the nine participants to Catonsville.

The participants were expressing concern about the things in the federal government which they determined to be inhuman and unjust. Vietnam was the most obvious and dramatic example. It

⁴⁰ Philip Berrigan, Journal, p. 19.

was not the only example. The experiences of most of the "Catonsville 9" abroad had provided for them first hand experience with and observation of the U.S. government's foreign policy. This judgement was reinforced by what they perceived at home. From both exposures they saw a nation which allowed children within and without its borders to starve and suffer and live in unbearable circumstances while it spent billions to wage war and kill the children of another country. The nine objected to the kind of power America displays in the world--not only in Vietnam, but also in Latin America, the Middle East, and Africa.

The nine, being Catholic, also sought to challenge the position of the church, particularly the Catholic Church, in the world. They, through their visual Catholicism (the priests among them wore their collars to the "ceremony" and while the paper burned, they joined hands around the fire in prayer and song.) were trying to contrast their action, intended to be one of love and compassion, to the action, or inaction, of the church on such matters of importance morally. They condemned the hierarchy of the Catholic Church for accepting and even condoning the military and economic powers of America here and abroad. They wanted to confront the wealth and influence of American religious leaders and to compare the actual use of that wealth and influence with the Christian teachings of charity and concern for all life.

The action at Catonsville, then, dramatized the nine's concern for peace at home and abroad. It demonstrated their desire for benevolent leadership in both the government and the church exhibiting power for people, rather than power over people through weapons and money. They called for creation of new attitudes about what is most

important for people and the concerns to which the government and church should contribute. They tried to express hope for a new humankind, a creative and sharing and building community to replace what they regarded as a destructive and greedy and crumbling world.

Secondly, the nine attempted to raise a cry and challenge the conscience of the citizens of this nation. The action was an effort to force people to confront the issues and to be concerned. It was a desperate attempt to reach the public. It seemed as though all the marching and demonstrating and fasting and speaking and writing had failed. Daniel Berrigan wrote:

I had done everything else, including a short stint in jail, fasting, all the tried--and by now untrue forms of demonstrating. I had a sense, only just under the skin, that I was at the end of something. I had been to Hanoi and seen the charnel house our military had made of a quite beautiful society. Easter Sunday, I visited a boy in Syracuse who had immolated himself in front of the cathedral. He later died. And then there was Martin Luther King's murder. Suddenly I saw that my sweet skin was hiding out behind others marching and resisting and disappearing into kangaroo courts and jails. I was in danger, as the good liberals began to nod assent to my noble sentiments, of hooking onto their gravy train. I had to risk my skin to save my soul.⁴¹

Catonsville endeavored to more dramatically present the issues and the case before the public.

Catonsville was also a challenge to the government in this country. The nine tried to force the government to respond. Demonstrators had stood before the White House asking for recognition while the President watched a football game, ignoring both them and their requests. Petitions, letters, and even bills presented to

⁴¹."Fiery", Newsweek, p. 56.

Congress had been denied. Years of traditional protest had evoked no visible major changes in government policy with regard to the war or the draft. The alternatives were dwindling, while the injustice continued. The government still had the initiative regarding whom to arrest and when. This action by the "Catonsville 9" was an attempt to reverse that trend, to put the initiative with the people, and to force the government to respond, even if it were a repressive response.

The action confronted the church as well. It called attention to the unresponsiveness of the church. Indeed the Catholic hierarchy used pressure to inhibit those who would make statements against the war. Recall Daniel Berrigan's banishment to Latin America and Philip Berrigan's transfers to "less desirable" parishes, and the recalls of Marjorie and Thomas Melville and John Hogan from Guatemala. Philip Berrigan was, more than once, ordered by his Superior to cease any public discussion of the war even after Pope John's encyclical Pacem in Terris which called for total pacifism in a nuclear age. Most Catholics preferred the "my country right or wrong" attitude expressed by Cardinal Spellman in 1966. The participants could not accept that sentiment and tried to force the church to respond to their behavior, even if it, too, was a repressive response.

Lastly, the nine presented a witness, an example of conscience, and a statement of religious belief. The sincerity of the group has never, to my knowledge, been challenged by anyone, including the prosecutor or the judge in their trial. That their intentions and convictions were honest has never been denied. The motive was

a moral one. At the trial, Daniel Berrigan testified that his action at Catonsville was a way of carrying out his religious beliefs. "May I say if my religious belief is not accepted as a substantial part of my action then the action is eviscerated of all meaning, and I should be committed for insanity."⁴².

The second criterion of symbolic behavior as rhetoric is not as easily measured. Was the communicative aspect understood and agreed upon by observers? The answer, it appears, can only be a partial one.

It has been my experience that most people recognize, but can not place in their minds the name of the Berrigans. When they are reminded of the files being burnt, then there is recognition and recall. People remember and were, at the time, aware of the event, but the names even of the principals, are not recalled. This indicates the fact that the act, more so than the somewhat complex intention to communicate, was paramount.

Certainly, most people understood the element of protest against the war and the draft. Individuals burning draft cards were relatively common and clearly understood. Some clergymen had actively supported and aided those who wished to deny the authority of their draft boards. (eg. Reverend William Sloan Coffin in the Coffin-Spock trial of that same year.) Destruction of draft files was a new phenomenon which was purely Catholic. Most regarded it as an escalated and more radical and militant move against the establishment. The protest was clear through the symbolism of the napalm and the draft files. The

⁴². Daniel Berrigan, Trial, p. 83.

objection to the war in Vietnam and the draft was apparent to most people.

The remaining aspects of the action needed explanation verbally. This was accomplished first through the announcements to the public via the press and Daniel Berrigan's book, Night Flight to Hanoi (see appendixes II and III). Later this interpretation was expanded through the testimony of the nine defendants during their trial. Finally much was written in numerous books and articles both by and about the participants. Press coverage, however, was minimal: short articles in popular news magazines, generally one on the event and another couple for the trial and sentencing. Many Catholic journals went further in analyzing and explaining the incident, but these articles are not noticed by the general public. Daniel Berrigan's play, The Trial of the Catonsville 9, was a good explanation of the event, but reached a fairly limited audience. People reacted to the event within the framework of other anti-war protest. In general, they remained unaware of the total intent of the act described in the testimony. In spite of a relatively large body of written works about this event, it is my opinion that most people were cognizant of the incident itself moreso than of the written words which became public later.

The "Catonsville 9" intended to express dissent and non-cooperation with the government and the church relating to their policies in the areas of international relations, weapons and warfare, and conditions for Blacks and the poor. The nine participants wanted to reject those values in the government, the church, and, indeed, in American society, and replace them with more human concern, empathy

and hope. That more total message of Catonsville was never heard by most Americans.

Unfortunately, the rich and vivid symbols obscured for many the message they were intended to express. One of the problems many people had in understanding the symbols of Catonsville was the violent nature of the act. Although the participants were very nonviolent during the raid, the act of mutilating government property by burning it with napalm seemed very violent for a group proclaiming peace. Some people objected to the indiscriminate selection of files. They argued that the protesters did not have the right to destroy the property of others. Many who could understand an individual burning his draft card, could not accept one group burning draft files of others, especially without their knowledge and consent. The fact that some of the participants were clerics and wore their priestly garb was confusing. The Catholic Church was known for its support of government policies, not its protest of them, and certainly not such a dramatic protest.

It must be concluded that the communicative aspect of this symbolic behavior as rhetoric was only partially understood and agreed upon by observers. This is, however, to be expected when one is introducing a new and powerful symbol. Creativity in protest as well as in other fields, is often misunderstood until time has passed. Few contemporaries understood (or were even aware of) Thoreau's jail term for non-payment of taxes, or Gandhi's marches and fasts, or Martin Luther King's creative civil rights tactics. It may be that history will record the Berrigan incident more completely, but at this time, that appears unlikely.

CHAPTER V

ANALYSIS

To evaluate the Berrigan incident requires analysis from several points of view. It is too complex and passionate an issue to be considered in its entirety on a black-or-white, right-or-wrong basis. The three principal elements of the action which appear to demand further comment are the legal, ethical, and rhetorical aspects of the activity at Catonsville.

The first area is the legal domain. The topics this paper will discuss within this area are: 1) the basis for the court ruling on the Berrigan case. 2) the possibility of a law above civil law, ie., divine law, 3) the receptiveness of the American legal system to efforts for social change, and 4) the relationship of civil disobedience and symbolic behavior to free speech protection by the Constitution.

The second area, that of ethics, is more difficult to deal with because there are so many fewer absolutes. When discussing ethics, each individual's personal values become important and there are few absolute guidelines established. Nevertheless, the questions of 1) violence as a characteristic of the Berrigans at Catonsville, and 2) the relationship of the individual to society bear examination.

The final and most pertinent to this paper is the rhetorical analysis of the event. This portion of this chapter will determine: 1) the content of the intended communication at Catonsville, 2) the characteristics of symbolic behavior as rhetoric demonstrated there,

3) the audience and its reactions, and 4) the success of the demonstration there.

These three areas, then, (the legal, ethical and rhetorical) will form the framework for the analysis and evaluation of the Catonsville incident involving the Berrigans et al. The bias will be toward free speech, and free expression, both from the realistic viewpoint of the current situation, and from the ideal perspective as developed by this author.

ANALYSIS OF THE LEGAL DIMENSION

This portion of this chapter will discuss the decision of the Berrigan case, legally. On what basis were they convicted? Were they guilty of a crime? Is there a divine law which supercedes civil law? Is the American justice and legal system receptive to demands for social change? How does the whole issue of civil disobedience relate to the legal system, and to the Berrigans in particular?

The Basis for the Court's Ruling in the Berrigan Case

In October, 1968, the court found all Catonsville defendants guilty. It determined that they had entered draft board offices, removed files and intentionally destroyed them. The Berrigan group did not deny this, and yet they had pleaded not guilty. In their view they had violated the law, but they had not committed a crime since it was their duty to act as they did.

Were the participants at Catonsville guilty of a crime? Philip Berrigan wrote before the trial:

It (the prosecution) will charge that breaking the law also a crime; we will maintain that breaking the law in

the case at hand is no crime, but rather a moral and political duty.¹

The defense attorneys argued that they had not committed a crime since it was their intent to do good by saving lives. Their action was compared with that of a person who enters a burning house to save a child. That person is not found guilty of breaking and entering, nor of kidnapping, but is instead lauded and honored for undertaking a personal risk to save others. That was the purpose the nine participants had when they acted at Catonsville. They intended, by their behavior in destroying draft records, to save lives--those of American men who would be drafted and those of the Vietnamese who would have been killed by them. Such an analogy seems to be valid, however, only when the things compared are both concrete and immediate. The jury, basing its decision on the judge's instructions, decided the Catonsville incident was not comparable since the action was more abstract and symbolic and removed from the direct salvation of lives.

The defense argued that it could not be a crime to destroy paper if it were not a crime to destroy life in war. They argued that the legal attitude toward the government and powerful should not be different from that toward individuals. The prosecution advanced the argument that "People just can not take the law into their own hands", but Philip Berrigan pointed out that the government apparently can.

The court is so blind as to exclude testimony about America's national and international illegalities--about ghetto despair, starving children, Viet Nam, Guatemala.

¹. Philip Berrigan, Prison Journals of a Priest Revolutionary, Ballantine Books, (New York: Holt, Rinehart and Winston, Inc., 1971) p. 126.

Apparently, power can take the law into its own hands, a fact which the court refuses to admit.².

The jury, however, found all defendants guilty. They acted upon the instructions delivered by Judge Thompson. He told them that "one's religious principles are not a defense if the crime is proved."³.

The jury may not decide this case on the basis of the conscience of the defendants. They are to decide this case only on the basis of the facts presented by both sides.⁴.

The courts ruled that the Berrigans had committed a crime. On what criteria may a court base its verdict in a case such as that of the Berrigans? The jury was forbidden to consider questions about the Vietnam War, its constitutionality or morality, about poverty and the distribution and use of wealth by government, individuals, corporations and the church. The judge declared that these issues affected him profoundly as a person, but could not be raised before him in his legal robes.⁵. On the basis of immediate, observable facts, the jury ruled that the defendants were guilty. The ruling disregarded any explanation or justification offered by the defendants, whether those explanations were of a moral, ethical or religious nature, a legal and judicial nature, or a political and economic nature. The question was simply, did the defendants do the thing of which they were accused? The defendants willingly answered, "yes, but. . .",

2. Philip Berrigan, Journal, p. 126.

3. Joseph Roddy, "Case of the Jail Bound Jesuit", Look, (April 15, 1969) p. 63.

4. Daniel Berrigan, The Trial of the Catonsville Nine, (Boston: Beacon Press, 1970) p. 105.

5. Daniel Berrigan, S.J., No Bars to Manhood, Bantam Books, (New York: Doubleday & Company, Inc., 1970) p. 29.

and although they were allowed to say more, the jury was instructed to disregard those comments. The Berrigans wanted to argue that there were forces which required them to act as they did. They believed that divine law demanded such action, and that under that law, they were not only not guilty of a crime, but instead, were to be praised for their courage and moral stance. The court system disagreed.

Divine Law vs. Civil Law

In speaking of civil disobedience during the trial, Thomas Lewis said:

This is a legitimate form of social protest. It is well documented in Christianity. Civil disobedience was practiced by the early Christians. The spirit of the New Testament deals with a man's response to other men and with a law that overrides all laws. The one law is the primary law of love and justice toward other men. As a Christian I am obligated to the primary law of brotherhood. Men have responsibilities not only to their immediate family, but to the world.⁶

What he meant, in fact, was that the circumstances which surround an event contribute to and indeed may determine its morality or immorality. There are times when adherence to a higher, moral, divine law (which values human life) demands action contrary to civil law. The examples of life-saving behavior in crisis situations such as a fire or a war or a disaster are numerous. There is also the Nuremberg judgment which requires that an individual's civil or military action not be excused simply because it is lawful or ordered, if it is immoral beyond doubt. The Berrigans were attempting to prove that the war and other conditions of American life were immoral beyond doubt, and

⁶Daniel Berrigan, Trial, p. 43.

therefore the actions of those who promote that immorality, though legal and ordered, are inexcusable. In many cases, they argued, threats to the law may be contributions to human life, and thus to a higher, ethical law.

We state that any law which forces men to kill and to face death furthers war as surely as it encourages men to profit from war. . . We indict such law with our consciences and our acts. We appeal to Americans to purge their law, to conform it to divine and humane law, to apply it impartially, and to build at home and abroad with it. We reject law when it protects injustice, since it is then not law, but a travesty of it. (from the statement to the press by the "Baltimore 4")⁷.

The court refused to consider any injustice committed by the government and refused to consider any "divine or humane law". The judge, indeed, confessed that he agreed with the defendants, but these were not the questions.⁸ Even the concession that the action may be judged by history to be right and moral, even a gift to the world would not change the apparent fact that the rightness of their behavior had no bearing on the legal process. Judge Thompson said:

I have told the jury if they find that you intended to burn the records and hinder the draft board, then it was immaterial that you had other good purposes. And it was immaterial how sincere you were and how right you may ultimately be judged by history.

I am not questioning the morality of what you did. . .

I am not questioning the highness of your motive. I think that one must admire a person who is willing to suffer for his beliefs. But people who are going to violate the law in order to make a point must expect to be convicted.⁹

The Court System and Social Change

⁷ John O'Connor, ed., American Catholic Exodus, (Washington: Corpus Books, 1968) p. 6.

⁸ Daniel Berrigan, No Bars, p. 30.

⁹ Daniel Berrigan, Trial, p. 112.

Robert Brustein claims that America is without adequate machinery for the redress of grievance and for social change.

It is a measure of this failure that little more is available to those dissatisfied with inequities in the system than ineffective demonstrations against the government, threatening rhetoric, disruptive gestures, and self-conscious life-styles. . . the government holds absolute power to suppress any insurrection--if not to destroy it from within before it has even begun through an elaborate network of informers.

Partly as a result, meaningful political action is being replaced by radical verbal displays.¹⁰

Howard Zinn agreed:

For the crisis of our time, the slow workings of American reform, the limitations on protest and disobedience and innovation set by liberals like Justice Fortas, are simply not adequate. We need devices which are powerful but restrained, explosive but controlled. . . to pressure and even to shock the government into change.¹¹

Before the incident at Catonsville, Daniel Berrigan said that he had seen the government "surround, co-opt and suffocate any means of redress against the war that was legal."¹² He felt the law failed to deal with key human issues, failed to reflect today's needs. Further, he felt that the legal stance served as an example to other institutions (schools, churches, etc.) which also were unable to come to grips with these questions.

The law is being judged, and the judgment is a harsh one. The law is less and less useful for the living, less and less the servant of men, less and less expressive of that social passion which in the early days of Greek and Roman jurisprudence brought the law into corporate being. . .

In every generation, the law must renew itself in the guts of the living. Along with the Church, medicine, education, and all the means by which man declares himself man, the law must be remade in the imagination of those

¹⁰ Robert Brustein, Revolution as Theater, (New York: Liveright, 1971) p. 15-16.

¹¹ Howard Zinn, Disobedience and Democracy, (New York: Random House, 1968) p. 3.

¹² Roddy, "Jail Bound", Look, p. 63.

who purvey the law, those who violate the law, and those who suffer under the law, in order that the law itself become what it says it is: corpus humanum--a human body.¹³

How could the law be more receptive to social change? Daniel Berrigan made one suggestion to Judge Thompson:

I wish to ask whether or not reverence for the law does not also require a judge to interpret and adjust the law to the needs of people here and now.¹⁴

This the judge believed he could not do. Despite his personal views accepting their sincerity, honesty, morality and social perspective, he could not allow the broader issues to be presented, nor could he include conscience since he believed the orderliness of the law excluded them, and he could not make judgments outside the law.

Certainly laws change to reflect new needs and social change. The process, however, is often slow and difficult. The system desires to perpetuate itself above all. Those with power seek to retain it by exercising it. Laws do reflect social change, but perhaps not effectively enough. Society is required to loudly demand change before the government responds by making new laws.

The Constitution guarantees the unabridgable right of people to express themselves and their demands. Freedom of expression, however, does have certain limitations which have been imposed by laws and court decisions. There are limits on obscenity and pornography. There are restrictions on sedition and espionage and inflammatory utterances. There is not unlimited freedom to libel or slander. And, apparently, free expression can not be used as an excuse for

¹³. Daniel Berrigan, No Bars, p. 31.

¹⁴. Daniel Berrigan, Trial, p. 114-115.

for violating other laws. There are some cases of civil disobedience which do permit disregard for some civil laws, and these areas are continuing to be defined. Justice J. Abe Fortas has written that the right to dissent:

may be exercised by the use of written or spoken words; by acts, such as picketing, which is sometimes referred to as "symbolic speech" because they are means of communicating ideas and of reaching the mind and consciousness of others. . .¹⁵.

Civil Disobedience and Symbolic Speech

Mahatma K. Gandhi established five criteria for civil disobedience which form the basis for its use today. The first requirement is that civil disobedience must be illegal. Second, it must be open and public, involving no secrecy. Third, participants must voluntarily accept the legal consequences of their action. Fourth, the action must be nonviolent. Fifth, participants must act out of conviction rather than convenience.¹⁶ Other experts in civil disobedience have added additional requirements and interpretations, eg., the action should breach the law, but not when other means of remedy are available. Also a major moral issue must be clearly at stake.¹⁷ Finally, civil disobedience must be measured to the size of the evil it is intended to eliminate.¹⁸

¹⁵.J. Abe Fortas, Concerning Dissent and Civil Disobedience, (New York: Signet Books, 1968) p. 25.

¹⁶.for further elaboration, the author recommends, Gandhi His Relevance for Our Times, (New Delhi, India: World Without War Council, 1967), and M. K. Gandhi, Non-Violent Resistance, (New York: Schocken Books, 1961).

¹⁷.Sidney Hook, "Neither Blind Obedience Nor UnCivil Disobedience", New York Times Magazine, (June 5, 1966) p. 21.

¹⁸.Zinn, Disobedience, p. 12.

The Berrigan action was: 1) clearly illegal. The jury confirmed this by finding the group guilty. 2) Catonsville was open and public. 3) The participants voluntarily accepted the legal consequences of their action. They waited to be arrested, and at times refused to post bail. 4) It is in the area of violence that the Berrigans extend Gandhi's definition of civil disobedience. The violence of fire and destruction of property is more intense than any methods used by Gandhi, but the participants were nonviolent in their manner. A more complete examination of this point will be found later in the section of this chapter sub-titled, "Analysis of the Ethical Dimension". 5) The Berrigans certainly acted out of conviction rather than convenience. They felt that other means of remedy had been exhausted and were no longer viable alternatives. They believed they demonstrated a strong moral issue, and that their action was conservative when measured against the evil it intended to illuminate. According to these requirements, the Catonsville incident would be considered to be civil disobedience by Gandhi and his followers.

Justice Fortas has outlined acceptable conditions for civil disobedience from a legal viewpoint. He states that good motives do not excuse illegal action involving injury to others and to their rights. Violation of an unconstitutional or invalid law is acceptable legally, but if the violation is of a valid law reasonably designed and administered, the Constitutional guarantees will not apply. The Constitution does not protect subversive acts, sabotage, espionage, theft of national secrets or interference with the preparation of the nation's defense or war-making capacity. "The state may defend its existence and its functions, not against words or argument or criticism, however

vigorous or ill-advised, but against action."¹⁹.

Fortas's rules for civil disobedience are more narrowly drawn than those of Gandhi. He is in direct conflict with the Berrigans on the first point, although the court's ruling supports the Fortas reasoning in the Berrigan case. The nine defendants argued that their good motives changed the act from a crime of insanity, to an ethically justified action. They believed that the war and the draft, although not ruled as such by the courts, were not only illegal and unconstitutional, but immoral as well. Fortas, again, would disagree and would find the laws which the "Catonsville 9" violated to be valid laws, reasonably designed and administered. He would say that the Berrigans' act, if not subversive, was sabotage and involved theft of national secrets and interference with the preparation of the nation's defense and war-making capacity. The crucial distinction Fortas would make is that the Berrigans used action, rather than words or argument or criticism to make their point. Justice Fortas would not consider the Catonsville raid to be constitutionally protected civil disobedience.

The decision to participate in civil disobedience, then, is a personal one based on one's convictions and moral beliefs. The problem is one of balancing the individual's moral belief with the society's social demands. Gandhi places the individual's moral belief above social demands; Fortas takes the opposing viewpoint. The criterion which one would expect to be used in judging the protection of civil disobedience under freedom of speech would be to identify the communicative value of the action. This will be done more specifically in the

¹⁹Fortas, Dissent, pp. 22, 28, 31-32, 40, 51.

last section of this chapter sub-titled "Analysis of the Rhetorical Dimension". This effort to communicate must, however, be balanced against the state's interests.²⁰ Examples of "symbolic speech" or civil disobedience which have been granted First Amendment protection include sit-ins, but not all forms of picketing; displaying flags and other symbols, but not burning of flags or draft cards, even though many would argue that when these items are destroyed, it is because of a desire to communicate. Some of the authorities on the First Amendment believe that rulings in these cases punish the idea as well as the conduct.²¹ The court contends that there were other, more appropriate styles of speech available in these cases, and, therefore, they should not be protected.

The Columbia Law Review has presented a set of criteria for equating symbolic action with free speech which appear quite sound. They are as follows:

- 1) It must be motivated only by the desire to communicate,
- 2) The conduct must be capable of being understood by others as communication.
- 3) It must be assertive (a departure from routine behavior).
- 4) It must not interfere with other goals in the society.²²

The principal desire of the "Catonsville 9" was to communicate as explained in this paper. (see especially the last section of this chapter, "Analysis of the Rhetorical Dimension".) It is difficult to say of any event, that its only motivation was to communicate. In this

²⁰."Symbolic Conduct", Columbia Law Review, (Vol. 68, No. 6, 1968) p. 120.

²¹.Ibid., p. 119.

²².Ibid., pp. 132,135-136.

case, the author feels confident that communication was the primary, if not the only, intent of the participants.) Secondly, the action was capable of being understood, particularly when examined in light of the current events of that time, the supplemental texts of the trial, the press releases, and the other printed books and articles. Thirdly, it was definitely a departure from routine behavior and asserted their beliefs and opposition. Lastly, the intention of the act was partially to interfere with the selective service system and to challenge that goal of society. The protest did limit itself to the interference of only that one societal goal, and therefore does meet the fourth criterion established by the Columbia Law Review. The Berrigan action does, then, fall into the realm of symbolic behavior or action as free speech according to the Columbia Law Review.

The crucial point on which the Berrigans' behavior diverges from these criteria of symbolic behavior as free speech or civil disobedience is in the area of the use of violence. The traditional forms of civil disobedience avoided violence. This subject will be discussed at length in the next section of this chapter.

ANALYSIS OF THE ETHICAL DIMENSION

The action at Catonsville rests primarily on ethical justification. The participants felt that the Vietnam War and the American power exhibited around the world and at home were, in many instances, immoral. For that reason, they believed that vigorous resistance was ethically required. Several problems arose, however, with the form of resistance used. This section will deal with some of these questions. The question of the morality of the American involvement in Vietnam will

not be discussed. That single question could command volumes. The concerns of this paper are the ethical and moral implications of the action at Catonsville. Principally, this section will deal with the question of the use of violence. It will also examine the relationship of the individual's conscience to society as a whole.

Violence

At face value, many Americans agree that violence is counter-productive, unethical, illegal, and unjustifiable.

One of these (commonly accepted) propositions (about law and order and violence) is that all violence is illegal. Another is that there is a common view about the destructiveness of violence against persons or property, and that all Americans know the fixed rules that exist for the preservation of law and order and accept those rules as being valid. . . But these propositions do not take into account that within American society there exist sharply differentiated views concerning violence and the meaning of law and order. . .²³.

There are many degrees of violence and many distinctions that can be made in its use. Violence may be intended to physically damage, or it may intend to communicate.

. . . acts of physical force potentially have two kinds of intention and effect: 1) The intention may be simply to inflict the physical changes (effects) that occur, as when a slap-in-the-face inflicts minor physical pain or when the "bombing of North Vietnam" is designed simply to destroy railroads, factories and people. 2) But such acts may be designed to "say something" and be taken as saying it; a slap or bombings may express anger or determination-to-fight-on, or each may be rhetorical as well: the meaning of a slap or bombs dropped may be, "Do as I bid or worse will follow!" Physical effects remain (minor or horrendous), but rhetorical intention and effects comprise their ultimate meaning.²⁴.

²³. Paul Jacobs, "The Varieties of Violence", The Center Magazine, (January, 1969) p. 17.

²⁴. Parke G. Burgess, "Crisis Rhetoric: Coercion vs. Force", The Quarterly Journal of Speech, (Vol. 59, No. 1, February, 1973) pp. 63-4.

Violence may be intentional or accidental, pre-meditated, or passionate. Violence may be overt or covert. Overt violence is observable and physical such as murder, rape or assault. Covert violence is more subtle and psychological, such as prejudice, humiliation, or threats. Violence may be institutional or personal. Institutional violence is perpetrated by institutions, authorities and governments. Examples include concentration camps, war and racism. Personal or individual violence would be actions such as theft, murder or rape. Philip Berrigan said, "Institutional violence is impersonal and therefore easier to understand and accept. Personal violence however, adds emotion to rational and therefore is more complicated."²⁵ Violence may have as a goal, individual and selfish gain, or social improvement. Theft and murder and assault would generally result only in personal satisfaction as opposed to social improvement. Assassination, violent demonstrations and riots are often intended to create favorable social change. The Berrigans tried to communicate by using intentional, overt, personal violence with the aim of achieving social improvement.

Many would argue that there is a difference between violence to persons and violence to property. This distinction was the most important one in the Berrigan case, since they argued that they destroyed property (draft files) to save lives. They also argued that such property was, in itself, violent, and had no right to exist. They believed that they were destroying violence by burning the files. The Berrigan group felt that life should not be violated. "No principle

²⁵ Philip Berrigan, "Violence: A Prisoner's View", Christian Century, (Vol. 85, August 14, 1968) p. 1012.

is worth the sacrifice of even one life," said Dan Berrigan in a letter to the Weathermen.²⁶ (The author assumes that Berrigan intends to say that no principle is worth the unwilling sacrifice of a life. It seems obvious that he would not be critical of a willing self-sacrifice.)

Mary Moylan said at the trial:

. . . To pour napalm on pieces of paper is much preferable to using it on any human being. Human life is sacred. . . what I really want to do, by pouring napalm on draft files, is celebrate life, not to engage in a dance of death that the American Government seems intent upon . . . some property, as we have said in our statement, has no right to exist. By this we mean the gas ovens of Hitler's regime, or slum properties, or the files of conscription which continue the imperialistic policies of the American government; which continue the slaughter of people overseas. . . ²⁷

Most people would admit that violence to property is of lesser intensity and a more acceptable degree of violence than violence to persons. This hierarchy does not make such action as the Berrigans acceptable to most people, but it does show the complexity of the issue of violence.

There are some who would not accept violence in any form under any conditions, whether it intends to communicate or to physically damage, whether it is overt, covert, personal, or institutional, whether it aims toward personal or social satisfaction, whether it is against persons or property. Gandhi was such a person. A friend asked Gandhi once if the destruction of government property was violence.

"You say that nobody has a right to destroy any property not his own. If so, is not Government property mine? I hold it is mine and I may destroy it."

"There is a double fallacy involved in your argument," replied Gandhiji. "In the first place, conceding that Government property is national property. . . I may not destroy it because I am dissatisfied with the Government."

²⁶ Daniel Berrigan, America is Hard to Find, (Garden City, N.Y.: Doubleday & Company, Inc., 1972) p. 95.

²⁷ Francine duPlessix Gray, Divine Disobedience, (New York: Alfred A. Knopf, 1970) p. 189.

But even a national Government will be unable to carry on for a day if everybody claimed the right to destroy bridges, communications, roads, etc., because he disapproved of some of its activities. Moreover, the evil resides not in bridges, roads, etc., which are inanimate objects, but in me. It is the latter who need to be tackled. The destruction of bridges, etc., by means of explosives does not touch this evil, but only provokes a worse evil in the place of the one it seeks to end."

"I agree," rejoined the friend, "that the evil is within ourselves, not in the bridge which can be used for a good purpose as well as an evil one. I also agree that its blowing up provokes counter-violence of a worse type. But it may be necessary from a strategic point of view for the success of the movement in order to prevent demoralization."

"It is an old argument," replied Gandhiji. "One used to hear it in the old days in defense of terrorism. Sabotage is a form of violence. (emphasis added) People have realized the futility of physical violence, but some people apparently think that it may be successfully practised in its modified form as sabotage. It is my conviction that the whole mass of people would not have risen to the height of courage and fearlessness that they have but for the working of full non-violence.²⁸

Gandhi's position is clear. Any physical violence, whether against property or persons, must be considered violence and should be avoided. Gandhi recognized degrees of violence, but regarded all violence as bad. Even Gandhi was not absolute, however, in his attitude toward violence. He sanctioned burning of registration cards in South Africa. He also said in South Africa that, "if the options are violence or cowardice, I would choose violence."²⁹

Although there is a fundamental difference between Gandhi and Berrigan on the question of violence, it does not seem to be an unresolvable difference. Gandhi always searched for new and creative styles of Satyagraha (non-violent resistance). He recognized that

²⁸. M. K. Gandhi, Non-Violent Resistance, (New York: Schocken Books, 1951) pp. 378-379.

²⁹. Geoffrey Ashe, Gandhi, (New York: Stein and Day, 1968) p. 73.

time and place and situations would alter and shape the form of Satyagraha employed. The event at Catonsville was viewed by Daniel Berrigan as a new a creative and hopeful alternative to the previously ineffective methods of protest.

I had done everything else, including a short stint in jail, fasting, all the tried--and by now untrue forms of demonstrating. I had a sense, only just under the skin, that I was at the end of something. I had been to Hanoi and seen the charnel house our military had made of a quite beautiful society. Easter Sunday, I visited a boy in Syracuse who had immolated himself in front of the cathedral. He later died. And then there was Martin Luther King's murder. Suddenly I saw that my sweet skin was hiding out behind others marching and resisting and disappearing into kangaroo courts and jails. I was in danger, as the good liberals began to nod assent to my noble sentiments, of hooking onto their gravy train. I had to risk my skin to save my soul.³⁰

For some, who, like Gandhi, abhor violence in any form, a strong moral position, such as that held by the Berrigans and thousands of other Americans against the war in Vietnam, or racism, or government misuse of power, sometimes may involve violence to demonstrate that position. The traditional liberal is then in an ambivalent position, needing to choose means in proportion to and yet not contradictory to the moral stance taken.³¹ For the Berrigans, the weight of the situation, and the ineffectiveness of nonviolent means seemed to them to require more aggressive action. The government was guilty, in the Berrigans' view, of intolerable evils. The attempts to confront and reform those evils were fruitless. The alternatives, in their minds, were exhausted, because they were ineffective. For these reasons, the Berrigan group searched for new alternatives which resulted

³⁰."Fiery Brotherhood", Newsweek, (June 3, 1968) p. 56.

³¹.James R. Andrews, "Reflections on the National Character in American Rhetoric", Quarterly Journal of Speech, (Vol. 57, No. 3, October, 1971) p. 318.

in more violent action.

The use of violence to protest social evil must, if used at all, be used with control, discipline, and must be carefully directed to avoid harm to those who are innocent.³² The Berrigan action met this requirement.

Joan V. Bondurant expressed her opinion on the effectiveness of violent and nonviolent action:

There is no denying that all forms of violence have some chance of success in securing immediate, well-defined objectives. Symbolic violence, as a form of violence. . . shares this potential for success. . . (Nonviolent resistance) has superior potential in situations of conflict in which fundamental changes of attitude and behavior constitute the objective.³³

The National Commission on the Causes and Prevention of Violence reported:

It is no doubt true that in the 1960's policy changes advanced to dissident groups have sometimes followed in the wake of urban riots and campus disturbances. These gains, however, may have been attributable more to the validity of the protest goals than to the violent outbreaks when they came.

. . . Violence tends to become a style. . .

As our Task Force concluded, group violence as a tactic to advance or restrain protest by discontented groups does not contribute to the emergence of a more liberal and humane society, but produces the opposite tendency.³⁴

There are those, however, in spite of the conclusion that violence itself does not contribute to positive social change, who would say that the Berrigan action, when seen from a certain perspective,

³². Zinn, Democracy, p. 94.

³³. G. Ramachandran and T. K. Mahadevan, eds., Gandhi: His Relevance For Our Times, Joan V. Bondurant, "Satyagraha versus Duragraha: the Limits of Symbolic Violence", (Berkeley, California: World Without War Council, 1967) p. 110.

³⁴. National Commission on the Causes and Prevention of Violence, "On Group Violence", Dr. Milton S. Eisenhower, Chairman, (December, 1969) pp. 106-107.

is not violent at all. John Deedy, editor of Commonweal, a Catholic journal, wrote:

We can so frame the existential logic of the Berrigan brothers that an action such as that in Catonsville becomes a gentle, nonviolent, gesture, a defensible means to a positive end,--imprisonment.³⁵.

Gordon Zahn agreed. He wrote:

To the best of my knowledge none of the acts attributed to today's Catholic radicals have failed to "avoid" violence, and this is most certainly true of the Berrigan type raids. Even the most extreme act, the immolation of Roger LaPorte (and it is tragic to reflect upon the extent to which we have forgotten him!) can be seen as an act, however misguided, of self-sacrificial love and not of violence.³⁶.

The question of violence as an ethical means is a complicated one. Many would be absolutist in refusing violent means in any circumstance. Others, such as the Berrigans, would balance the violence against the circumstances.

Gandhi makes a strong point about whether or not violent means may be justified by nonviolent ends. Under no circumstances, in his view, does an ethical end justify unethical (or violent) means.

. . . we can (not) get a rose through planting a noxious weed. If I want to cross the ocean, I can do so only by . . . means of a vessel; if I were to use a cart for that purpose, both the cart and I would soon find the bottom. . . The means may be likened to a seed, the end to a tree; and there is just the same inviolable connection between the means and the end as there is between the seed and the tree.³⁷.

He continues by explaining that one's means determine the end.

³⁵. John Deedy, "New and Views", Commonweal, (June 7, 1968) p. 346.

³⁶. Gordon C. Zahn, "Clarification and Correction", Catholic World, (March, 1971) p. 285.

³⁷. M. K. Gandhi, Non-Violent Resistance, p. 10.

If I want to deprive you of your watch, I shall certainly have to fight for it; if I want to buy your watch, I shall have to pay for it; and if I want a gift, I shall have to plead for it; and, according to the means I employ, the watch is stolen property, my own property, or a donation. Thus we see three different results from three different means.³⁸

Thus, Gandhi would say that violent and nonviolent means can not possibly lead to the same end. They are, according to him, morally different and must necessarily achieve different results. Violent means will result in violent ends, according to Gandhi. In the above analogy, we can see that in each case, it is the person who changes, although in each case, he has the watch. This analogy could also mean that violent people use violent means, which does not seem to apply in the case of the Berrigans who had always been very nonviolent. It may be said that the Berrigans used violent means in order to counter the violence against which they protested. It may be more true to say that the violence of the Berrigans was the end derived from the violent means used by the government.

The Berrigans have been attacked by many for their choice of means. Their goal was ultimately one of peace and concern for humanity and humaneness. To use, as a means to that end, the burning of draft files, seemed to many to be contradictory. Their sincere conviction was not questioned, but they were accused of acting out of frustration in order to speed things up and to call attention to themselves. They have been called arrogant and self-righteous. Raghavan N. Iyer could have been one of the Berrigan critics when he wrote of the doctrine of the end justifying the means.

³⁸M. K. Gandhi, Non-Violent Resistance, p. 11.

It has been argued repeatedly that any means is legitimate that is indispensable at least for internal security or to defend society against its external enemies. The sole reason for restricting the choice of means is expediency rather than principle, prudence rather than (non-utilitarian) morality. . . . The idea that one is serving some higher entity which rises far above individual life and that one is no longer serving oneself makes one no less indifferent to the morality of the means employed than the open pursuit of naked self-interest. . . . If there is a moral law, it must be flouted in the practice of politics and this infringement can be justified by the plea of unavoidable necessity. This line of reasoning is commoner than we like to think and is sometimes couched in such specious or emotive language that in moment of crisis many people are hardly aware of the wider implications of a doctrine that they invoke for their special pleading in what seem to be exceptional situations.³⁹

Gandhi, of course, rejected all arguments which tried to justify the use of violent means. He believed that no one could be elevated morally by sacrificing a portion of the moral level already achieved.⁴⁰

The Berrigans did not, as some others did, consider the means they used to be either immoral or violent. They repeatedly contended that some property had no right to exist. They argued that the property and its use was in fact immoral and even violent, and therefore its destruction was ethically justifiable. The moral justification makes what appear to be unethical means acceptable, according to the Berrigans. "The most unethical of all means is the non-use of any means."⁴¹ The Berrigans would say that their entire choice of means was based solely on ethical consideration, and given the time and the circumstances and the need, the means they selected, although apparently contradictory to Gandhi's advice, were ethically justifiable in themselves

³⁹. Ramachandran, Gandhi, p. 325.

⁴⁰. Ibid., p. 331.

⁴¹. Saul D. Alinsky, Rules for Radicals, (New York: Random House, 1970) p. 26.

as well as against the end they sought.

If there is any definition of the new man and woman, the man and woman of the future, it seems to be that they are persons who do violence unwillingly, by exceptions. They know that destruction of property is only a means, they keep the end as vivid and urgent and alive as the means, so that the means are judged in every instance by their relation to the ends. Violence as a legitimate means: I have a great fear of American violence, not only in the military and diplomacy, in economics, in industry and advertising; but also in here, in me, up close, among us. . . Yet it seems to me good, in public as well as in our own house, to turn the question of violence back on its true creators and purveyors, working as we must from a very different ethos and for very different ends.⁴²

For the Berrigans, the moral question rested not only on the means, but also on the end.

The Individual vs. Society

One of the most difficult ethical questions to deal with is the relationship of an individual's conscience with society. Few would disagree that the good of humankind should take precedence over the benefits one individual might accrue. "In action, one does not always enjoy the luxury of a decision that is consistent both with one's individual conscience and the good of mankind. The choice must always be for the latter. Action is for mass salvation and not for the individual's personal salvation."⁴³ Any person determines what is best for society on the basis of personal values which, in his opinion, are appropriate for all. In one sense, this is conscience. It is imperative for our sane survival that our consciences are not

⁴². Daniel Berrigan, America, pp. 97-98.

⁴³. Alinsky, Rules, p. 25.

violated excessively. In a conflict situation, most people would eventually come to a point at which they felt they must act in order to satisfy and justify their ethical beliefs. These beliefs, hopefully, would benefit society as well as themselves. However, by the very nature of conflict, there are a variety of perceptions of what is best for society. We are warned that:

The voice of conscience may sound loud and clear, but it may conflict not only with the law, but with another man's conscience. . . the voice of conscience. . . is. . . not the voice of God, but the voice of a finite, limited man in this time and in this place, that conscience is neither a special nor an infallible organ of apprehending moral truth, that conscience without conscientiousness, conscience which does not cap the process of critical reflective mortality, is likely to be a prejudice masquerading as a First Principle or a Mandate from Heaven.

It is one thing on grounds of conscience or religion to plead exemption from the duty of serving one's country when drafted. It is quite another to adopt harassing techniques to prevent others from volunteering or responding to the call of duty.⁴⁴

The Catonsville action, according to the Berrigans, was for the good of society, for the salvation of America, for the ethical purpose of correcting or pointing to social injustice and inhumanity. In doing so, they did prevent the government, temporarily, from drafting some men. They destroyed only 1-A (those most eligible for drafting) files. The Berrigans would argue that those who wished to join were not prevented from doing so, since they were able to volunteer. Their action only prevented a relatively small number of American men from being forced by the government into military service. Clearly they inconvenienced the draft board office employees, but it was questionable as to whether or not they infringed upon

⁴⁴ Hook, "Blind Obedience", N. Y. Times Magazine, p. 52.

other's rights. (The act remains illegal, however, regardless of this fact.)

There is also the question of how much action is enough, or when does one quit acting out of conscience, and surrender to the status quo? For the Berrigans, there was a personal need to continue to express their opposition. For them, the situation was not had they tried enough, but rather could they fail to continue to speak (or act) out? The answer for them was "No".

The time is past when good men can remain silent, when obedience can segregate men from public risk, when the poor can die without defense.

We ask our fellow Christians to consider in their hearts a question that has tortured us, night and day, since the war began. How many must die before our voices are heard, how many must be tortured, dislocated, starved, maddened? How long must the world's resources be raped in the service of 'legalized murder? When, at what point, will you say no to this war?

We have chosen to say, with the gift of our liberty, if necessary of our lives, the violence stops here, the death stops here, the suppression of the truth stops here, the war stops here.⁴⁵

ANALYSIS OF THE RHETORICAL DIMENSION

The author has discussed the legal and ethical dimensions of the Berrigan incident in order to see the event in perspective and to further illuminate this, the last section of this chapter, the rhetorical dimension. In this section, the communicative effect of the "Catonsville 9" will be assessed. The content of the intended communication will be discussed first, followed by the characteristics of symbolic action as rhetoric inherent in that event. Thirdly, we will discuss the audience and its reactions, and finally we will

⁴⁵ Daniel Berrigan, Night Flight to Hanoi, Perennial Library, (New York: Harper & Row, Publishers, 1968) p. xviii.

assess the success of the demonstration in Catonsville.

The Content of Catonsville

The Berrigan group attempted to communicate several things at Catonsville. First, and most obvious, it was an effort to communicate disagreement with American foreign policy in Vietnam, and American domestic policy regarding the draft. Second, it was an attempt to gain a forum from which the participants could express concern about America's misuse of power, especially in areas where they had first-hand knowledge: Vietnam, Guatemala, Mexico, Brazil, Uganda. They were trying to express concern about domestic policy as well, primarily with regard to poverty and race. David Darst testified at the trial:

I have been living and teaching in the poorest black ghetto in Saint Louis where little children don't get enough to eat. . . . I was appalled that our country could be spending eighty billion dollars a year chasing imaginary enemies around the world and raining down destruction on hundreds of thousands of innocents when it couldn't even bother to feed its own children. . . . I went to Catonsville after a number of steps, all of them within the law, had proved useless in actually raising the voices of dissent. . . . basically my intent was to raise an outcry over what I saw was a very clear crime. . . .⁴⁶. (emphasis added)

They also wished to communicate to others that not all of those in the Catholic Church supported national policy. The Berrigans were critical of the Catholic Church's unwillingness to become active in crucial social issues. "It seems to me scandalous that our energies are going into scraping the pill under the rug,"⁴⁷.

⁴⁶. Gray, Divine, p. 178.

⁴⁷. Roddy, "Jail-Bound", Look, p. 65.

said Daniel Berrigan. The Berrigans believed that the Christian would find God in the world and would serve Him by making peace on every level of life. Daniel Berrigan, in fact, joined the Jesuit order and Philip the Josephite order so that they would be involved in the world where they believed one found God.

Although Christians have numerous examples of civil disobedience in their history, the Catholic Church in particular, had been reluctant to criticize, let alone actively protest against the government. This was partly because many Catholics did not share the ideological stance of the Berrigans. They believed, as did Cardinal Spellman, that it was "my country, right or wrong". The support of the Catholic Church for the American government continued throughout the Vietnam War.

As the Vietnam issue began to polarize the nation, the Catholic Church remained either hawkish, or silent, on all its levels. A Gallup Poll taken at the beginning of 1966 showed that Catholic support of Johnson's Vietnam policy had a substantial lead over Protestant and Jewish support: 54% of the Catholics polled approved of it, as against 41% of Jews, and 39% of Protestants. When the Vietnam protest spread to the grass roots, the Jewish or Protestant clergymen chairing chapters of peace groups tended to be distinguished leaders of their religious communities. The Roman Catholic pastor was conspicuously absent.

Pope Paul started speaking out against our Vietnam intervention in 1965. The American bishops, notorious for their high level of materialism and their low level of theological finesse, did not take heed. . .

Pope John's encyclical Pacem in Terris issued a clear call for total pacifism in a nuclear age. An important Council edict, "The Constitution of the Church in the Modern World", called for clearer government recognition of the rights of conscientious objectors. . .

. . . a schizophrenia had set into the American Catholic Church concerning the Vietnam war. The Pope had condemned it. Progressive theologians such as Notre Dame scripture scholar John McKenzie, Boston College Law School Dean Robert Drinan, and the Berrigans, as well as the progressive

Catholic press--Commonweal, Jubilee, Ave Maria, The Critic, The National Catholic Reporter--had called it the most immoral war in our history. The lines were drawn: the pleading Pope versus the timid, property-loving American bishops; the lonely young curates radicalized by ghetto work versus the warmongering law-and-order Catholic masses; Commonweal versus the Brooklyn Tablet; the guerrillas versus the gorillas. It was getting to be, as Daniel Berrigan said, "some beautiful polarization."⁴⁸

These facts made the action at Catonsville even more shocking to many Catholics who felt that all good Catholics believed as their bishops did. The Berrigans, of course, did not. Through Catonsville they expressed their disagreement with the Catholic bishops and the American government:

We wished to declare an end to the era of good feeling between our church and the warmaking state. And since we had no power to promulgate such views (those in authority were quite content with the flourishing state of the alliance) we took the matter into our own hands. We invaded the Sanctuary of Caesar, dragged out his paper idols, and burned them to ashes.⁴⁹

In short, they wished to make others aware of the power, crimes, and injustice of the government and the church. Philip Berrigan explained it at the trial:

Our dissent runs counter to more than the war, which is but one instance of American power in the world. Latin America is another instance. So is the Near East. This trial is yet another. From those in power we have met little understanding, much silence, much scorn and punishment. We have been accused of arrogance, but what of the fantastic arrogance of our leaders? What of their crimes against the people; the poor and powerless?⁵⁰

They planned the act to be a visual statement of symbolic action,

⁴⁸. Gray, Divine, pp. 92-95.

⁴⁹. Daniel Berrigan, America, p. 133.

⁵⁰. Daniel Berrigan, Trial, p. 30.

and the court experience which would follow would be a forum for the issues they were trying to raise.

The Berrigans selected a visual, dramatic method to communicate these ideas. They chose symbolic action as rhetoric.

Catonsville as Symbolic Action

The symbolic act they used was a confusing one. By definition symbolic behavior is generally an event apart from day to day, routine experience. Any act has the potential to be symbolic behavior with rhetorical purpose. The requirement is that the action be understood by an audience to have communicative intent.

Symbolic behavior is regarded as a step beyond verbal discourse, a means of communication when traditional rhetoric using words has failed. Martin Luther King acknowledged the necessity of action when words proved themselves to be ineffective. "We will try to persuade with our words, but if our words fail, we will try to persuade with our acts."⁵¹ Perhaps part of the reason that words failed for so many was because so many were using them. We have become bombarded with words since the arrival of radio and television and telephone, as well as all the printed words. "Clearly we are suffering from a serious dissociation between our language and its implications. It's as if nobody hears what he is saying anymore."⁵² Symbolic action often was a step taken in frustration because the traditional means had failed, and the situation had become intolerable.

It should be clear that symbolic behavior is generally much

⁵¹. Martin Luther King, Stride Toward Freedom, (New York: Harper and Row, 1958) p. 216.

⁵². Robert Brustein, Revolution as Theater, (New York: Liveright, 1971), p. 27.

more dramatic and vivid because of its form. Its form also causes it to be more ambiguous. Marshall McLuhan has pointed out that the medium in which an idea is communicated carries important personal and social consequences. The medium itself shapes and controls the action. McLuhan also believes that the content of any medium is another medium. The content of speech, for instance, is an actual process of thought, which is in itself non-verbal.⁵³ The content of the medium employed by the Berrigans (burning draft files) was also an actual process of thought. The medium in which that thought was expressed was more dramatic and vivid because of its form. Its form also caused it to be more ambiguous.

The interplay of media may do at the non-verbal level what ambiguity and contradiction in poetry does at the verbal level, i.e., extend the communicative value of the words utilized beyond verbal rationality.⁵⁴

This was especially appropriate in this case because the grievance was one based primarily on conscience, and the "rationality" of conscience is much more difficult to define verbally, and much easier to demonstrate in action.

When dealing with the text of a speech or a series of discourses the language itself customarily provides direct clues to implicit meaning. Underlying motives are typically matters of secondary concern. A confrontative act, however, compactly submerges the range of complexities on which it rests. As such, it becomes a unique "container" in the sense that the underlying dimensions are intrinsic to the nature of the act itself. . . In Berrigan's case, the impact of conscience upon the strategy and enactment of confrontation is paramount.⁵⁵

⁵³for further elaboration, see Marshall McLuhan, Understanding Media, (New York: McGraw-Hill Book Company, 1964).

⁵⁴."Symbolic Conduct", Columbia Law Review, p. 1103.

⁵⁵John H. Patton, "Rhetoric at Catonsville: Daniel Berrigan, Conscience, and Image Alteration", Today's Speech, (Vol. 23, No. 1., Winter, 1975) p. 9.

What this means is that in verbal rhetoric, the message is created from motivation which is secondary to the message. In the Berrigan action, the motivation was the message and therefore, was inherently tied to the medium. Burning draft files was the medium through which conscience was communicated.

Initially conscience was the message for Berrigan, resulting in a series of fundamental image alterations; thereafter, the confrontative act itself, once enacted, became the message for society.⁵⁶

There is also the subjective (in the sense of inward depth) element. A person, any person, can stand up and say NO. The mechanism of symbolic behavior as rhetoric depends upon the courage of the person. He has to communicate courage, but not spoil it all by coming on as a fanatic lacking in "good sense". This is a narrow line, indeed, a razor's edge, but it is central. Another subjective element in symbolic behavior is the internal questioning, prodding, testing, thought-process that a courageous individual subjects himself to. The message may be more clearly presented with action rather than words, but only if the actions are from an ethical person who is viewed by the audience as having good sense and being reasonable. Rosa Parks is another good example of this. She had very few words. She was tired and just sat there on that Southern bus. She was effective because she as a person exemplified the characteristics of courage and of self-examination of her values. She, and the Berrigans, too, were perceived as a person doing it for the sake of persons elsewhere. This is a crucial element in evaluating symbolic behavior as rhetoric.

⁵⁶ Patton, "Rhetoric at Catonsville", Today's Speech, p. 4.

The Audience and Its Reactions

The Berrigan message, somewhat complicated and obscure, had an equally complicated and obscure audience. First, they intended to communicate to the government and to those in authority and power who were capable of changing or continuing the injustices. Second, they attempted to communicate to the church, to let them know further of their concern with the church's unwillingness to confront and condemn American injustices. Third, they tried to reach the American people; to inform and persuade those who disagreed with them, and to inspire those who agreed with them.

Those in authority and power apparently regarded the Berrigans as just another radical, attention-seeking group. Their response was to prosecute and imprison.

The church was also forced to react to this incident involving its members. In general, the church's reaction was one of non-cooperation and noninterference with the demonstrators. They neither helped, nor hindered the group in their legal affairs. Philip's order did punish him by altering, at least temporarily, his role as a priest.

The American public, being a less homogeneous group, had a more varied response. Supporters and sympathizers rallied to the Berrigans. Many traveled great distances to be at the trial. Some conducted their own draft board raids in cities across the country. Those who opposed the Berrigan' ideals were often moved even further from that stance since they were repulsed by such action. This polarization effect was one that the Berrigans understood and welcomed. They knew they could not avoid shocking those who were apathetic or who disagreed,

and many were moved to the right as a result of the Catonsville incident. Some studies of contemporary agitational rhetoric have analyzed this tactic. According to Irving Howe, one aim of confrontation politics is the "polarization" of society.⁵⁷ The idea of creating polarization is based on the following principles: People must sometimes be shocked into listening. This may have an alienating effect on them. Although this may appear to be counter-productive, it does force people to take a stand on the issues. At least they will have heard and considered the issues. Jerry Rubin said, "The more people you alienate, the more people you reach. If you don't alienate people, you're not reaching them."⁵⁸ This idea is stated in more moderate terms by Saul Alinsky: "It is only when the other party is concerned or feels threatened that he will listen. In the arena of action, a threat or a crisis becomes almost a precondition to communication."⁵⁹ Action, such as that at Catonsville, was threatening to many because of its ambiguity. It was ambiguous because it was symbolic action rather than verbal discourse, and because it challenged the value system of the powerful, rather than a specific injustice. Such action is:

difficult to understand, and the agitators are likely to display symbols, engineer events and behave in ambiguous ways. Their rationale is that the public whose support they would like to have, will feel such a strong need to understand agitative symbols, events, and behavior that

⁵⁷ Irving Howe, "The New 'Confrontation Politics' Is a Dangerous Game", New York Times Magazine, (October 20, 1968) p. 27.

⁵⁸ Jerry Rubin, Do It, (New York: Simon and Schuster, 1970) p. 127.

⁵⁹ Alinsky, Rules, p. 89.

they will supply the missing information and explanations themselves.⁶⁰

In the Berrigan case, people felt a need to rationalize the apparent contradiction of priests and nuns engaged in the burning of government documents.

The Berrigan group was concerned with its audience. That was the reason for much of the symbolism, for the press invitations and statement, for the rallies held before and during the trial. However, the intent which initiated the action was a desire to communicate two messages: one of moral concern, and the other, of a challenge to those in power to examine and revise the unjust policies of the nation. The message was the reason for the action. Any persuasion of the American people was desirable, but secondary. The primary purpose was to communicate a personal (yet universally applicable) moral position.

Words alone or limited, non-symbolic steps of dissent would not have satisfied the urgency of conscience, nor would they have been sufficient for penetrating the structure of prevailing images. As a result, this means that the character of the act takes place over the audience to whom it relates.

Berrigan was not interested in persuading, i.e., winning agreement in a customary sense. In contrast conscience based enactment, by its very nature, endeavors to alert and enliven the moral sensitivity of those who will listen.⁶¹

The Berrigan group acted as a sign for others to observe, pointing to forgotten truths, rather than a model for others to actively imitate.

⁶⁰. John W. Bowers and Donovan J. Ochs, The Rhetoric of Agitation and Control, (Reading, Massachusetts: Addison-Wesley, 1971) p. 8.

⁶¹. Patton, "Rhetoric at Catonsville", Today's Speech, p. 9.

Why has the witness of these two men been so widespread and so profound? I think the fundamental reason is that they have served in our war-wracked society as signs pointing to some truths we would otherwise forget. . . even when they have not always served as models whom people have directly imitated.⁶²

To many critics, the Berrigan group was considered to be another example of irresponsible American revolutionaries.

American revolutionaries are impotent to act, and they lack an idelolgy entirely, though they are hardly lacking in passions--thus the weakness for rhetoric and gestures rather than programs and organization.

The result is not revolution, but rather theater. . . staged for the newspaper reporters and television cameras. revolution for the hell of it--designed to capture attention for an individual through some extraordinary antic.⁶³

This rather scathing attack on symbolic action as practiced by many American radicals during the late 1960's, at first glance seems to apply to the Berrigans as well. They proposed no program, and have often been accused of self-indulgence and self-righteousness. The criticism fails in that the Berrigans did not seek attention for themselves, but rather for their consciences. Everyone has an ego, but there is a difference between the ego-strength or courage of the Berrigans, and the ego-trips many radicals exhibit. One criterion for distinguishing ego-strength from ego-trips is the disciplined study and thought preceeding the act. The Berrigans acted based on the strength of their beliefs. An ego-tripper acts based on his desire for personal recognition and glory. The Berrigan group's intended audience was not television cameras and reporters.

⁶². Robert McAfee Brown, "The Berrigans: Signs or Models?", from The Berrigans, William VanEtten Casey, S.J., ed., (New York: Avon Books, 1971) p. 61.

⁶³. Brustein, Revolution as Theater, p. 18.

Certainly, the news media were informed of the action, but the response of the media was not, in this author's view, overwhelming or excessive. Indeed, it was played down to a minimum by most journalists. Although the action may have appeared to be simply an extraordinary antic or ego-trip, there was purpose and carefully considered meaning to every aspect demonstrating ego-strength on the part of the demonstrators. The difficulty was that the end was only partially made clear through the action. The total purpose depended on the verbal forum of the courtroom and publication of numerous books and articles to be clearly presented. The program asked for in the criticism was not one able to be administered legally. Such a program would demand a rebirth of conscience within those in power as well as those who grant that power. The nation needed to be led to a new awareness of humanity. In the Berrigans, one may find intelligence as well as passion, a posture which is the program, kindness as well as zeal, reality and sacrifice.

The reality of the incident was striking. It was almost surreal, as nine individuals joined hands, prayed and sang over burning papers, waiting for arrest. The reality of the situation allowed a visual demonstration of destruction symbolically. Certainly the act destroyed paper, and in that respect, it was violent, but the attitude and posture of the participants made it clear that the violence for which they were responsible was a mere token and symbol of the total and devastating destruction of American power. Jerome H. Skolnick said of them in the Task Force on Violence Report:

These religious activists were willing to mutilate some pieces of property and incur long prison terms to raise moral issues about the violence of the Vietnam War. They

were not literally attacking an enemy, but dramatizing what they felt to be the intolerable savagery of the military system.⁶⁴

The Berrigans' response had a symbolic and expressive character much less violent than the use of force by the government. Civility and decorum were present in the manner of the participants, but these qualities were used to relate to people. Such civility did not seem necessary or appropriate when confronting institutional violence.

In examining the rhetoric of such confrontation, Donald K. Smith and Robert L. Scott conclude that:

A rhetorical theory suitable to our age must take into account the charge that civility and decorum serve as masks for the preservation of injustice, that they condemn the dispossessed to non-being, and that as transmitted in a technological society, they become the instrumentalities of power for those who "have".⁶⁵

The Berrigans' purpose was not met by being "acceptable". Nor did they have any intention of destroying or causing the destruction of the government against which they protested. They desired only to raise issues and questions. To do so demanded reasonable, non-acceptable means, since acceptable means had long before been made impotent.

To be a Christian means to not only talk about things, but to be willing to do something about it. Now marching and protesting, as a viable or effective form of protest, died shortly after Selma. It has been institutionalized and legalized, and it is no longer effective.⁶⁶

64. Jerome H. Skolnick, director, The Politics of Protest, Task Force on Violent Aspects of Protest and Confrontation of the National Commission on the Causes and Prevention of Violence, (New York: Simon and Schuster, final draft submitted, 1969).

65. Donald K. Smith, and Robert L. Scott, "The Rhetoric of Confrontation", Quarterly Journal of Speech, (Vol. 55, NO. 1, February, 1969) p. 8.

66. Gray, Divine, p. 189.

The action of the Berrigans was highly shocking to many people. There were three advantages to such shock: First, it allowed more attention and a greater audience than ordinarily would be reached by a speech. Second, it also served as the first step toward re-arranging perspectives. People should have been shocked much earlier by young men burning children. Shock is the first sign of concern.⁶⁷ A more moderate appeal would be lacking in shock, and also might be contrary to the demands of conscience. The Berrigans agreed that this was a time which demanded more dramatic means. They agreed with William Lloyd Garrison who told his readers in the January 1, 1831 issue of The Liberator:

On this subject, I do not wish to think, or speak, or write with moderation. No! No! Tell a man whose house is on fire to give a moderate alarm; tell him to moderately rescue his wife from the hands of a ravisher; tell the mother to gradually extricate her babe from the fire into which it has fallen;--but urge me not to use moderation in a cause like the present".

As Barry Goldwater reminded the cheering delegation to the Republican National Convention in 1964, "Extremism in the defense of liberty is no vice. And moderation in the pursuit of justice is no virtue."⁶⁸

Moderate means had been used and used and used. It was clear to the Berrigans that they were no longer effective or appropriate. Third, the shock quality of the protest was in proportion to the shock quality of the reality against which they protested. Again, this concerns moderation. For a mild offense, the protest should be mild. As the offense becomes more grave, the resistance must

⁶⁷Theodore Otto Windt, Jr., "The Diatribe: Last Resort for Protest", Quarterly Journal of Speech, (Vol. 58, No. 1, February, 1972) p. 8.

⁶⁸James R. Andrews, "Reflections on the National Character in American Rhetoric", Quarterly Journal of Speech, (Vol. 57, No. 3, October, 1971) p. 318.

become stronger and more dramatic, especially if mild means have failed. Thomas Melville expressed this at the trial:

I think writing letters and parading are great when you want to enlarge the sewer system or put in a new highway. But when people are being murdered, you have to take dramatic action.⁶⁹.

When a war as demonic as this comes along, when all other means of protesting it have failed, you have to resort to desperate gestures to make yourself heard. For electoral politics had failed, and the Marxist hope for radicalizing the proletariat had failed, too. We were living in an advanced, decaying stage of capitalism which offers just enough prosperity to the masses to make them apathetic, to tame the forces of opposition. . . For when a system fails as ours has failed you've got to polarize society by dramatic, provocative action, jolt the apathetic middle ground, radicalize the liberals, inspire them to new commitments.⁷⁰.

This was the intention of the Berrigans at Catonsville. But were they successful?

The Success of Catonsville

The purpose of Catonsville, in a phrase, was to express concern about American injustice and immorality. The action, in order to meet the requirement for symbolic action as rhetoric, must be understood by the audience. Was this accomplished?

One can lack any of the qualities of an organizer, with one exception, and still be effective and successful. That exception is the art of communication.

Communication with others takes place when they understand what you're trying to get across to them. People only understand things within their experience which means that you must get within their experience.⁷¹.

⁶⁹. Gray, Divine, p. 184.

⁷⁰. Ibid., p. 147.

⁷¹. Alinsky, Rules, p. 81.

Since the Berrigan action was removed from the experience of most Americans, the rhetorical strategy does not, at first glance, appear to have been wise. After all, most Americans were not used to Catholic priests and nuns protesting the war very vehemently, nor were they accustomed to the burning of entire draft files. There had been countless incidents of individuals burning a personal draft card, but to burn 378 draft folders was a new phenomenon clearly outside the experience and expectations of most Americans. The element of shock was profound. The degree to which people responded negatively was also profound. There was substantial confusion, and the incident moved many people further away from the peace ranks. Scholars of dissent had warned that dramatic and apparently violent action was counter-productive.⁷²

There have also been strongly dissenting views, too, in the peace movement of these (violent type) actions. In addition to those already committed who were turned off by this excessive action (burning draft records), were those who were turned off and who were not committed to peace, and those who were committed to the war who took this as one more evidence of the unreasonableness of any dissent in wartime.⁷³ Therefore the action may have been a partial failure.

Even the Berrigans acknowledged that many were turned off by their action. Philip Berrigan said after the blood-pouring at Baltimore:

I was aware that my action--the pouring of blood--turned many people off and provided some among the lukewarm and the faint of heart an excuse to cop out on the peace movement. But I have no apologies or regrets. I and my colleagues decided on blood as the element for our protest, since blood is the biblical symbol for life and because

⁷². Zinn, Disobedience, p. 23.

⁷³. John Deedy, "The Berrigan Suit", Commonweal, (November 27, 1970) pp. 126-127.

we wished, by the drawing of our blood, to dramatize the wasteful shedding of blood in Viet Nam. We'd do it again,⁷⁴ if only for the exorcising effect it had on us personally.

As with any new form of dissent, however, once people get beyond the shock at the form and style used, they begin to listen to the message.

It is important to note that as more of the public learned to accept strikes (by laborers during the early days of that movement), they erupted less frequently into violent confrontations; the most important factor seems to have been an increased readiness to respond to the issues raised by the strikers rather than merely responding to the act of striking.⁷⁵

Sometimes, it is necessary to seek ultimate success at the expense of immediate failure by using unacceptable means to gain a forum. ". . . in rhetorical movements of major significance, persuasion is rarely if ever successful, but is, rather, ultimately successful."⁷⁶ After the initial shock, some began to question why such respectable individuals would risk so much for such a sure prison term. They began to question, and as they did so, they began to listen. "We ask only that Americans consider seriously the points we have tried to raise. If they do this, we have been successful. Our act has been worth the expense, the suffering."⁷⁷ Burning draft records did have an advantage because people noticed and listened, which they do not do after demonstrations and rallies. It was not

⁷⁴. John Deedy, "News and Views", Commonweal, (January 12, 1968) p. 426.

⁷⁵. Skolnick, Politics, p. 23.

⁷⁶. James R. Andrews, "The Rhetoric of Coercion and Persuasion: The Reform Bill of 1832", Quarterly Journal of Speech, (Vol. 56, No. 2, April, 1970) p. 195.

⁷⁷. Daniel Berrigan, Trial, p. 60.

successful nor advantageous because the war and the draft and the other inequities continued.⁷⁸ The ultimate and single realistic purpose of the Berrigan act was to communicate concern, not to end the war and injustice. Ideally, it was hoped that enough people would be reached by their message that there would be a fundamental change in the moral position of the nation as a whole. In this respect, they failed, but this aspect was not the principle objective, nor was it a realistic expectation. They presented the problem. The nation, together, had to arrive at the solution. It was not possible for nine individuals to propose, much less carry out, a solution. "The correct presentation of problems, and not the solution of problems, is what is obligatory for the artist."⁷⁹ They were signs, pointing to the problem. That was their purpose, and to that extent, the rhetoric of symbolic action demonstrated at Catonsville in 1968 was successful.

⁷⁸ Deedy, "Berrigan Suit", Commonweal, p. 129.

⁷⁹ Brustein, Theater, p. 35.

CHAPTER VI

CONCLUSION

As with the analysis, there are three primary areas from which conclusions may be drawn. These conclusions are judgments about the legal, rhetorical and ethical ramifications of the Berrigan incident at Catonsville.

The defense of the "Catonsville 9" in court was principally extra-legal, arguing divine law, ethical responsibility, and political justification of law-breaking in such cases. The defendants did not deny having participated in events clearly stated in the law to be illegal; they argued, instead, that they were justified in acting as they did, and therefore, should be found innocent. One legal argument which they did raise was to question the legality of some activities of the federal government and the powerful. This, however, was more a diversion of attention to injustices within the system than a defense of themselves.

The court determined that there was no alternative available to the jury other than a total conviction. This was the jury's decision. Legally the "Catonsville 9" were wrong. They had broken the law and therefore must be punished. Questions of moral responsibility, salvation of lives, and divine direction only confused the sole legal issue; that of assessing whether or not the defendants had entered draft board offices and destroyed records housed there. There was never any doubt about this. The defendants willingly, indeed proudly admitted that they were responsible for having done

just that.

Was this true justice? Was the court right to consider some testimony and ignore other statements selectively as they were instructed to do? Legally, as the system is currently established, they were right. As far as optimum justice, there is some allowable doubt.

Clearly there could be no legal system which could condone the willful breaking of carefully conceived laws at any individual's pleasure. However, it is not inconceivable for a court's decision to be based on the amount of harm resulting from a given action balanced against the resulting benefits, and intentions certainly should be considered. Although this case has a relationship to free speech, since the action was intended to communicate, this relationship is tangential, and was not used as a defense by the nine participants. Even if intentions and desire to communicate were considered, and if the harm resulting were balanced against the benefit, it is unlikely that the defendants would have been found innocent. Had the court rendered such a verdict a dangerous precedent would have been established. The defendants appeared to understand this, and like Gandhi and other civil disobedients, they decided that the moral justification of the action was more important than the inevitable time in prison. The legal view of their act was the least important to the defendants.

Far more important was their religious and moral sense of duty. It is true that they might have demonstrated that sense in legal ways, but the need was to demonstrate it in meaningful ways. To their minds, legal means were not very effective. Daniel Berrigan wrote

in No Bars to Manhood:

It must be evident by now that the government would allow men like myself to do what we were doing (before Catonsville) almost indefinitely; to sign statements, to picket, to support resisters in court.¹

They justified breaking the law since they believed in a higher law which commanded them to resist in all possible ways, except those which were violent to human life and dignity. Those were absolutes within their system of ethics which could not be violated. Ethically there was no courtroom, no judge and jury to determine whether they had acted rightly or extended their reasonable limits. That judgment was one they made upon themselves in a disciplined and thoughtful manner. Their consciences were their judges in the ethical courtroom. Their consciences also served as the primary motivation. The ethical judgment was made by the participants on themselves before the action took place.

Others who were observers, however, felt the action was not justifiable from a moral point of view. They questioned the use of violence to persuade others to be non-violent, and the position of religious people acting as representatives of the Catholic Church in ways contradicting the Church's stand. These questions are worthy of consideration, but do not alter the position of the Berrigans. They acted in the only way their moral commitment would allow. Whether others found that decision wrong was irrelevant to the "Catonsville 9" since they acted from a personal position with the purest and rightest intentions.

¹. Daniel Berrigan, S.J., No Bars to Manhood, Bantam Books, (New York: Doubleday & Company, Inc., 1970) p. 15.

Rhetorically the action did little to change the events of the world. It was an eloquent statement of conscience and concern, but its success as a force was limited. Certainly there were individuals who were touched and whose lives were changed as they witnessed the Berrigan event and trial. Others followed their example, and organized similar attacks on other draft board offices across the country. However, the hope for a new humanity was not realized. The "plan" was too global and too abstract. The illegal burning of papers for a moral cause was not sign enough to create a rebirth of human concern on any widespread basis.

On a more immediate level, the action was not very successful either. Many people believed that it was another protest against the Vietnam War and the American military draft by a bunch of "kooky, left-wing extremists". A remarkable percentage of people were not even aware of the action, nor of the Berrigans. Of those who were, most did not realize the total message and attended only to the war-related protest..

The action was important to the participants since they regarded themselves as courageous enough to act dramatically on their principles. They achieved personal salvation. As Daniel Berrigan said, "I had to risk my skin to save my soul."² Their defeat legally did not diminish the moral victory they felt.

The action, in retrospect, was little more than a group of people acting on faith, causing some discomfort for their government and for those who would consider their views. Their victory came

². "Fiery Brotherhood", Newsweek, (June 3, 1968) p. 56.

not from the response of their audience, but from their internal convictions. Every attempt to elevate humanity does so, if only infinitesimally. . . .

But everything has been changed today. Man, tortured man, lifts up his head and says: I can live. So much is gained when only one man stands up and says "no".
from Galileo, by Bertohld Brecht³.

Harry J. Cargas wrote of the Berrigans for Commonweal:

What has happened, of course, is that the prophet has saved himself by offering himself as a victim, and the rest of us are still looking for comfortable avenues to salvation.⁴.

This paper has made an attempt to view the case of the Berrigans at Catonsville as a rhetorical study in symbolic behavior. Such a study must include as one of its primary purposes, the placement of the event into perspective, and therefore, the rhetorician must attend to areas of study related to, but not exclusively rhetoric. It is for this reason that much of this paper has dealt with the legal and ethical ramifications of the event. The rhetorician attempts to explain the thoughts, motivations and values of the study's subjects. This, I have tried to do in this paper.

Assessing the future importance of the Berrigans is difficult. The chances are best that when the memory of the war and all its ramifications have faded, so, too, will the memory of the Berrigans. That would be, in this author's view, very unfortunate. It is important always to have brave and principled citizens who will undertake personal risk to demonstrate a moral cause, but it is particularly

³. Daniel Berrigan, "My Brother, the Witness", Commonweal, (April, 1968) p. 180.

⁴. Harry J. Cargas, and James Finn, "Daniel Berrigan Winds the Spring Tighter", Commonweal, (April 24, 1970) p. 148.

important during an era of stress and insanity such as America endured in the 1960's. It is possible that the Berrigans' action will come to light in a future era of strife. It is unfortunate that we could not halt the continued injustices of our world so as to avoid that future troublesome era.

Things are better now, but still there is much immoral in our country. The war has ended, and the times feel better, but many of the problems the Berrigans showed us are still with us, and growing. The rebirth they desired has not, and will not occur. But it is nice, if only rarely, when we are reminded of its possibility and inspired to work toward that better world.

It doesn't matter how we judge the Berrigans. They understand their failings better than anyone, but they also have the satisfaction of knowing they acted to the fullest ability as their consciences required. That is the victory of Catonsville--the only one that matters. That is the message that survived.

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APPENDIX I

"THE BALTIMORE 4"

The Press Release

On Friday, October 27th, 1967, we are entering the Customs House in Baltimore, Maryland, to deface the draft records there with our blood. We shed our blood willingly and gratefully in what we hope is a sacrificial and constructive act. We pour it upon these draft files to illustrate that with them and with these offices begins the pitiful waste of American and Vietnamese blood ten thousand miles away..

We charge that America would rather protect its empire of overseas profits than welcome its black people, rebuild its slums, and cleanse its air and water.

We implore our countrymen to judge our action against this nation's Judeo-Christian tradition, against the horror in Vietnam and the impending threat of nuclear destruction. We invite our friends in the peace and freedom movements to continue moving with us from dissent to resistance.

We ask God to be merciful and patient with all men.

APPENDIX II

"THE CATONSVILLE 9"

The Press Release

Today, May 17, 1968 we enter Local Board #33, Catonsville, Maryland, to seize the Selective Service records and to burn them outside with homemade napalm. (The recipe for napalm we took from the Special Forces Handbook, published by the Army's School of Special Warfare at Ft. Bragg, North Carolina.)

As American citizens, we have worked with the poor in the ghetto and abroad. In the course of our Christian ministry, we have watched our country produce more victims than an army of us could console or restore. Two of us face immediate sentencing for similar acts against Selective Service. All of us identify with the victims of American oppression all over the world. We submit voluntarily to their involuntary fate.

We use napalm on these draft records because napalm has burned people to death in Vietnam, Guatemala, and Peru; and because it may be used in America's ghettos. We destroy these draft records not only because they exploit our young men, but because these records represent misplaced power, concentrated in the ruling class of America. Their power threatens the peace of the world; it isolates itself from public dissent and manipulates parliamentary process. And it reduces young men to a cost-efficiency item through the draft. In

effect--if not in intent--the rulers of the United States want their global wars fought as cheaply as possible.

Above all, our protest attempts to illustrate why our country is torn at home and harassed abroad by enemies of its own creation. For a long time the United States has been an empire, and today it is history's richest nation. Representing 6 percent of the world's people, our country controls half the world's productive capacity and two-thirds of its finance. It holds Northern and Southern America in an economic vise. In fifteen years time, economists think that its industry in Europe will be the third greatest industrial power in the world, after the United States and the Soviet Union. Our foreign profits run substantially higher than domestic profits. So industry flees abroad under Government patronage and protection from the CIA, counter-insurgency, and conflict management teams.

The military participates with economic and political sectors to form a triumvirate of power which sets and enforces policy. With an annual budget of more than 80 billion dollars, our military now controls over half of all Federal property (53 per cent, or 183 billion dollars) while U.S. nuclear and conventional weaponry exceeds that of the whole remaining world.

Peace negotiations with the North Vietnamese have begun in Paris. With other Americans, we hope a settlement will be reached, thus sparing the Vietnamese a useless prolongation of their suffering. However, this alone will not solve our nation's problems. The Vietnam war could end tomorrow and leave undisturbed the quality of our society, and its world role. Thailand, Laos, and the Dominican Republic have

already been Vietnams. Guatemala, the Canal Zone, Bolivia, and Peru could be Vietnams overnight. Meanwhile, the colonies at home rise in rage and destructiveness. Our black people have concluded that after 350 years, their human acceptance is long overdue.

Injustice is the great catalyst of revolution. A nation that found life in revolution has now become the world's foremost counter-revolutionary force, not because the American people would have it that way, but because an expanding economy and continuing profits require an insistence on the status quo. Competitive capitalism as a system, and capitalists in general, must learn the hard lessons of justice, or a country may be swept away and humanity with it.

We believe that some property has no right to exist. Hitler's gas ovens, Stalin's concentration camps, atomic-bacteriological-chemical weaponry, files of conscription, and slum properties have no right to exist. When people starve for bread and lack decent housing, it is usually because the rich debase themselves with abuse of property, causing extravagance on their part and oppression and misery in others.

We are Catholic Christians who take the Christian Gospel seriously. We hail the recent Papal encyclical, The Development of Peoples. Quotes like the following give us hope:

No one is justified in keeping for his exclusive use what he does not need, when others lack necessities.

A revolutionary uprising--save where there is open, manifest, and long-standing tyranny which does great damage to fundamental personal rights and dangerous harm to the common good of the country--produces new injustices, throws more elements out of balance, and brings on new disasters.

It is a question of building a world where every man, no matter what his race, religion, or nationality, can live

a fully human life, freed from slavery imposed on him by other men or natural forces, a world where the poor man Lazarus can sit down at the same table with the rich man.

The hour for action has now sounded. At stake are the survival of so many children and so many families overcome by misery, with no access to conditions fit for human beings; at stake are the peace of the world and the future of civilization.

Despite such stirring words, we confront the Catholic Church, other Christian bodies, and the synagogues of America with their silence and cowardice in the face of our country's crimes. We are convinced that the religious bureaucracy in this country is racist, guilty of complicity in war, and hostile to the poor. In utter fidelity to our faith, we indict religious leaders and their followers for their failure to serve our country and mankind.

Finally, we are appalled by the ruse of the American ruling class invoking pleas for "law and order" to mask and perpetuate injustice. Let our President and the pillars of society speak of "law and justice" and back up their words with deeds. Then there will be "order". We have pleaded, spoken, marched, and nursed the victims of their injustice. Now this injustice must be faced, and this we intend to do, with whatever strength of mind, body, and grace that God will give us. May He have mercy on our nation.

Rev. Daniel Berrigan
 Rev. Philip Berrigan
 Bro. David Darst
 John Hogan
 Thomas Lewis
 Marjorie Bradford Melville
 Thomas Melville
 George Mische
 Mary Moylan

APPENDIX III

"THE CATONSVILLE 9"

Preface to Night Flight to Hanoi

by Daniel Berrigan

It seemed to me, as the war went on and on, that one had to try and operate on two fronts. The war itself had, in a sense, given away the secrets of war; the war had suggested to us, sotto voce, the methods of peace. Those methods went something like this: one war was to be fought on two grounds, Vietnam, and the American ghettos. So it was crucial, in spite of all roadblocks, to be present in both places.

In order to make peace, at least a few Americans had to share, at least in some measure, the life and hard times of Hanoi; the terror, the death from the air. One would have to crouch in a concrete bunker, like a mole with an eagle's microscopic eye gyring overhead. He would have to know death firsthand; the presence of death, the end of rhetoric, the beginning of wisdom.

And in the course of such a war, one had to go to jail. It was an irreplaceable need, a gift not to be refused. You got arrested, were stripped, your body was searched and poked for drugs. You stood in public showers, were issued the denims, were herded about, feared, segregated, counted at odd hours, yelled at.

All to the good. And after all, the scene was no Dachau; you

would come out the other side intact, a few pounds lighter, the skin of your soul darkened with insight--the fate of the poor, the Blacks. Knowing white justice for what it is, to the poor; knowing that the D.C. jail is one mortise, one roof and fabric with the D.C. ghetto, a single architecture and intent, the logical "other room" in the haunted house. There were no priests holes any more, you were not riding circuit in tony Elizabethan England, hiding out, moving on. No; you were American to the bone, though you had your own convictions about American adventuring--pacification-cum-napalm, racism-cum-Bible, the churchgoing military and the militant churchmen.

Man, you'd better save your soul, no one else could do it for you now, it was midnight at the Pentagon, late as literal hell. Move when told, or sit there on your hunkers and take what would come; the vans were rolling up, the lights were on, fierce as bared teeth, the exterminator had turned about, there was a tiger in your flank.

The teeth hurt, but the hurt was superficial. The tiger bit mortally elsewhere. After all, you were white and middling, sacerdos in aeternum, it wouldn't do to make overkill here and now. Besides, the ring of soldiers was uncertain, they had been marched out of the military temple on a dirty errand; they weren't mercenaries, this was a new scene. It wasn't Hanoi, not by a long shot.

Hanoi! At home the jail was joined to the ghetto; more, the American ghetto and the Hanoi "operation" were a single enterprise. Both were conceived by military minds, in essence; paracist and plenary, total, a total war, war in both cases, in both places. A racist cleanup, a segregation triumph, a zoo under fire, a condemned playground for the war game, an ordinance proving ground.

Proving--what? Why, that we're the great, the pure, the best, the unique and chosen, deciders and destructors. We separated, by divine right, wheat from chaff, gooks from whites, the living from the dead.

I thought, in both places, of unity, community, communication. The old, good words, bathed in a fresh light. Man was a unity; we were not a nation of county coroners, the world was not to be a morgue, we had no right to dismember the living, to read our future in their bared guts. Community; put men together! The military nation state was not a community; it was a walking zombie, stitched together out of obscene rags and tags, a rifle for a backbone, sawdust for a heart, a cadaver programmed to the jargon of realpolitik, a horror stalking by night, flapping the skies, dropping hot faeces in the eyes of sleeping children. No. Say no. Communicate. Get to Hanoi, the action was there, you had to see it, to tell it like it was.

Hanoi; that ancient eastern icon, decked out in French robes, the artist's stroke lingering along eye and hand, long and contemplative, the lotus in the fingers. We were there toward the end of January, we got in by the skin of our teeth, while the hottest horror of three years blazed away to the south. The Vietnamese were celebrating the Tet holiday, with a new twist. We were Guy Fawkes, and the scarecrow, and the hidden and sought; they tricked and we retreated.

In the peace movement, you got used to being without power; that was your name. Then the invitation from Hanoi--and suddenly, what power! Zinn and I grinned at one another across three continents,

liked carved pumpkins lit in the night. Why, we were doing what all the king's armies and all the king's men couldn't do. We were going where Mr. Rusk couldn't go, or Bundy, or the President himself.

D.C. jail, North Vietnam. Mobility, inwardness; tumult, travel; incarceration, incineration. Take it, eat it up. You couldn't die where you'd been born. The earth was shedding its skin with every new season, it was pulling out from under you like a rug. You had to keep running to keep living, a moving target had more chance. Or, you had to go under, to hibernate, to live like a dreaming animal, off the fat and marrow of your mind. To say, here, there and everywhere, like Mrs. Rooney; Christ, what a planet!

Every book that deals, as this one tries to, with the news about today, finds itself fairly buried before it is born. Last week's omelette. This week is still in the egg shells. I sit here, breaking eggs to make an Easter, to feed the living as I hope, good news for bad. Some ten or twelve of us (the number is still uncertain) will, if all goes well (ill?) take our religious bodies during this week to a draft center in or near Baltimore. There we shall, of purpose and forethought, remove the A-1 files, sprinkle them in the public street with homemade napalm and set them afire. For which act we shall, beyond doubt, be placed behind bars for some portion of our natural lives, in consequence of our inability to live and die content in the plagued city, to say peace peace when there is no peace, to keep the poor poor, the homeless homeless, the thirsty and hungry thirsty and hungry.

Our apologies, good friends, for the fracture of good order, the burning of paper instead of children, the angering of the orderlies

in the front parlor of the charnel house. We could not, so help us God, do otherwise. For we are sick at heart, our hearts give us no rest for thinking of the Land of Burning Children. And for thinking of that other Child, of whom the poet Luke speaks. The infant was taken up in the arms of an old man, whose tongue grew resonant and vatic at the touch of that beauty. And the old man spoke; this child is set for the fall and rise of many in Israel, a sign that is spoken against.

Small consolation; a child born to make trouble, and to die for it, the first Jew (not the last) to be subject of a "definitive solution". He sets up the cross and dies on it; in the Rose Garden of the executive mansion, on the D.C. Mall, in the courtyard of the Pentagon. We see the sign, we read the direction; you must bear with us, for His sake. Or if you will not, the consequences are our own.

For it will be easy, after all, to discredit us. Our record is bad; troublemakers in church and state, a priest married despite his vows, two convicted felons. We have jail records, we have been turbulent, uncharitable, we have failed in love for the brethren, have yielded to fear and despair and pride, often in our lives. Forgive us.

We are no more, when the truth is told, than ignorant beset men, jockeying against all chance, at the hour of death, for a place at the right hand of the dying One.

We act against the law at a time of the Poor People's March, at a time, moreover, when the government is announcing ever more massive paramilitary means to confront disorder in the cities. It

is announced that a computerized center is being built in the Pentagon at a cost of some seven million dollars, to offer instant response to outbreaks anywhere in the land; that, moreover, the government takes so serious a view of civil disorder that federal troops with war experience in Vietnam will have first responsibility to quell civil disorder.

The implications of all this must strike horror in the mind of any thinking man. The war in Vietnam is more and more literally being brought home to us. Its inmost meaning strikes the American ghettos: one war, one crime against the poor, waged (largely) by the poor, in servitude to the affluent. We resist and protest this crime.

Finally, we stretch out our hands to our brothers throughout the world. We who are priests, to our fellow priests. All of us who act against the law, turn to the poor of the world, to the Vietnamese, to the victims, to the soldiers who kill and die; for the wrong reasons, for no reason at all, because they were so ordered--by the authorities of that public order which is in effect a massive institutionalized disorder.

We say killing is disorder; life and gentleness and community and unselfishness is the only order we recognize. For the sake of that order, we risk our liberty, our good name. The time is past when good men can remain silent, when obedience can segregate men from public risk, when the poor can die without defense.

We ask our fellow Christians to consider in their hearts a question that has tortured us, day and night, since the war began. How many must die before our voices are heard, how many must be

tortured, dislocated, starved, maddened? How long must the world's resources be raped in the service of legalized murder? When, at what point, will you say no to this war?

We have chosen to say, with the gift of our liberty, if necessary of our lives, the violence stops here, the death stops here, the suppression of the truth stops here, the war stops here.

We wish also to place in question by this act all suppositions about normal times, longings for an untroubled life in a somnolent church, that neat timetable of ecclesiastical renewal which, in respect to the needs of men, amounts to another form of time serving.

Redeem the times! The times are inexpressibly evil. Christians pay conscious--indeed religious--tribute to Caesar and Mars; by approval of overkill tactics, by brinkmanship, by nuclear liturgies, by racism, by support of genocide. They embrace their society with all their heart, and abandon the cross. They pay lip service to Christ and military service to the powers of death.

And yet, and yet, the times are inexhaustibly good, solaced by the courage and hope of many. The truth rules, Christ is not forsaken. In a time of death, some men--the resisters, those who work hardily for social change, those who preach and embrace the unpalatable truth--such men overcome death, their lives are bathed in the light of the resurrection, the truth has set them free. In the jaws of death, of contumely, of good and ill report, they proclaim their love of the brethren.

We think of such men, in the world, in our nation, in the churches; and the stone in our breast is dissolved; we take heart once more.