

\*\*\*\*Draft Copy\*\*\*\*

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## Outlaw or American Patriot?

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Foreword .....	3
Introduction.....	6
My life on trial .....	6
Chapter 1: The Raid.....	17
Chapter 2: Key trial profiles .....	42
The Minnesota 8 .....	46
Attorney and Defendant: Me .....	51
Witness: Gordy Nielsen, Vietnam veteran.....	58
Two Judges .....	63
The Twelve Jurors.....	75
Chapter 3: Preparing for trial .....	79
My Catholic Background.....	86
Catholic boy .....	86
Vatican Council II’s impact on my spiritual and moral development .....	91
Teilhard made me do it! .....	105
Examining my life.....	109
The “Defense of Necessity” .....	127
Framing a trial “sermon” .....	130
“All rise!” .....	131
Chapter 4: “The trial that wasn’t” .....	134
No good deed goes unpunished: Daniel Ellsberg testifies.....	135
“Speak truth to power!” .....	138
My testimony .....	140
Witnesses .....	141
“Ladies and gentlemen of the jury, I am ...” .....	152
Vatican Council Two and “Total War” .....	161
Pierre Teilhard de Chardin’s vision .....	165
Teilhard’s world-wide-web of the human heart.....	169
War as an act of killing yourself .....	170
Closing Statement .....	182
My brother Joseph and one mosquito .....	182
A trial or a forum?.....	185
Chapter 5: After the trial .....	197
Sentencing.....	202
Afterword.....	206
Is America in the 2000s, America in the 1970s? .....	207

## Foreword

On July 10, 1970, the FBI arrested me and seven others during three raids on Selective Service draft boards in Minnesota. The press dubbed us “The Minnesota 8.” Six months before we had pulled off the largest draft raid in American history, destroying over 45 boards in one night. The FBI was steamed; the anti-war Resistance community, ecstatic. By next morning, I and the others were indicted on “sabotage of the national defense.” We faced ten years in federal prison.

What makes a 1970’s draft raid trial relevant today? Simply, all the major issues surrounding the draft raids and trial continue to impact the character and quality of life in America. Even more than in the ‘70s, these national issues have global impact. The legality of undeclared war, government deception, patriotic dissent, and whether an appeal to a “Higher Allegiance” ever justifies illegal acts lead the list. All the issues concern morality and patriotism. The challenge I issued to the courts is one American justices have yet to answer.

I challenge the court to articulate guidelines to determine *in what extreme circumstances* people who *act in a measured way for reason of conscience*, and for the purpose of *effecting their religious truths*, may *resist the immoral acts of their government*.<sup>1</sup>  
(Appellate brief. Emphases added.)

The *Minnesota 8* were typical white, middle-class American youths. We were over-achievers who sought, in differing areas, to realize the American Dream. Though media depictions often stereotyped “student radicals” and “draft resisters” as degenerate, dope-smoking, lazy drop-outs who conspired in communes where they collected welfare, espoused Free Sex and Marxism, the opposite was truer. Likewise, the religiously identified draft raiders (usually, “Catholic Radicals”) were alleged to be priests or former seminarians acting out of years of sexual suppression.

One of the 8’s mothers struck a chord that rings true to this day.

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<sup>1</sup> All quotes are verbatim as recorded in the trial transcript, legal documents or public media sources. All quotes not reference are verbatim trial transcription. For clarity, I have made trial transcript edits. Changes are italicized. All supporting documents are listed in Appendix A.

Look, my Peter is just an average kid who realized an obvious thing -- that he can't kill. He isn't a kook or a weirdo -- he's *my* son. Can't you people look into your hearts and realize that when kids like my Peter do things like this that something is seriously wrong with the country? (Mary Simmons' interview on, "Dialogue" a program of KDWB, St. Paul, produced by Connie Goldman and emceed by Earl Craig, 1971.)

When I first studied the Vietnam War, I did *not* disapprove. In time, I obtained a legal deferment as a Conscientious Objector. I served two years of Alternative Service and fulfilled my military obligation. Slowly, ever so slowly, I came to realize the "extreme circumstances" of the times, and the need for acts of nonviolent Resistance.

It took me quite some time to embrace nonviolence as the only practical mode of moral action. Like Martin Luther King, I struggled to accept the linkage between social injustices inside America and America's foreign wars. My Resistance was not simply a matter of enlightened self-discovery. Gordy, a Vietnam veteran, told me about his battlefield conversion. On a "Search and Destroy" mission, he realized that the peasant hootch he was burning was someone's home. That the enemy "gook" was a person. More, that he was killing his own people -- his brothers and sisters in the human family. If Gordy was right, did I have the guts to join him on the battlefield -- to wage peace? As I later challenged the courts, so did Gordy challenge me. "What are you going to do to counter these immoral acts?"

I sought various *measured ways* to act. I wrote letters, preached sermons and marched. But Gordy challenged me to do more than act according to my conscience. He came seeking spiritual counsel after hearing me preach. Who else, he sensed, to bring the spiritual truth revealed through his battlefield conversion to all people? As I later argued in court: to heal America, it was necessary for me to raid draft boards.

Raiding a draft board was my ritual of peace. That is my story. The draft raid *effected my religious truth*. The truth that my God is a peace-making God, not a God of War. That through the nonviolent draft raid, God became present in the minds and hearts of others who heard His

call, “Blessed are the peacemakers.”

Is: *When can governmental acts be legally resisted?*, still a critical question? Do “extreme circumstances” and “immoral acts of government” reflect the position of America, today? Is there a need to “act in measured way(s) for reason of conscience” and for the “effecting of ...religious truths”? Is a core act of patriotism one of nonviolent citizen resistance?

Consider whether the words of my co-defendant, Mike Therriault are still applicable.

As American society is constructed today, it forces all responsible Americans to be criminals. You are either a peace criminal or a war criminal.

Is it true that, today, to be an American patriot it is necessary to become an outlaw? Don't answer that; not yet. Hear my story. Go on the raid with me. Stand up at trial with me. Then, let's discuss your answer.

## Introduction

### My life on trial

“As to Francis X. Kroncke, I sentence you to a maximum of five years imprisonment. Your time to be served in a federal penitentiary ...”

Judge Phillip Neville is a good man. He’s an appointee of the liberal senator from Minnesota, Hubert H. Humphrey, who served as Vice President to Lyndon B. Johnson. These are good men. They are America’s top leaders. The best of the best.

“You gentlemen are worse than the average criminal who attacks the taxpayer’s pocket book. You strike at the foundation of government itself.” I quietly chuckled when I heard this judicial denunciation. I knew the judge didn’t see me as a “gentle man.”

### Condemned

January 1971, Minneapolis, Minnesota. I am condemned.

I’m not stunned. I expected the judgment. I’m not numb. Rather, I am baffled. I should be knee-knocking, pee running down my leg scared, but that comes later. I should slump down into my chair, nestle my head in my hands and wail, sob and beg for mercy, but that comes later. I should scream like a madman and hurl angry and vile words, but that comes later. I am simply baffled.

*I am not a good man.* That’s what they want me to know; accept. Of everything they accuse me. Of being a traitor – I was actually indicted for “sabotage of the national defense.” Of being unAmerican, a “pinko,” a Communist, a fag, a coward, a heretic, a blathering idiot, nothing cuts my heart out but this: *I am not a good man.*

At my father’s funeral, two year’s before, I spoke of him as being “a good man.” I loved my father deeply. I knew the greatness of his mind and heart, and I share many of his faults and sins. He was obediently patriotic. In 1943, with three children at home, he enlisted in the Navy while I was in my mother’s womb. He was German-American, and a chemist to boot. Both facts made him suspect during the war against the Nazis. However, he heard the Call to Arms as a call to

serve others. Consequently, I was born while he was in the South Pacific. Of greater import is that my father was a devoted Roman Catholic. He believed there is no higher calling than obedience to the truths of the faith. God certainly is Caesar's superior, but dad taught me that each had just and proper claim on my moral obedience. He strove to be faithful and obedient to these higher powers. In this and so many other ways, he was a good man.

Shame. This is the emotion which baffles me. *I am not a good man*. How could I not believe them? A judge and a jury, what more is required? In the courtroom I stand tall and forceful. Six foot three, two-fifteen, athletic, collar curling dark brown hair, twenty-six years young. Bespectacled. I rise and speak with an aeonian voice, quoting ancient scriptures and making manifest the aching, weary desire of humans for simple peace on earth. My voice does not quaver. I do not yield. *I am not ashamed*. I testify to my deepest desire to be a good man. To be a son my father is proud of. To be a brother all the family admires. To bring tears of joy to my mother's eyes, not bitter drips of salt down her cheeks.

### **Violent felon**

Condemned as a violent felon. "Interfering with the Selective Service System by force, violence or otherwise." July 10, 1970: I raid Selective Service draft offices along with seven other men. Snared by the FBI, the press dubs us "The Minnesota 8." On a prior raid, I stole hundreds of blank draft cards and official stamps and personally carried them to Canada to enable the silent return of exiled war resisters. *Have valid draft card... scoot back across the border*. The FBI knows: I steal and destroy 1-A files. I act with all my heart and protest with every aspect of my mind and will. I follow my conscience. I destroy paper property, not human bodies. I draw symbolic blood from ripped draft cards. I put my life in harm's way to prevent harm to others. *Am I not a good man?*

Shame. I turn aside just a bit to catch my mother's eyes. A black-haired Irish beauty, she likes to party. Around her sets a wilding air. I cannot see her eyes. She sits bent over, folded and sobbing. My brothers and sisters enwrap her in forlorn arms. They are stunned. They are angry. Their harsh grumblings, flung curses and nervous gestures scarcely mask the frightful howling within as blood drips from their slashed hearts.

Why did I do it? We are a brood. Nine children. Five girls, four boys. They love me. I love them. But what have I done? What are they to bear when they return to their classrooms and offices and factories? *Shame*. What else to feel when saying, “My brother, Francis, he’s locked up in prison.” No matter what follows that statement, no matter the stock story developed to put my actions in the best light, no matter what, I have shamed them. “Shame on you, Francis. How could you put them through all this?” It’s an echo of the fierce nun’s reprimand. *Bad boy*.

All I can do is sigh deeply, turn away from Judge Neville, let them console me. *Shame seething with powerlessness*. Such is my condemnation: that I have condemned those I love and who love me to days overwhelmed by shame seething with powerlessness.

### **Crucified Christ**

Love and shame, wrapped in powerlessness. These are curious but not uncommon mates. All my life I knelt before the Crucified Christ and felt his shame. His failure. His inability to comfort those at the foot of the cross: Mary his mother and Martha. For he had come to testify, and was crushed. Crushed as only humiliation can crumble the body and soul. Shame seething in powerlessness: the condemnation we followers share with him.

Without the self-inflation such an image and reference might suggest, I am this man crucified. I am him because he is me. I wouldn’t be in this courtroom if I had not tried to follow him. Tried to become Christ-like, which is struggling in the human way. He was a peacemaker. He was a healer, a lover of the downcast, downtrodden and the reviled. Some call him the Prince of Peace. Others taunt and mock him at the moment of his greatest suffering. I know this suffering through the shame and powerlessness I share with him.

### **Sweetheart**

“Francis, I think you should read your father’s letters.” My trial was about to begin, and I had never heard about these letters. All are to “Sweetheart.” Most dated as “Somewhere in the South Pacific.” All signed, “Devotedly Yours, Charles.”

She is my sweetheart, too. After my father’s death we bonded in the special way a grown son can as a friend to his mother. I watched her loneliness. It drowned her. She was in her early fifties



with eight living children, few marketable skills, but an irrepressible spirit. Now, she is equally frightened and amused by my Hippie friends. She is totally out of her league when trying to grasp the crazed “radical politics” of the day. Like most women of her generation, she followed where her husband led. Now, she needs to lead; reaches out to heal me by confirming me as my father’s son.

I read one section to the jury. “Sweetheart, I am walking in front of rows and rows of white-crosses. And the only reason this is justified is that in twenty to twenty-five years our sons won’t have to go to war.” I brought *Somewhere in the South Pacific* to jurors who had lived through those times.

Mother gives me these letters so that I can testify, “I’m sorry to say that my father was wrong. Wars only lead to wars. The violence has to stop with someone. *It stops with me.*” These letters enable me to share in my father’s powerlessness to end war. Mother wants them to know that I am my father’s son, willing to put my life in harm’s way for the greater good. She wants to stand up and say, “My Francis, he’s a good man.”

### **Condemned, twice**

Amazingly, when the jury returns after two hours of deliberation, they are split six-six. They listened to me! They are reading the materials I entered as evidence. Key is the *Documents of Vatican Council II*. They read its condemnation of “Total War.” I am startled. Here are farmers, small town folk, WWII vets, women who have lost husbands and sons to war, and as I argued so they applied the Council’s condemnation to America’s war in Vietnam. They did not dismiss my response to the call of obedience to a “Higher Allegiance.” They are struggling, as I am, with being equally American and Christian. I am truly amazed, stunned: they read the Council’s call to laymen, like myself, to follow their conscience and so engage the world’s problems and offer solutions. They hear my father’s words. They see across time: two men struggling to be good men as they seek peace. The father: soldier; the son: draft raider.

Judge Neville is uncharacteristically flustered. He already directed them in *Instructions to the Jury, Number 15* that they could not consider any evidence I submitted. He didn’t want them to hear anyone or anything, and, so sternly yet fatherly, he instructed, “I direct you that everything

Mr. Kroncke has said here for the last week. All the testimony of his witnesses. Everything is irrelevant and immaterial.” But something went wrong.

A question never answered is: Did the clerk of the court, a seasoned professional, forget to remove my physical evidence after Neville’s ruling? Or did she intentionally ....? Somehow the *Documents of Vatican Two* and Pope John XXIII’s “Peace on Earth” stayed in the evidence box and the jurors were reading them. The foreman, a Vietnam Veteran, asks for clarification, “Can we read the *Documents* ...?” The judge - palms down, leaning forward, almost teetering off his chair - retorts, “*No. You cannot read ...!*”

Twice condemned. Not just as a violent felon, but worse, as being *irrelevant and immaterial*. This is my depthless, heartfelt condemnation. Something I share alone, not with my family and friends who are condemned to wallow in a shame seething with powerlessness.

### **Voiceless**

What a majestic act: I lose my voice! I lose it because my witness and story is not heard. All my life, it is my voice that conveys my story. Deep from within me it is my distinct, personal, intimate power of expression. Upon it ride the images and imaginations of my spiritual beliefs, all my hopes and dreams, all facts and truths as I know them and as they live through me. I am baffled, because now I have no voice.

This is not hyperbole. I am not speaking allegorically. I intend no metaphor. One moment I turn to you, my juror, and weave my life story into and throughout yours. About the atrocities of the Vietnam war and the crimes of our government, I speak clearly. My voice is passionate: the sufferings of Innocents: skin burning alive with napalm. My voice is truthful: classmates, friends, cousin and kin, my whole generation, lied to and betrayed by elected officials. My voice is hopeful: “*Pacem in Terris*,” *Peace on earth* declares my spiritual leader, Pope John XXIII, and so I declare “Peace!” My voice is confessional: I am just one guy – reaching out in despair, frustration, anger, almost hopeless, but then not – with gritty hope I act as best I can. When the leaders no longer listen, then words are not enough. The draft raid is my way of speaking, “*Peace!*”

Baffled: I am left standing before this Judge as if I am a man who has been speaking gibberish for a week. Note: It isn't that I am heard and judged. It isn't that my story is discussed and debated by the jury, fellow humans. No. I am *not* a human. I am irrelevant and immaterial. Humans speak. I am not to speak. Humans are heard. I am not to be heard. *They will come with steel cuffs, lace iron chains through my pants, hobble my ankles. I will shuffle off to the Inside darkness of prison.*

What no one in the courtroom sees or senses is that my Dark Night begins at this moment when Neville takes away my voice. Instead of shame, which he intends, he strikes me dumb. Cuts out my tongue. I exit the courtroom and so enter prison: voiceless.

Ah, the irony: I who searched all my life for a way to tell the story of God our Father Almighty and share the vision of the loving Jesus stand now mute and dumb. For decades I studied history and theology and strove to become one of the best of the best. I was proud to be Catholic. I was proud to be American. "Ask not what your country can do for you – ask what you can do for your country," called for faithfulness to the Catholic vision and the American Dream. When I heard "I have a dream!" my commitment to Christian nonviolent action and American justice intensified. I was determined to witness on the streets to this twined sacred and secular dream of peace on earth.

I lose my Catholic story. I can no longer imagine the world as I was trained as a seminarian, young monk and Catholic theologian. The local archbishop complements the secular judgment as he circulates a letter forbidding pastors from allowing me, "a criminal," to enter their pulpits. To me: "you have no right to preach in a Catholic Church, nor do you have my permission to do such. With cordial best wishes, sincerely yours ...." For him, secular authority is fulfilling sacred need – the heretic is banished.

I lose my American story. I can no longer imagine the America of my youth. I was raised as Charlie's son, to be a law abiding, patriotic and proud citizen of the greatest country in history. I celebrate Columbus and am inspired by John Wayne. I am now a felon, prisoner 8867-147.

Know that I would have felt shamed if the jury had heard me and then condemned me. I bear great respect for both the “People of God” and “We, the People.” Yet, I am no fool. I knew the risks. But then, that’s not true: I am a naïf. I could never have imagined the awesome power of Neville’s gavel. *Bang! Bang!* “Irrelevant and immaterial!”

Neville doesn’t want the People to hear my story. Why? Why does he gavel his wizardly power and render me mute? Why does he not want me to tell my story, both American and Catholic? Why does he not allow the People to judge me? I enter prison as this questioning mute.

### **I lose: the war goes on**

“...five years in federal prison.” Aha! - the moral prize is mine: I did so witness, to all that made me proud to be Catholic and American. “But is it a hollow victory?” I ask myself that question. Yes, a cruel twist: that I am dumb, no longer with a story to tell you or anyone about how I hold my world together. On your behalf, Neville hears the story of Christian nonviolence that holds my world together and judges it worthless. I am crushed; lamed. My artfully woven American-Catholic story lay discounted and discarded, its pages shredded and strewn on the courtroom floor. *Irrelevant and immaterial.*

I admit it. I lose. All draft raiders and draft resisters lose. The war goes on as the trial ends.

### **Disrespect**

I’d like you to pause for a moment and reflect upon my situation as if it was your own. How do you think you would feel if someone actually had the power to declare before all your friends and family, the whole of society, that your life story is not to be respected?

You have probably experienced moments of disrespect. You have met others who have called you an idiot, a fool, possibly a wild eyed romantic or used some other phrase to dismiss you. In such situations, you could react by dismissing and disrespecting them. You could walk away from the conversation or argument, simply throw your hands up in the air and shout some expletive. But how would you feel if they could not only dismiss your story, but remove you from your everyday world and lock you up in an iron cage? *Soon, they come with steel cuffs, lace iron chains through my pants, hobble my ankles. I shuffle off to the Inside darkness of prison.*

Possibly, now, you can appreciate why I feel baffled. Yet there is another side to this uneasy emotion. I am baffled because I turn towards my friends and family feeling astoundingly peaceful. In a way you may reasonably judge idiotic, I knew that Judge Neville didn't mean what he said. It was I who was judge that day; he the condemned. Victorious. True, a shiver of shame and anger seethed with powerlessness in a corner of my heart, yet I felt good; serenely at peace with myself and the world. Good and pacific. Despite the fact that I had just been sentenced and defeated, had my tongue cut out, I felt alive; *thrilled*.

If you had rushed up to talk with me right after the verdict and I said that I felt alive, serene and good, a sense of pity might have saddened you. Possibly, you would comfort me, feeling that I just entered the first stage of post-traumatic shock. Possibly, it was fortunate that I had no voice, that I could only chatter. For my words certainly were no longer connected to my feelings. There would be a pervasive disconnect for a long, long time.

It was this sense of peacefulness that cloaked me as I unhurriedly walked out of the courtroom and stood surrounded by family and friends, for the first time ever and now always, as a condemned man. I was highly attuned to the *Final Curtain* theatricality of it all. To the fact that "it was over" and that I could not re-enter the courtroom and say, "Let's do this one more time. I think I got it right, now." My opportunity to voice my beliefs was off the courthouse docket. So I "worked the room," chatted cheerily and said this and that. I spoke with them all; thanked them for their support. Then, I embraced my co-defendants. Raised high the vee sign of *Peace!* But it was all and only chatter; I was voiceless.

### **Peacefully terrified**

I am floundering in my attempt to seize a phrase that communicates this very weird sensation. A decade after prison I described this condemnation as the moment when my feeling *peacefully terrified* began. For this is the underbelly of the sense of being a good man that set upon me at trial's end. *Terrified peacefully*: another twist on this phrase that expresses, fairly well, the screaming tension of that after-trial moment and my imprisoned years – a sentence which does not spiritually end until 1983.

Peace and terror is what I face when I go on my first draft raid in January of 1970. I am scared of Jesus' "Blessed are the peacemakers"; it got him killed. But I am more scared of not being a peacemaker, of becoming a coward; standing on the sidelines as a silent witness to my generation's violent madness. I have my Conscientious Objector deferment; my Alternative Service fulfills my military obligation. Yes, on paper, I am a peacemaker. But then I meet several Catholic Radicals. Collectively, they had destroyed hundreds of thousands of draft files at draft boards across the nation. I am astounded by their boldness, courage, their fear of prison but not its avoidance. It is their actions, more than their words that grab me, that compel me to join with them. Around them, "peacefully terrified" is electric.

Humorously, at my arraignment, the district attorney argues that I belong to "an international Catholic conspiracy, led by the Berrigan Fathers" that is "funded by Castro." The DA is a Catholic and a fellow St. John's alum. I am staggered by his claim. If I had made it, other radicals would have laughed, and then asked me to write them a check. The so-called "Anti-war Movement" was certainly something which moved but it was very - very! - loosely organized. This lack of hierarchical leadership accounted for both draft raiding success and failure. Draft raiding groups formed in ad hoc fashion, and "operated" like anarchistic outbreaks.

Why do I raid? If I say, I raid because Minnesota youth are healthier than young males in other regions, you might wonder what I mean. Maybe it's all that wholesome Midwestern heartland living, but a low percentage of Minnesota draftees flunk their induction physical. So, when a Minnesotan receives his "Greetings" letter, gets classified 1-A, it is almost guaranteed that the army gets a body. If I steal a 1-A draft file, I am, more than likely, saving a life at best, and, at the least, offering the young male a second chance to evaluate his moral responsibilities. I also focus on 1-A files because 80% of the wounded and dead are draftees.

I raid because Minnesota is a hot-bed of anti-war activity. Consider this astounding fact: at this time, over 50% of the federal court's docket consists of draft related trials and prosecutions. In light of all this, you might accept that draft raids, since they destroy 1-A files, are effective. You might consider them a reasonable, though illegal, form of protest. Many of my co-raiders act using this logic in their quest for an effective way to impede the system. For us, draft raids are

the proverbial wrenches thrown into the wheels of the war machine.

But if I say, I raid “to be in the presence of God,” what is your first response? ... That's why I rarely admit that this is my answer, though it is the truth.

Consider this: you take the Torah, Koran, New Testament, Bhagavad-Gita or any other sacred Scripture and stand on a street corner. You then defecate on it or burn it. What happens? If you take the sacred breads of the Eucharist and do likewise, what happens? Some people might curse you; others might throw something at you; and others might just laugh and walk away.

Consider this: you lift a thin piece of paper the size of a credit card from your wallet. You set it on fire and raise your arm high. What happens? *They* drop out of the sky; jump out from behind the bushes; scramble from their agent provocateur positions in the crowd; throw you to the ground, knee you in the small of your back, yank and wrest your arms around to handcuff you behind your back. Quickly and expertly, they right you; drag and rush you away from the crowd; off the streets into a waiting unmarked police van.

I ask, What is it we hold most sacred?

### ***Ritual of Peace!***

Why do I raid? To be at that site, that place, an unexpected room where the power that changes lives is manifest and present. I enter draft boards to perform a ritual of peace. To bless the paper symbols of human lives; consecrate them. I pray *Peace!* as I tear and rend asunder their symbolic bodies; freeing captive souls.

Willie Sutton was alleged to have said he robbed banks because that was where the money was. I raid draft boards because that's where the ritual of war makes manifest the killer's God. I want to make manifest the peacemaking God.

*There is simply no other place to go.* No other physical location anywhere in America like the draft board. It is the war machine's sacred spot; its secular Holy of Holies.

I went there. Trespassed on this sacred ground. Prayed to and invoked the God of peace. Stood before the face of the God of death, trembled as he raged and reached out to clutch my soul. I stole lives sentenced to die. I held the draft cards high and consecrated them, "Peace!" Outraged, his howls and hatred, his hot spit of blood into my eyes, his curse laid like hot irons branding my soul – these I still feel, this moment; always. Inside the draft board, I am in the presence of the God I worship, the peacemaking God.

I broke into draft boards because I knew – as I know – that peacemaking makes the human family safer and stronger than does war-making. If I would not witness to peace, how could I expect you to? If I would not put my life in harm's way, how could I expect soldiers who do so to respect my witness and pause even a moment to listen to "Peace!"? If I wanted others to turn away from worshipping the God of death through the ritual of warring, who else would show them how to enact the ritual that makes peace manifest? If not me, how could I ask you to put your life in harm's way?

Now you understand why I expected to be found guilty. Why I wasn't shocked by the maximum sentence. Now you understand the intuitive accuracy of the judge's statement, "You gentleman strike at the foundation of government itself." Draft raids strike at the foundation of governments - sacred and secular; profane and holy.

Condemned. Voiceless. Peacefully terrified. Ritual of *Peace!* 8867-147. My life on trial. *Outlaw or American Patriot?*



## Chapter 1: The Raid

ATTENTION ALL DRAFT AGE MEN OF MORRISON COUNTY!

We, the *Minnesota Conspiracy to Save Lives*, have destroyed all the 1-A files for your county. In effect, what we are trying to communicate by our action is:

“DO YOU WANT YOUR LIFE?”

If you do then use this opportunity to take control of it. If you don't want your life, then go down to the Morrison County Draft Board and give it back to the Selective Service System so that the government can use your body and life as a tool to make the rich richer and the poor poorer.

The rich comprise .5% of the population of the U. S., yet they control the key decision-making positions throughout the country. They are the elite few who have something to gain from a war which their sons and husbands do not have to fight.

It is the draft age men of the middle and especially the lower classes who have everything to lose (their lives) and nothing to gain from cooperating with the participatory totalitarian regime of the U.S. that has no second thoughts about sacrificing *your life* for *their* benefit. Think about it!

We invite you to take control of your own life and thus become a member of the *Minnesota Conspiracy to Save Lives*.

We've done our part to give you back your life. The rest is up to you.

SAY NO TO DEATH -- SAY YES TO LIFE!

*The Minnesota Conspiracy to Save Lives*

*Government Exhibit E3.* The foregoing statement was read on the stand by FBI Agent Charles H. McCullough. Letter written July 10, 1970 by draft raiders later dubbed “The Minnesota 8.”

## July 10, 1970 Minneapolis, Minnesota

My hands shake as I awkwardly cut small diamond shape holes in the plastic bags. Some draft files have a midnight date waiting at the bottom of the Mississippi river. I'm already a bit late getting the tools and materials together. Sweat begins to itch my legs. Voices, out loud to myself: "Got to get a hold on yourself." "Relax - don't forget anything." "Don't worry, Mike won't notice the time." Voices, I am ignoring: *What the fuck are you doing? Are you crazy? Again, you're going to raid, again?* I pause. Bless myself. I'm Friar Otto, once more: answering a 4:30 in the morning rapping on my cell's door, "Benedicamus Domino." My rising response, "Deo gratias." I laugh, sentimentally: That goofy Friar Otto; he's always around. Then, I snap back: *Shit!* I'm gonna be really late.

Mike, he'll be calmly waiting for me on the West Bank. I'm driving; doing breathing exercises; trying to relax. Someone in the back seat – *Dad, is it you, dad?* - keeps shouting, "Should you do it?" *Fuck, Man*, I crank up the radio. Start bellowing out whatever song is on. Terribly off key. But the louder I get, the more I sweat, and the more I sweat, so it seems, the calmer I get.

July in Minnesota is mosquito ungodly hot and hair sweaty. But I'm cool. *Yeah, sure. What's that trembling buckling your knees? Fuck, Man, everyone can hear them "clank!"* I start screaming: Janis Joplin's screaming, "...take another little bit of my heart, babe." *Are you nuts? Can't you read the signs?* Just an hour before, Karen called saying that the team raiding the Faribault draft board cancelled. With anxious concern they reported that an alarm system had been installed by "Silent Knight." *Can't let that scare you. Yeah, sure:* all over my bod its like winter's numbing my skin. I let a Minnesota oddity distract me: people in shorts and flip-flops! But, that doesn't last: I tingle near frostbite; a numbing paranoia sets in. "Don't go on the raid!" Don't go on the raid. *Dontgoontheraiddontgoontheraiddontgo ....* I panic. Pull over to the curb. *Bejessus Christ*, my tee shirt's like a wet mop. I'm besieged by the urge to cancel and run. "The others will understand, right? Just go back to San Francisco as planned, right?" But I can't convince myself. I drive on. "Blessed are the peacemakers!" – *Aw, cut that fucking shit out. They nailed the Christ, didn't they?* Mercifully, I'm there: it's too late. *Coward!* .... I pull into the campus lot in back of the Newman Center. Look around for Mike. It's July 10, 1970. *Gotta go,*

*Man*: I've a date with some draft files in Little Falls.

### **Driving Highway 10**

In Minnesota, the few July weekends that constitute the whole of summer can be oppressively hot. Beginning with the warmth of spring, a group of us began planning a coordinated series of raids on rural draft boards. In late February, we had blown the FBI and Tricky Dick away. We hit over 45 draft boards in one night. For efficiency, most rural draft boards were centralized in the post offices in downtown Minneapolis and Saint Paul. *Man, is this a story to tell. I cased the joint – thought I was a goner that night! Dig it, Man, I'm slowly stalking my fear down the dusky hallway when Ding! Ding! and a blast of light like Jesus at the Second Coming jumps me. Man, my heart exploded. Blood was splattered all over the floor. Anyway, felt like that. Goddam, automatic elevator!*

Then over twenty of us spent over ten hours in an empty room at the top of the building. “Beaver 55” we called ourselves. Gnawing at the foundation of the government! Cool and corny. Actually, another “Beaver 55” raided a Dow Chemical office. We thought we'd spook the Feds and make like a conspiracy. That night, I stole hundreds of blank draft cards and official stamps. Personally, took them to the exiles in Toronto. That made me feel good. Real good. But the war ground on. It seemed like little we did was effective. Maybe; maybe not. In the *Tribune*, J. Edgar Hoover, Director of the FBI, made our capture a high priority. We heard that Nixon was pressing federal prosecutors to get tougher on draft resisters and student protesters. *Beaver 55*, the largest draft raid ever, had embarrassed Hoover. He sent in over 100 FBI agents to get us. Also outraged, the VFW in Willmar, Minnesota – a rural Sinclair Lewis “Main Street” – posted a \$10,000.00 bond for our capture. Forty-five draft boards at one spot vandalized in one night destroying thousands, nearly ten thousand, 1-A files. What a coup for the Resistance!

I'll be honest. I was through. We had made our point. No Beaver got caught; months went by. If it wasn't for Brad, I wouldn't be driving, tonight. “A ring of fire, Frank”; crazy as ever Brad is drawing this vision in the air; “all around the Cities. Man, think what that'll do!” I should've passed; *maybe*.

But I don't. So, for months we pass sticky tar-roof nights on top of small business buildings, counting the number of people passing by, the routines of the police cars (marked and unmarked), the habits of bar-hoppers and dog walkers. We spend a lot of silent morning hours casing out our particular Board for the quickest way in and out as we watch employees come and go. All told, I visited over 35 Boards around the State.

During the last several months, my old green Rambler had whined down state highways and county roads, for several days at a time, south and north, east and west. I slept many an uncomfortable night crammed into its back seat, often in a corner of a railroad parking lot. The gas ate my credit card clean, as did my gobbling mounds of small-town buttermilk pancakes, downed with pints of mid-western-weak morning coffee. Catch our criminal "MO": With our Minneapolis license plates and Big City-looks we cleverly walked and rambled around rural towns without looking out of place. *Or, did we?* As trained by TV crimes shows, I muddied up the license plates. Great disguise? Last Christmas as I cased for the Beavers, I shaved my beard and cut my long hair. True, my American-made car probably didn't catch too many eyes, but I have a birth-scar New Jersey accent and look like a college professor type, even when I'm naked. Every time I sat down in a café or walked around one of the smaller downtown areas, I felt for sure that everyone knew why I was there. My early morning coffee shop fantasy had the local Sheriff making a breakfast call to the Minneapolis FBI, "Yessir, just like you was talking 'bout. Yessir, he's having breakfast at ole Millies."

Tonight, my mind floats over worlds of sufferings and frights, some sublime like nuclear apocalypse, others trivial like my fear of heights. I grip the steering wheel to feel the hardness of the moment. I grit my jaw tight, offer an evening prayer, roll down the window and gulp some cooling nighttime air. "Steady. Look, forget this worrying analytical shit. Just go ahead and do it. *Do it!*"

Mike's standing with a few friends at the edge of the lot. They seem to know what's up because they kiss and hug him in that way you do to someone shipping-out, like he may not be coming back. His long, loose blond hair bobs about as he turns towards me, "Hey, Frank!" Mike has a soft greeting smile. He throws his tool bag in the back seat. I keep my sunglasses on, and avoid

greeting his friends. I'd like to trust everyone, but I can't; not anymore. After the *Beaver 55* raid, the Feds infested the Twin Cities. Who knows where Hoover's undercover agents are? Some, for sure, are agent provocateurs. I'd rather piss someone off by seeming unfriendly, than be too stupid.

We start out. Mike rolls his window down and waves. He's happy in his own way; *Goddam, Hippie!* We've taken this drive up north to Little Falls before. For the last month he and I ran through our breaking-and-entering duet on a daily basis. Also, each team checked out every Board, double-checking each other's notes and observations. For security, we don't assign specific Boards until the last moment. This assures that everyone has cased every board and spent hours with every other raider lying on roofs watching the clouds play with the clear summer moon. The moon's light tells us which windows are the best entrances.

Five boards in all. Thirteen raiders. First time with women. Two: Quakers, not unexpectedly.

*On the road, again!* Highway 10 to Little Falls. Mike seems meditative, though he's probably more tired than anything. Nights-before are most often restless evenings of tossing sleep. Quiet is Mike's way. A still but tense silence settles between us. For the first hour, a sparseness of words; we speak more by determined eyes and nervous smiles. Then, out of time, a relaxing gush of words; banter and chatter as we discuss clouds, the amazing bountifulness of Minnesota farm fields and funny quirks we've encountered among small town folk.

It's almost a two hour ride, so long pauses return and play themselves between acid rock beats. We were actually listening to the student radio station from St. John's. Amusing. It's odd, how words recede as tension mounts. Mike and I know what we have to do, and while our bodies stealthily ready themselves for the athletic efforts, our minds skip protectively away from the actual details. We spend a curious amount of time amusing ourselves over the car. I borrowed - or snatched (since my Mom was visiting out of state) - the family car. Why? Because it has air conditioning. My Rambler doesn't. Mike doesn't even own a car. *Imagine!* we laugh, going to raid a Draft Board in an air-conditioned Chevy Caprice. "Far out!" What a way to wage guerrilla warfare.

Whatever had started gnawing me back in my apartment returns to shoot quivering darts of pain through my neck and the small of my back. *All these years, Kroncke, and you still fear omens, evil spirits, and bogey men!* The astrology I started studying is obviously hanging some sub-conscious fears onto my already theologically warped brain. Another part of my mind scans the skies searching for the foretelling pattern of this night. I can't figure whether it's a gibbous moon or not. The pale orb is sliced by the darkening sky in a shape like the ying-yang symbol. At the bottom right the moon is a bloated figure six. The forecasting significance of this shape eludes my memory. What bothers me more are the fast moving black clouds. They give me chills: turmoil in the skies, devil's veil over the moon! *Shudder.* "Jesus, what are we doing?" I murmur as I glance at Mike. He's mellow as ever. Tosses a laugh at me. He knows what this laugh means. He's as cool as I'm freaked out.

Mike had cut his beard and trimmed his hair. He thinks he looks normal. But he still looks 100% hippie. *Gees, he looks so young.* I'm momentarily startled by his patent vulnerability. I turn back to driving; stare into the darkness. My throat tightens as murky forms dart across the road. Uncontrollably, I shudder - rippling full body length -- and inhale/exhale several nerve-relaxing breaths. "God damn it Mike - I'm really nervous." His almost soundless "Yeah" hardly comforts or soothes my jitters. *Nothing like a brotherhood of shared fear,* mocks me. *Scaredy cat!* Images of a million human faces fly towards me from around the curving, hilly bends of farmed fields. Faces of untold multitudes of the dead flutter from out the rural darkness and slap at the car. I pray silently, "These my body's bones and bloods. These my spirit's breaths and nourishments." My chest and stomach tighten. It's come again. This moment of the Living Dead. Another haunting moment like the one that came on the Beaver 55 raid as I picked out my first 1-A file. Blood dripped as I held the folder high and ripped it in half! Now, again, it's that moment, and I know, *Goddam it! We'll do it tonight.* No matter what. For *They* call us forth.

"There's the road we'll take on the way back to dump the stuff." It's a county road we found that goes to the Mississippi River. Mike: "Good Ole Muddy, we're going to drop all those death-dealing files into your churning middle, for your patriotic consumption!" Then a road-sign speaks, "Little Falls, next exit." As we exit to a stoplight I realize that I'm already exhausted. It's

the kind of exhaustion that flips over and bursts into exhilaration. *What a rush!*

### **Breaking and entering**

We initiate our first checkout. The pattern's not complex. We ride around the town a bit, running down our standard checks. We drive pass the Draft Board a few times. Everything looks fairly normal. It's Friday night and the bar at the far end of the town is date-night active and bright. A handful of cars – teenagers for sure - just aimlessly drive up and down “dragging Main”. We watch them play – draft bait in a year or less - whipping in and out of the A&W, faking drag motions, gunning their engines. It's good cover as we drive to the other end of Main. More masking noise comes from a local bar; country music and young drunks sounding off. Though there are more streetlights on than during a weekday, it's okay with us because the Draft Board is out of the boozing and carousing area. In fact the weekend clamor diverts attention.

*Emergency* – “I have to pee.” Mike points to the parking lot of “The Hub” café, a few doors down from the Board. I'm a caffeine junkie, and every time I key-up, my bladder rains. The cafe john is busy, so I idle by the door reading the Health Department's Food Service License & Permit for the kitchen. Twice, a waitress walks by carrying food. She casually eyes me up and down. But it's nothing. She gives me a practiced smile. *Guess I'm not her type.*

Nights like this are strange. The thing that really gets to me, right now, is the picture card stillness of the cafe scene. It might just be me, I'll grant that, but everything seems to go by in slow motion and unreel itself in 1950's images. Several teenagers are hanging around a jukebox, dropping quarters in for sugary sweet country ballads. Some are moving in, hustling, with a few playing kissy-face lust Elvis style. The waitress looks like she's been here forever in her *Bus Stop* role: dirty black fringed apron with blond hair strands falling in her face. I rub my chin, shuffle my feet. The air is near gasping still, perfumed by a familiar stench ala john doorways. Time hangs until I hear the flush-roar and wake from these distractions to take my turn. As I latch the door behind me, an image registers: their collective eye told me that they'd never seen me before. Yet, they also passed over me. I was just one more out-of-town stranger driving through on a Friday night.

In the closet-like john I catch my second wind. "Pull it together, Francis X," I encourage myself as my eyes mirror-talk. "This is IT!" Then, as I reach for the *Hub's* door handle something freaky catches my eye. A political pamphlet with a name, in bold lettered type, RICHARD NOLAN. Too much! I went to college with this guy. What a trip, this must be his State congressional district. How's that for the small-world theory? I sit down and scan his pamphlet. What flashes as the waitress asks, "Do you want some coffee?" is, "Who's the real people's politician? Him or me?" Rick, I remember as an average sort of guy who preferred to guzzle and clown around with women than spend nights burning study hall lights. If he knew I was going to do this -- in his County Seat -- I wonder what he'd say? Between the sugar and the salt, I replace the pamphlet and step back outside to check our timing. The question of politics will have to wait. Now I have a ritual to enact.

Everything is set. Little Falls looks like it has on so many other nights. Waiting times move like snow sludge, so Mike and I decide to go in a bit early, before midnight. It's 11:10. We settle on 11:30. I drive around town a few more times. To Mike things seem altogether "small town cozy." Our plan is to park in back of the Draft Office. There is a cluster of small stores on the same block and they share an alley-like parking lot arrangement. When we scoped out the place before, we felt that no one saw us. There had been one spooky night, though. When we were already up on the Board's roof, an apartment light went on directly across from our hiding place, about two buildings down. Back then we thought we'd been had. As a matter of insurance we went through several mock raids. On another casing night, the light went on, again. Mike nudges me, "Little old lady," he whispers, pointing to the apartment, "Her bathroom." That led us to believe that if the cops were watching, they would have picked us up before tonight.

I park the Chevy by an alley wall. I step out and place the ignition keys behind the front tire on the driver's side. We leave our wallets and other personals in the car. In tandem, we quickly cross the lot - with each stride mechanically pulling on our handball gloves - and come to a stop by a corner wall. There's no movement in the area. The blinds in the little old lady's bathroom are down. Up goes Mike. He pivots, leans over to hoist the bags. I climb on a stack of wooden crates: *CRACK!* - they split. *Christ!* my heart pounds. Who's yelling, *What to do?* My mind reels off a thousand images of curious people rushing to check the source of the noise; of cops



dropping out from their secret cover, on and on. I want to run. I start panting; almost choke. See myself racing back to the safety of the car. *Call it off.* A bad omen! *Coward!* I shake my head, *No! No!* Fist pound my shoulder, once, twice. *Jesus!* I grab onto a piece of the roof's edge, strain and haul myself up. Mike and I pause; breathe – scan the area, then crouch and duck-walk into the roof's moonless shadows.

Each end of the roof has a narrow open area that's good for seeing while not being seen. We halt briefly; survey the area again. After our last casing, we decided to break-in through the *Faulk Insurance* office window off the back roof. The window is not only without moonlight, it is also protected from view by a column of bricks like those rising from an old fireplace. However, for some reason - I think because of his judgment about the noise and the cloudy moonlight - Mike decides to go in our alternate way. This means he belly-slides along a small fire-escape ramp and jimmy's a window. The upped risk is that he is partially exposed; his legs potentially half-seen from the side-street walk. I guess he feels the roof risks even more exposure. Clearly, we don't have time to discuss this. I trust Mike's senses. We're a team. If he says go that way, then I go that way. On either side is a laundromat and bakery. It's too late for the laundromat, but the bakery makes a humming round-the-clock noise. That's fine by me. It helps cover up our burgling noise.

I open the tool bag. Mike kneels and I serve him like a surgical nurse: screen cutter, pry bar, tape .... he snake-twists around to work the window. From the shadows I hand over other tools. He's fast. Soon I'm handling flower pots! A secretary's row of flower pots sits in front of the window on the inside. Mike removes these, quite delicately. I almost snigger. With several brief, swift motions Mike is inside. Now, I make my move. I'm six-three and it seems like its taking me an hour to crawl in. I'm certain that some bakery employee out for a smoke sees my huge feet sticking out like portaged canoes. Mike roughly grabs my armpits and yanks me through. It's all done without too much noise. Now, we're side-by-side in faded light inside Uncle Sam's Military Selective Service Board – a morgue of 1-A files. *The Living Dead.*

### **Don't move or we'll kill you!**

Mike had cased this place from the inside. I hadn't. So he knows that all the files are in the next

room. Luckily the door to the hallway is unlocked. One less window to crack or lock to jimmy. Nevertheless, as expected, the door into the Draft Board is locked and bolted. Each of us has spent a fair amount of time learning how to break a piece of glass without splinters and echoes. So I begin the taping and scratching, followed by the steady heat of a mini-torch, courtesy of *Montgomery Wards*. Soon the glass starts to crack and chip along smooth lines. Using a screw-driver I jolt loose a triangular piece of glass. It dangles noiselessly, held by a sticky piece of two-sided tape. Then I guide my left hand through the hole. I had cut the piece close to the door handle side so I could easily reach in and flip the turn-lock. *Shit*, my forearm's too fat! My fingertips can't grasp the knob. Mike to the rescue: He slithers his slenderness through and unlocks the door. Two steps in and I rejoice, just above a whisper, "Ah, how simple! Here we are, you evil spirits. Right here, in your sanctuary. Going to steal your sacred files!"

Stepping softly, we haltingly move around the file cabinet congested room. The brown metal cabinets with the 1-A files are also locked, as anticipated. Within moments I jam a screwdriver into a cabinet key slot. I hammer it with the heel of my hand, "Whap!" This draws an echoing noise but it should break the lock's tumblers. Our ears are alert, filtering out the random clatter from the bakery next door. I search for new sounds. *What's that?* "I think I hear someone," Mike whispers. "No, it's just the bakery," I throw back. I point behind him, "Why don't you start on the Locator Cards, over in those files?" Almost feline, Mike steps away. A beam of moonlight catches and turns his blond hair into an aura. We are eager to fill our bags. I whack the cabinet lock again. *Shit!* No luck. A chilling panic nestles in the crick of my neck. I hate when things don't work out the first time around. I'm a bit unglued. Suck a deep breath. Then, I reposition the pry bar, bend the draw's metallic lip, wedge in between it and the lock, and heave away. *Damn!* Strident noises cry upon metal squeaking. But still nothing comes loose.

From the knapsack I lift a small hand-towel and put it over the lock's contact point. I whack it one more time. The cabinet emits a low surrendering groan. *Fuck!* Worse, the damn cabinets are not flush to the wall so there's a second *Thunk!* as the back of the file cabinet bashes the side wall. This time Mike palms my shoulder; firmly. Using hand gestures, he indicates he's sure he hears someone in the building. But I've heard such "false echoes" on previous raids, and nothing came of them. Every creak sounds like a wail. As my file draw finally opens, it happens, again.

Flashes of mangled bodies and a child burning as a napalm torch spin wildly in the air. I pray, *Jesus, I want these files. Help me get them!* I hurriedly stuff some files into my bag. My mind's lost in prayer. *Mary, mother of God, help me!* Then, the whole scene simply explodes and whirls. I catch sounds that are human. *What?!*

*Thud, boom, scrape:* Heavy footsteps scamper and rush up creaking wooden stairs. With two quiet, jerky strides I move towards the door to shut and lock it. But before I can do anything, the dark starts chanting, "Back away from the door!" "Back away from the door!" A flurry of possible reactions muddle my mind: *You're close enough to body slam the door shut. Get that lighter fluid, in case something like this happened. I want these files!*

Just burn the files? While in the cabinets? Attempt to escape through a window? Damn, the knapsack was just beyond the half-open door. I jump to the protected side, glance at Mike, catch some face flesh gleam and squat outside in the hallway; hear a kicking-pounding to the left that shakes the waiting room door... Behold! A solitary figure crouches in the dim of the doorway threatening, "Don't move... or we'll kill you!"

Suddenly the room heaves and lurches. We are not alone! As the lights flip on, something pushes me into the unexpected reaction of walking towards the barrel of that gun, "You have nothing to fear from us and we have nothing to fear from you." *Are you insane, Kroncke?*

*"Ladies and gentlemen, I draw your attention to ..."* The scenery shifts. A whole new stage is set. Lights on, everywhere. Seven men with bulging bullet eyes menace us. "FBI, you're under arrest!" *Okay.* Then this unimposing, slender smiling guy walks up to me and says, "Hello, Mr. Kroncke." *Huh? How does he know my name?* I haven't told anyone my name! Wow, my mind dizzily wobbles and runs instant replays flashing: *Ambushed! Ambushed!* "Well," I spoke out loud to myself, "This changes everything!"

My stupid first thought, "When will I ever get back to San Francisco?" As for Mike, he's unruffled; stands calm and posed in characteristic quiet. Shifting gears into this new reality, I begin to ramble and chat with our captors. Relief was partially my response when I heard they

were FBI. Our group has always feared being caught by some small town super-patriotic, vigilante types who would shoot first and ask questions later. This was a real dread. After my first raid, back in January, that of the *Beaver 55*, the town of Willmar's VFW puts a \$10,000 reward for our capture. What would they be doing now if they had caught us?

Flash bulbs pop; tools and bags are tagged. A pistol motions us to spread eagle and then we're frisked. "Up against the wall. No talking!" Brusque commands and directions bounce about and then demand, "Where's your car? Do you have any identification? You don't have to say anything until you have a lawyer." A whole grape-cluster of questions and statements. Once they go on, the electric lights shrink the room smaller than ever. It's close to claustrophobic: like being inside an over-stuffed wall-safe. More flashes pop over pried and bent cabinets, the inside of Mike's bag, and the peaceful lines of our somber faces.

Again, at gunpoint, two Feds finish by handcuffing our arms behind our backs. When these two leave us to assist at other tasks, another Fed comes by and roughly shoves us outside into the narrow hallway. There we are guarded by a young, trigger happy, gangly cop who continually twirls his gun as if a cowboy, all the time telling us he's on Little Fall's squad and that we're lucky – he nods over his shoulder – that "They keep me from ass whipping you faggots!" *Hey, a night of fun!*

Now, Mike and I are just the sideshow. We're the bagged game. While the Feds do what Feds do, sweat runs in rivulets off our foreheads. I lean over and wipe my chin and cheeks on Mike's shoulders. He chins and rolls on the back of my shirt. Our swampy discomfort is ignored by the agents, and in time even by our own odd amusement with the situation. We are really caught! *Too much!* This event, which I had dreaded for so long, which I knew would one day happen, is happening.

If I could fall asleep, I would. I watch Mike fade into his very remote inner zone. Yet, uncharacteristically, he seems annoyed and disturbed. Myself, I just flip over into my protective hyper-active babble. I start rapping with any FBI agent who comes near. Try to joke. Act loose and carefree. *Man, I'm scared! Fucking-A, you're screwed, Kroncke!*

In another moment, I grasp the clarity of this bizarre staging: This is war! I am here on the battlefield, waging *Peace*. More than during the *Beaver 55*, I sense that the ritual is complete. Getting away doesn't matter. I am on the frontline facing the enemy. Following his own ritual, a nameless Fed brushes the tip of his gun across my mustache-less upper lip. *Bastard!* The Gods of War have successfully effected another ambush. Another body count! *I am now gook.*

Voices, again: "Frank, this is where you're supposed to be. This room, these walls, this town: your Call. Isn't this so? Isn't this what you've been moving towards? Your task: a ritual of peace! Not your ritual, but God's. His way, *Blessed are the peacemakers!*"

I feel this prayer flow through every muscle and fiber of my body, mind and soul: "Lord, make me an instrument of Your peace. Where there is hatred, let me sow love ...."

### **Going to jail**

"What do you think about the war?" is the probe of all my questions. Here I am – *Surreal, Man!* *Dig it.* - actually face to face with the forces that keep the war going. After all the theology lectures, all the marches, all the times alone brooding and thinking in my book-heaped study, here now, finally, among the enemy. No: not the Agents as such. *No matter what you feel - don't hate or fear them. Heal them - and so heal yourself. Hate the forces they so physically represent: death and evil.*

I see myself in a snapshot: captured and bound by those other humans who protect the devil's dance. Taciturn, stoned-faced humans who go about their government's work with expertly trained Dick Tracy precision. They don't take time to listen to my questions; could not care less. Each flows through the well-practiced procedures. *Flash!* - more bulbs startle. *Crink!* - the handcuffs cut deeper into my wrists. Almost gliding about, skating, their every policing detail is marked: the size, angular description of the rooms, file cabinets, our bag of tools. "They came in through this window, over here in this room." Mark. Write. Paragraph. Sketch. Swarming like busy bees. Professionals of imperial order.

After about twenty buzzing minutes of all this, Mike and I hit “Phase Two.” We unwind – more accurately, collapse - into the absurdity of it all. Funny, how types of people respond so oppositely to the same thing. From their body language, the Feds obviously expect that we should be pleading with them; cowering and being suppliant. Rather, as soon as the initial impact of “FBI, you’re under arrest!” is absorbed, Mike and I sit there joking. As if smoking dope and passing a joint. Rapping about the changes clearly in store for us. What we won’t be doing. How shocked our friends and families will be. Wondering about the others at the sister Boards. Was the whole group snared? Five boards; thirteen raiders. Two women: Joan and Sandy. Was there a rat informer among us?

Our tensions kid one another. Are afraid for each other. Feel the unspoken bonds of brotherhood binding us fiercely together in this frightful situation of capture. Finally, the Feds order, “Up!” and move us out onto the street. The midnight air feels surprisingly cool.

No townsfolk or animals are in sight. It’s lake-calm quiet. For the first time, the simplicity of the town strikes my eye. Truly right from Sinclair Lewis’ book, *Main Street*. Four marked cars idle by the curb: local police and sheriff. Two others, unmarked. All have red and blue lights flashing. Electric streetlamps back-drop a low hum. The Tweedle-Dee plump Little Falls’ Police Chief glides over, glares at us with his best “hard cop” scowl, grunts to the Feds something about, “See you guys next time. Come over for some of that bottle I promised.” His casual party words seem to imply some previous stay and a long-range plan. For the first time Mike and my eyes share the assured feeling that the whole group of raiders is being netted this midnight morning.

The Agents split us between two unmarked Government cars. They are the usual non-descript tan, and each has three agents in passage. Agent Ray Williams knocks on my window to tell me my mother’s Chevy has been impounded by the Little Falls’ police. For good or bad, several letters which Mike and I prepared for the local press lay on the front seat of that car. These letters speak about why we are raiding the Board. Now, everything is in the Government’s possession. I don’t dare think about what my Mom will say when she comes back from her vacation and finds her only car under Government lock and key. So, I block her out, and stay on

point. I start discussing the war with the feds.

I'm in the front seat, passenger side. I lean back and rattle off a series of questions. I earnestly struggle to get them to talk: "What are your ideas about the war? The draft? The Government and Organized Crime? Your jobs?" and so forth. They're a strange trio. What they do on the compassionate human side is change the position of my handcuffs, from behind my back to my lap.

These are ordinary men who justify whatever they do by repeating, "It's my job." They're not too friendly with one another. It seems they haven't worked together before. Two have southern accents. Possibly they're just tired, or are trained not to talk with prisoners. How would I know? Yet, a few times over the next hour, I get one to hotly react. He appears to be the youngest Fed. He's even wearing an army-issue camouflage jacket. So, I ask him what he thinks about Vietnam. Somewhere during his Government-approved answer he slips into a short, mocking, put-on story. While tugging his flak jacket, "Yeah, I guess you'd call this a hunting jacket. Hunting gooks, *that is*." They all laugh roundly, loudly and instantly. That riff of laughter is all I hear from the other two, but the youngest Fed is now revved up about the war and launches into a clipped, serious explanation of how the Vietnamese really love us Americans; about how good the Pacification Program is. But when I ask about the American-South Vietnamese assassination program, the "Phoenix Program," he clams up. After another half hour of this chatter, I realize that one Fed is taking notes on everything I'm saying. That *really* ticks me off. Annoyed, I shut down and start counting telephone pole outlines in the moonlight. All in all, it's a dull two hour trip back to the Cities.

Once in the Twin Cities, they port us to the local FBI office on Fourth and Marquette. Agent Lais slips a key and slots a credit card-like piece into a slit on the wall. With both in place, the full-glassed, steel rimmed door yawns. In a second, we're in the elevators. Not surprisingly, Mike and I are the only non-civil servants about. Which means that we still don't know whether we're the Government's single prize or not. We certainly hope we are.

The admission processing they run us through is brief and *very male*. All the Feds have to do is

hand and fingerprint us, take mug-shots, and fill-out some forms. But each one seems to pride himself on making every little individual procedure and detail into a big, challenging, macho tangle. When the first group of Feds goes into a backroom to tag our draft raiding tools, the Selective Service locator cards, and fill-out a federal arrest affidavit, two others transfer Mike and me into separate rooms. Another routine: Three agents rove between the rooms, asking various questions; sometimes they're repetitious. Each wants me to jump up when he comes in. Sit down "there" when he says so. Discard my clothes for a frisk, now, for the fourth time. This night, for the first time ever in my life, I bend over and spread my bottom-cheeks. *Virgin, again.* I blush. A middle-age red-headed Fed chuckles at my embarrassment. Then, he tenderly solicits me; whispers, "Frank, your cock is so ..."*No. Damn it. Stop.* As I buckle my trousers, I regain my composure. *Really?* Yeah, it's all very, very super-male. Insensitive brutes: No one offers me coffee. Nor a cigarette. My mind snickers, "Maybe they don't know how to talk - just grunt one liners." Face it, they really don't want to talk. Face it: *Was it good for you, too?* Fuck. This has got to stop. I throw up a desperate prayer. It barely muffles my simmering rage. *Just let me take out the fucking red-head!* However, can't do that. Don't want to. I stifle my hostile feelings. Yeah, but know that I waffled on *wanted to whack* someone. I could feel myself begin to totally lose my composure and self-control. *What would Gandhi do? King?* I bite my tongue – long and deep – as I struggle to remain nonviolent.

The evening is really dragging; wearing me down. I puppet around as they order. Friendly Agent Ray Williams comes in and jots down a short list of personal data. I'm sure the Government already has most of this. *Friendly Ray*, the oh-so-average, small boned, almost pacifist looking suburban father seems so out of place among the rest. He's trying to be nice; talks softly, affects concern. He brings me coffee; black. But after he leaves I'm taken to this old J. Edgar type tough who rams my hands into a sticky ink pad and rolls my palms and fingertips onto official paper. Pushing us. Shoving. Almost ready to hit me because I resist sitting down when and where he says.

How many macho instant replays are there going to be? *Hey, you're not in control here, Kroncke!* The Feds are not only pushing me to the edge, the room itself is stressing me. Harsh, glaring fluorescent lights. Bland semi-gloss white that makes every wall into a section of an



endless wall. Few pictures, but, then too, too many pictures of J. Edgar Hoover; positioned like shrines to Our Lady of Fatima. All these small replicated offices speak only of efficiency and getting the job done. Then I notice that none of J. Edgar's bulldog grinning mugs have a name on them. So I goofily ask, "Who's *that* guy on the wall?" Nary a smile; not even a grin. "How come his picture doesn't have a name? Aren't you proud of his name?" No Federal answers to the peacenik wisecracker. *Where the hell is Mike?* I'm getting ever more bone tired. Then - oh, sweet sounds of the nightingale! - rattling down the hall comes the almost manic pitch of, "Come on you guys, let me alone. *Whoopee!* Here we are." At the same time, they bring Mike back. We face one another, and quicker than the sun sets on a mid-western December night, we chime, "Brad!" *Aw, fuck!* - the rest are, for sure, to follow. Yet, I'm somewhat relieved. As Brad appears, handcuffed and rowdy, an embracing sense of brotherly togetherness rises. I admit: I'm glad to have him around.

My fingers, with traces of ink smudging the whorls and ridges, reach out to touch Brad, to speak silent words both in fear and hope. Soon, not unexpectedly, Pete and Don are led in; his team. Each mutely sits down on a hallway couch. However, true to form, Brad doesn't sit, just keeps striding around, gesturing with cuffed hands, talking and half-comically taunting his Feds. His handlers are an even more macho breed of "Special Agents." Younger colts who find it manfully satisfying to push and shove and shout trivial orders at manacled men. One comes over, right to my face and barks an order to sit down. I'm really buzzed and this asshole pisses me off. *Fuck you!* I refuse to sit. I lean against a wall. Flustered, he's about to grab me, possibly rough me up and push me into a chair when one of "my" agents returns. He gives this guy a silent, piercing look. Nothing happens. Finally, I sit down when Brad's agent leaves the room.

No one has heard about Bill, Chuck, Cliff or Joan and Sandy's team. The agents decide to move Mike and me out. We get a brief respite as we walk through the cool morning air towards the cars. It's a short drive from the Fed's office over to the Hennepin County Jail. The humor of the moment hits me: Just weeks before I had tried to get into this same jail, faking my way with a priest's collar and holding a breviary. I wanted to see another friend of mine locked-up on a draft raid arrest, from Chicago. It didn't work. Someone dialed the bishop's office. Now, I'm checking in. Here to reside a spell. I'm so beyond exhaustion and dopey that I couldn't even imagine

trying to bolt and make a run for it. My survival instinct is the only part of me asleep.

It's already late-early morning and muscle cramping weariness overcomes my shoulders and legs. Yet before any of us can settle down, we're rotated through another processing. This time for the State and County. Aside from all the finger-printing and mugging and meaningless questions cops ask, I'm oddly amused by the ugliness of their buildings: drab, lifeless, smudgy. Sure, jail bars won't ever be attractive, but a stale air pervades these buildings: timeless boredom and drudgery; pained indifference. The agents and cops don't seem to enjoy their work in any way. I mean they never seem to relax while together. It appears that their only release is to yell, push, grunt or stolidly shoot a fierce, sideways threatening sneer. Lip-curling. I mean, I'm really unable to shut all of this off. It infests my mind like a bad B-grade horror show. It's just true, FBI Agents, Federal Marshals and the Minneapolis Police seem so terrified, so deeply afraid of something. With guns and cuffs and clubs they can lash out, but they never seem to relax. Occupational hazard, I guess. *Interesting*. Ah, I'm near drop-dead asleep on my feet; *interesting* can wait till tomorrow.

I wish that I could sleep. But it's one of those nights that never seems to end. The clock ticks but never tocks. Within the next morning hour we head into our third scene shift. Here at 2:30 in the a.m. I'm shambling through a paint-chipped forest of iron bars. To be honest, my immediate image is how jails remind me of seminaries. There's a ghostly quiet common to both, as well as a mechanical orderliness and brusqueness. In a creepy way, it made me at home.

"Ah, the final frisk!" Once more a diligent Officer of the Law spies and snatches one of my secret weapons - my leather belt. With this last dressing down completed, off they march me, the falling-trousers criminal, into a cell tier. I barely notice that not many other residents occupy this section. It's early morning so those snoring do not stop to greet me. I'm escorted to a half yawning cell. Mike's already there; fidgeting in the sack. "See ya in the morning." *Cheery bastard!* I lie down, yet am too hyped to sleep. With a barrage of screechy shouting and cursing, in comes Brad and his more quiet partners in crime, Don and Pete. Some snorers half-wake and fling curses at them. All in all, there are five of us. How did the others get away? Or did they? In the flickers of an undistinguished summer's dawn, my body yields to a desperate sleep.

## **Soggy buns**

The morning's waking is white, middle-class unreal. My eyes snap open in reflex to some guard's harsh yelling about something or someone. A gate clangs, then each cell clunks open in sequence. Guys clamber down iron stairs to the cellblock's common area to gather what our Keeper leaves. It's breakfast, or something like that. Soggy buns and weak coffee. Fatigued and bedazzled, the group mopes and shuffles towards the food. We're like guys hung over from one horrendous drunk. *Damn.* During the night, Bill, Chuck and Cliff decided to join us. *Hey!* I nod. Each nods back. We take a head count. *Eight* of us. "No more new ones." That means that some got away. Great! *Fucking Lady Luck. Should've hooked up with them.*

We gather together, something of a herd instinct. Drinking at the water hole. Small talk. Quiet awareness popping moments, courtesy of hot sips of caffeine. Everybody's coming-to in his own way. Fairly quiet and low key. Soon the sweet rolls are only crumb tracks, and we're lounging around in another sector of the common cell area. The questions begin: "What will we do? Who'll be our lawyers? Do you think there's an informer? Did the rest get away? What will our families and friends think? What type of trial should we have?" Questions ever unending, circling and time munching. "What time's it?" *They took our watches, stupid!* No one answers. Clock time seems to have ceased with a stillness that smells of decay. Bill goes off to scrounge a newspaper. My body betrays me, treats me like it's still yesterday. I'm jittery and nervously taut. My mind manically races around and around. I'm too fucked up to be good company. So, I go back up to be by myself, lie down and coldly tremble. I shiver and sweat, simultaneously. I'm just about to black-out when a guard starts rapping on the bars with his baton. The eight of us are called down. Some real estate mogul has decided to move us to another section. They split us: four go up top on Tier B and four remain below on Tier A. Brad, Mike, Chuck and I are together.

Each day in jail draws us closer together, but also brings out our weaknesses. Mike and Chuck play an endless game of cribbage and some weird word-game that neither Brad nor I can get into. They spend hours and minutes just laughing and playing, having a grand time. True to our shared obsessions, Brad and I loll around analyzing the world and each other, and the rest of the guys. During these jail days Brad and I bind like blood brothers.

I don't know what's happening on the upper tier with Bill, Don, Pete and Cliff. We hear that Cliff's frightened out of his mind. We can't communicate directly, so we employ jail's alternative communications network: the stretched-arm note relay system between the barred tiers. As on Tier A, so I sense, on Tier B four lives are rapidly changing. Personal strengths and weaknesses are sounding their depths and roots. Our talks often ramble around political discussions of Resistance, or about the proper tactics for the upcoming trial, but what is really happening is our silent, hedging dance around the discovery of one another. Here we are, eight men who have acted together. Who've risked their lives together. Who've struggled to speak "Peace!". *Together*. Clearly, what we're seeking is to be together. To live *intensely* together. We seek to express in our personal relationships the human truth and that is the goal of the draft raids. And here we are, together, in jail - and it's okay. *Peacemakers*.

I look at the others and am inspired: no bars can restrain us. Whatever the Government has up its sleeve, whatever the Department of Justice might do to us, I and my brothers have acted in a moral and truth-rendering way. In this jail, our commitment to Resistance alloys us. We bond in the fire dark reaches of our spirits. They call us "The Minnesota 8." So be it, now and forever.

In between my chills and sweaty July trembling, my queasy gut and my creeping goose-bump fright, I relish the joy of the passionate heart I share with these others men for Peace.

*Now, tell me. Don't give me any shit. You had to go to jail to find yourself?! What a crock ... I wish my mind would just shut down.*

### **"Sabotage of the National Defense"**

While we are trying to get our act together, the government is one step ahead. During the late morning of the first day, we're told that we're going to be arraigned. They can't hold us without a criminal charge. I contact a young poverty lawyer friend, Roger Haydock, to represent us at the arraignment and bail hearing. Two things happen, *Bam! Bam!*, that tell me we're not in Kansas anymore (not even in Minnesota, anymore).

I'm the first to hear the prosecutor, Robert Renner, level the charge that I'm part of a sinister, national plot of draft raiders, lead by two Catholic priests, Fathers Dan and Phil Berrigan, who are "intending to overthrow the Government." It's an "international Roman Catholic plot" of dissents "funded by Cuba." Roger's eyes almost pop out. Then, Renner asks that the indictment read, "Sabotage of national defense materials." It carries a ten year sentence! The magistrate follows the DA's lead and seals the deal by assigning me and the others a \$50,000 bail bond apiece. *Wow!* I was the first to hear District Attorney Renner state that bond figure. *Ransom!*

### **Six days**

The astounding charge of sabotage, the ten year sentence, and the extravagant bail - \$50,000.00 is more apt for a murderer than a first time nonviolent offender – comprise our deposit for a free holiday stay. Free room. Free food. Free TV. *Ain't America grand!*

The eight of us count six days in that jail. Looking back, these first days flit by like a zapping *Flash!* Yet I know each day actually crept along with a still breath. With but a moment's reflection, I vividly sense and smell the acrid stink of a piss-soaked, hot and humid, bug infested July county jail day slithering all over me. They aren't cells, they're cages. With four sets of iron bars between them and the corridor. No walls. Not a sliver of privacy. Total exposure.

There is little natural light, and the bare-bulbs are low wattage. This alone irritates the hell out of me. Worse, the light outside my cell is burnt out. Each day I ask, but somehow the guard continually forgets to fix it. I float within a twilight haze all day long. I want to shout, "Turn up the goddam lights!" But there is an even more annoying matter: set high on the walls around the cell-block four TV stations blare at high volume from sun-up to sun-down. They are beyond reach, so they remain locked on the same station. Their relentless blather swamps the cell-block.

Each tier has one shower: plugged up and flooding back. One razor blade in the morning and a tiny *Holiday Inn* size bar of soap to wash and shave some thirty-plus men. Three times a day we line up, arms through the bars to take a plastic tray. The food's always some soggy, overcooked stuff; full of fatty grits. If anyone wants a snack or a small luxury like a comb, he has to negotiate with the old black inmate who runs the commissary.

By the sixth day I'm ready to confess, "I give up!" Not really, but there are moments. Actually, I know it's simply a matter of time. No one stays in jail forever. Actually, not supposed to do jail time for longer than a year. Yet, even that's not true. Just our jail tiers hold up to sixty-three men, most going in and out within a week or two. But there is a handful who have been here almost a full year, some actually more, just waiting for trial; unable to post bail.

In between readings of fourth class pulp novels - the sparse reading matter permitted on the tiers - each of the eight tries to strike up conversations with the other prisoners. There's a lot of fine rapping but, as expected, we have trouble being accepted. There are class differences, for example, with a white guy who's facing forty years for smuggling guns. Racial differences with blacks who look upon us as the weirdest white birds they've seen yet. And sad times talking with a kid in here for trying to burn down a Draft Board. His leg is heavily burned. His fidgety eyes convey a deep paranoia. Unfortunately, he's more than a little turned around in his head. He raided a draft board after some heavy drinking. One day he even tries to trade off his food because he feels the guards have poisoned it. Of course, he receives no special treatment. The several who have obvious medical or mental problems are just lumped in with the rest of us.

These days creep by, but with intensity. Each second is full of some life grappling encounter, some mystery about myself or someone else. As I look around I know that the guy over there is a criminal caught and caged, and he'll never be the same. I've never been in a place that seethes with such relentless negative energy. I glean a lot. Yes, the sociologists are right. They'd be glad to have my experienced confirmation of their academic observations: the others are mostly black and/or poor; high rate of illiteracy. Very few inmates, however, grasp the political nature of their being in prison. Most just want to get "outside" and try, once again, to beat out the next guy. Honestly, it was depressing. Most seemed to just want to beat up the next guy. These were society's dregs, its misfits, its dropouts. They were street smart guys who always lost out to desperation. Always tempted fate and tried a short cut to fame or fortune. Too many times the short cut was a gun or a fist. *Christ!* Fuck, just another group of men constantly at war. I think we were the only first time offenders in lock-up.

As for me, after breakfast on my first day I walked into my cell, raised my arms toward heaven, and said – well, almost cursed – “Is this what You really want?”

I know I’ve answered my Call. For years, I’ve been plagued by a mid-afternoon murmur, “Outlaw!” This now my ears heard plainly. Born in these murderous times my role is not to teach nor preach from the lectern and the pulpit. It is to wrap tight fingers around cold iron cage bars and consecrate, “This is my Body!” *Iron womb of barred souls*. This is what I am just beginning to fully understand. Yet, I am not spared: Anxiety never forgets to trouble my comfort. Chills and embarrassingly visible muscle trembling are accompanied by demonic cat-calls and laughter, *Hee, hee. Whimpering faggot! You’re fucked now, boy!* Night relentlessly breaks me and I shudder. I am fitfully sleepless.

### **Riots and rallies**

The FBI pulled off their ambushes on a Friday evening-Saturday morning. By Saturday evening the TV news has an interview with, “The Committee to Defend the Eight.” *Amazing!* I had used my one telephone call to contact Karen, but since our group had not intended to get caught or give ourselves up on the spot, we had not spent any time organizing a Defense Committee. Here in the middle of summer when, by local custom, the southern half of the state goes up north to a lakeside cabin, the Resistance community mobilizes for our support. Charlie and Pauline Sullivan, a former priest and nun, spearhead the Committee. This moves us deeply. For the next three days and nights there are large rallies outside the courthouse building. On the first day, over 500 people protest in the streets, the *Minneapolis Tribune* reports.

On another night the Tactical Squad riots and attacks the protestors. Shields thrust forward, visors down on helmets, batons at the ready, the squad spears through the crowd, banging heads, knocking people to the ground and arresting at random. They round “them” up: radicals, commie sympathizers, pinko liberals. But as the TV film shows, these are really mothers, fathers, students, young kids and grandmothers. This police frenzy compels the righteous liberals out of the woodwork. A river of “Letters to the Editor” and TV newsclips – caught at soap opera intermissions – rolls. However, it is not just Minneapolis-St. Paul that’s on fire. This is the hot summer following the bombing of Cambodia, the murder of students at Kent State and Jackson

State, nationwide Moratorium marches against the war, and coast-to-coast draft office raids.

Bill, Brad and Don are more savvy about the legal system. Brad's dad and brother are lawyers. They get Ken Tilsen to take our case. He's a seasoned criminal attorney with a long client list of political activists. He gets the bail reduced to ten grand apiece, which means that we have to post \$1,000.00. Some families can afford it. The others get help from the Defense Committee's fundraising efforts.

After the Grand Jury meets, DA Renner drops the sabotage charge. Ken tells us it's simply too broad, and, actually, would have benefited us more than the DA. In court, sabotage would have been difficult to simply define. There was a legal basis to the charge, but explaining it to a jury was a high risk venture. Moreover, such a charge would allow us to call a wide range of witnesses, engage sweeping historical analysis, etc. Ken says it's in the prosecutor's best interest to charge us with a lesser crime. One that has an easy to understand definition and description. It makes proving his case easier. So, Renner charges us with "interfering with the Selective Service System by force, violence or otherwise." It's the equivalent of "breaking and entering," that is, all he has to prove is that we burgled an office. Plus, what a relief, it only carries a five year sentence. *Ahem.*

Although I am no longer a saboteur, I am a violent felon. Although I hear the "otherwise" in the indictment and maintain my nonviolent posture, the Government rules the realm. I proceed to trial to argue a defense against the charge that I used force and violence. As the trial begins, I am an innocent among wolves. As I develop my particular defense argument, Ken decides that it is best that I defend myself, that is, proceed as attorney *pro se*. When I talk about the draft raid as a ritual of peace, he's with me, but he can't fathom what I mean by "socio-political sacramental acts" means. I apply and the court grants me *pro se* status. Ken remains my legal mentor, and represents my co-defendant Mike.

### **Off to trial I go**

But let me not lead you astray. I could never have anticipated what followed. At times, I'm asked why I didn't plea bargain. One of the eight, Cliff Ulen, copped a plea and got five years



probation. Why didn't I do likewise?

I can only plead that I was not unlike the grunt on his first day in-country. I had gotten to the courtroom battlefield by acting within the realities of the world I knew, with the education I had, and by following the values my parents gave me. In my heart and mind I was ready to lay down my life, but how could I have known what that really entailed?

I had started down this road of Resistance. There was no turning back. Besides, in life-threatening situations, time stops. Every day, each hour and moment, is stuffed and packed to overflowing with the rawest and most taxing emotions. I was quite literally beyond feeling. At any moment, I felt I could explode or implode. At times, I wanted to rewind the tape; obliterate events; start over. I managed by developing a routine. Once out on bail, I simply got up each day. Knelt and said my prayers. Often went to Mass. Then, turned to face a day that I knew for certain would not be like yesterday or tomorrow. My life was no longer mine. In a way, Francis X. Kroncke no longer existed. Not at least in a private, personal way. I was on the court's docket. I was evidence. I was testimony. I was a Public Enemy about to be judged.

The knock on the door. "Benedicamus domino!" Friar Otto rises, blurts out without thought, "Deo gratias!" *God be thanked! God be praised!*

## Chapter 2: Key trial profiles

The challenge in telling this story is that events took a series of odd twists and turns. It started with being arrested as a saboteur and held on \$50,000.00 bail. *Sabotage?* For raiding a draft office? \$50,000.00 bail for a first time offender who only destroyed property? To the public, I, as one of “The Minnesota 8,” I was depicted as Public Enemy Number One. The first editorial in the *Minneapolis Tribune* was “The Road to Jungle Law.” Were they talking about me?

So, right from the start, an odd turn as to my self-image. If I had threatened the president, or advocated the violent overthrow of the government, or burned down a draft office building, maybe then I could see myself as described. I wondered why I didn’t feel as depicted. I wasn’t a bad guy. I didn’t wear a black hat. I wanted to stop a war, not overthrow the government. Stop the killing, not advocate more bombings. Christ, I was simply trying to be a responsible Catholic theologian. In quieter moments, I often wondered what the rural area farmers, like the southwest Minnesota tenant farmers in my girlfriend Karen’s family, thought as they read about these goings on in the Big City? “Mama, these are some bad men!” And, “Our Karen lives with one of these bad guys?!” I had just eaten blood-sausages with her relatives last Memorial Day.

To help you follow all the twists and turns, I need to give you some general background detail.

### **Odd twists and turns**

On July 10, 1971, eight of thirteen raiders were captured. Why did some get away? No one knew at the outset. We became “The Minnesota 8.” First, saboteurs facing ten years. Then, we’re “interfering” (breaking-and-entering; burgling) with a government operation. Now, facing five years. This was one twist.

Trials require a defense argument. The 8 spent the next several months figuring out a strategy. We settled on a “Defense of Necessity” argument. In brief, this defense is based on the rationale that, in certain extreme circumstances, one law can be broken to fulfill the moral mandates of a higher law. An example is mutiny. When it can be proven that a captain lost his mental capacities and jeopardized the lives of the crew, mutiny may be necessary. We developed a list

of potential witnesses. Although we wanted to proceed with a defense of necessity, it was up to the judge to allow that defense.

Another twist: Since there were three raids (at Little Falls, Alexandria and Winona, Minnesota), three trials were set. But there should be only one. Two raids occurred in the geographical area under Judge Edward Devitt. Mike and mine occurred in Judge Philip Neville's jurisdiction. For matters of economy and efficiency, it was reasonable that the trials would be consolidated. But they were not. At the outset, we're not sure why.

One cause might be the disaster in public relations for the government at the recently concluded "Chicago 7" trial. There, the comical antics of the defendants Abbie Hoffman, Tom Hayden and the Black Panther, Bobby Seale (nationally prominent activists) were no match for the even more bizarre and buffoonish actions of Judge Julius Hoffman. The judge thoroughly embarrassed the government. It was possible that the government just didn't want to risk another high profile anti-war, loony-tunes trial.

Another might be that after the *Beaver 55* action, Brad, Chuck and I called a press conference at the University of Minnesota where we claimed "political and moral responsibility" for the draft raid. We went on speaking tours up and down the state. Legally, we never said we did it. I and the others were legitimized in the eyes of the media as representatives of the antiwar movement. For months, a group of us drove somewhere everyday to speak about the war and stir-up Resistance. We loved this headline in the *Tribune*, "Knight says: Draft Raids May Cause Month Delay." Colonel Robert P. Knight was the State Director of the Selective Service System in Minnesota. We were a media success with interviews on radio and TV and in numerous articles written about the raid and draft resistance. Possibly, they wanted to divide-and-conquer and not allow us to overwhelm the courtroom and jury.

The turning point most significant in my story concerns how the judges initially ruled on the Defense of Necessity. They took dramatically different approaches. We were aware that we committed a serious crime. None of us took that lightly. There were prolonged conversations about whether we should put forward any defense at all. Possibly, we should all stand mutely, as

silent witnesses. “What are we defending? Rationality? Peace?” There was a fair amount of chasing our collective tail. We were not of one voice. After many exasperating hours of planning, I joked that the only thing it seemed we ever agreed upon was raiding the draft board. I think we even had an argument – not serious – about whether the toilet paper should roll from the top or the bottom.

Yet, we all believed that our acts were reasonable when seen in the light of a government run amok. While Brad liked to flash the word “socialism,” no one was a communist or anything of that stripe. Don was an avowed anarchist, but he was still acting to save America from itself. That’s where we seemed to be at. Each of us had found the country to be in a sad state of affairs. We had all tried to organize, demonstrate, protest, petition and speak out before coming to this bold symbolic act. We were feeling confident that our peers understood us. That raiding draft boards said loud and clear, “Resist!” I wasn’t as confident about my communication with the Catholic community. My sense was that few would make the connection between the spiritual experience I had through praying at Mass and the one inside the draft board. I was comfortable talking about spirits and demons, about sacraments and rituals, but I knew many weren’t. Even the others of the 8 found my Catholic-talk a bit wild, though they loved my passion.

We didn’t know how the judges would react. We pleaded not-guilty and forwarded motions requesting that we be allowed to argue a Defense of Necessity.

Pre-trial motions were filed. In November, 1970 two trials were set in Judge Devitt’s courtroom. He summarily rejected the Defense of Necessity or any defense that mentioned the Vietnam War or related issues, such as the illegality of the war. He also forbade any mention of historic American precedents for resistance to previous war time drafts. Devitt limited my co-defendants to being their “one and only” witness. Each took the witness stand and told his personal story, but he couldn’t call others to support his factual or moral claims.

Devitt’s approach was simple. We were criminals first. “Misguided men” second. And it was not even on his radar that we were citizen Resisters. In his mind, he did not have to respect our moral claims. Moreover, he didn’t even have to listen to them. We simply had no right to a trial that

spoke with our voice of Resistance. In brief, Devitt said, “Shut up!”

By the time my trial opened, these first two trials were over. That’s not too unusual. Each judge’s calendar varies. However, it was odd that Devitt handed down the maximum of five years, before Judge Neville first banged his gavel. Even more significantly, judicial courtesy did not move Devitt to wait until his colleague’s trial was completed before handing down the sentences. Devitt knew that the press and public saw the three trials as one, as that of the *Minnesota 8*. So, something was afoot. Why was there no consolidation? Devitt apparently wanted to send a message to Neville. What was it? Why?

The press reported on the pre-trial motions ruled upon by both judges. Through his rejection of just about every motion, Devitt’s position became immediately clear; Neville’s didn’t. Neville obviously was observing the details of Devitt’s trials. He knew about the maximum sentence. In stark contrast to Devitt, Neville approved my motion to proceed using the Defense of Necessity. I would be able to make Opening and Closing Statements, forward arguments, and, most significantly, call witnesses.

I was astounded. Ken wasn’t as shocked. He knew that Neville was a liberal and thought he might give us some latitude. But he was wary of Neville. He wasn’t quite sure how far he’d allow us to proceed. He counseled that it could all be over with a bang of his gavel. I realized that I had to manage Neville, meaning, not piss him off. However, I was really too excited to worry. I knew of no other draft raid trial that had ever been granted this opportunity. I could hardly believe it. I didn’t care about what Neville was personally thinking. I was juiced. Ready and raring to go. It was my life on trial, and I was prepared.

### **Major players**

The cast of characters assembled. As befitting a trial there were the roles of attorney, defendant, witness, juror and judge. Here, the major players whose moral values and personal actions carry the story are: myself as defendant and attorney; Gordy Nielsen, Vietnam Veteran and witness, and the two judges, Edward Devitt and Philip Neville. Around us swirled differences about the illegality of the war and the Selective Service System, the spiritual character of the battlefield

and the draft board, and the role of personal conscience and obedience to a Higher Allegiance. The other witnesses and especially my co-defendant Mike' testimony rounded out and shored up the case I was pleading.

At the outset, I accepted that everyone involved was sincere. That everyone was seeking the truth. I didn't presume that the judges would be duplicitous. I had never been in a courtroom before, certainly not on trial. I grew up not questioning the honesty and integrity of prosecutors or judges. In fact, I was confident and felt I was on equal footing with everyone. I looked at the judges and knew that "except for the grace of God, there go I."

Here's an ironic twist: Socio-economically, religiously, educationally, even politically, the defendants and the judges in these trials were almost interchangeable. We shared comparable social profiles. The first favorable article in the newspaper, under Molly Ivins' byline, noted that we came from educated, professional and religious families. We were middle and upper middle class youths.

The final twist was that I was really the only one of the Eight who got to argue a defense. Ken defended Mike, and I defended me. In this light, I was the only one allowed to speak. It was my voice that became the voice of the others. I attended their trials, and it was my voice that carried the broader story of their nonviolent Resistance. I could call witnesses for them, cross-examine the prosecution's witnesses, and make a Closing Statement. If I succeeded, despite their having been convicted, we all succeeded. If I failed, we all failed. I hadn't asked for this role. I was acutely aware that I didn't represent the others in many ways. In fact, I was going *pro se* because Ken couldn't get his arms around my very Catholic argument. As I rose to make my Opening Statement to the jury, I was intensely aware of my singular responsibility: to be the voice of the *Minnesota 8*.

### **The Minnesota 8**

Monday, July 13, 1970, *Minneapolis Tribune*, "Accused of Sabotage. Family, Friends Call 8 in Draft Raids Idealists" by Molly Ivins. She described the eight.

**Charles Turchick**, 23, valedictorian of his class at St. Louis Park

High School, Phi Beta Kappa and magna cum laude graduate of the University of Minnesota with a major in philosophy. Turchick had won a scholarship and was enrolled in the university's law school for next fall.

After he graduated from the university in 1968, Turchick joined VISTA (Volunteers in Service to America) for a year and worked in a Job Corps camp in Illinois and on housing problems in Milwaukee.

“He came back so disillusioned and discouraged and bitter, I guess from seeing how bad things could be in this country,” said his father David Turchick. “But he still wanted to help humanity. He enrolled in law school last fall but dropped out after a few weeks because he said the work was so simple he was bored. They took him back again for this fall anyway when he reapplied. Chuck is something special, an idealist. He's not like those kids who are messed up with drugs.”

Turchick is the 11<sup>th</sup> ranked table tennis player in the state, has won innumerable trophies in the sport and is also a fine classical pianist.

**Peter Simmons**, 19, would have been a junior at the University of Minnesota this fall, majoring in history and planning to go to law school. He is a graduate of Brooklyn Center High School, and is on the Brooklyn Center conservation commission. He has written conservation columns for the Sun newspapers and when he was still in high school he won a \$200 prize in an essay contest on conservation.

Simmons became politically active during the summer of 1968. He worked on community organizing projects during the summer of 1969 and turned in his draft card during the October Moratorium at Washington, D.C. He worked with the Minnesota Student Union, a student rights

organization, and has more recently been active in trying to get the principal of Brooklyn Center High School to dissociate himself from the local draft board.

“Pete was off the hook as far as the draft goes,” said his mother, Mrs. Mary Simmons. “He said it was ironic when his number turned out to be 355. There are just so many pressures in this country that force young men like Pete out of their normal, constructive activities.”

**Francis X. Kroncke**, 25, is the program director at the Newman Center, University of Minnesota. He was raised in New Jersey but his family moved to Hastings, Minn., and Kroncke went to St. John’s University in Collegeville, Minn. He spent a year as a seminarian and then went on to get a master’s degree in theology from the University of San Francisco. He has been teaching two summer courses in theology at the College of St. Catherine in St. Paul.

Kroncke, described as a wide reader, has talked to friends about the need to re-order the soul of America. He feels changes can be brought about in a number of ways and considers teaching one of them. “He is just basically a very moral person,” said one friend.

**Brad Beneke**, 21, comes from a rural area in southern Minnesota. He attended Concordia College in Moorhead for more than a year and played football there. He came to Minneapolis and has most recently been working with mentally disturbed teenagers as a psychiatric assistant at Glenwood Hills. The summer after he left school, Beneke worked at a Big Brother camp.

Beneke had gotten conscientious objector status from his draft board, but refused to do alternative service. “Brad wasn’t one to go to



demonstrations,” said a life-long friend. “He reads a lot and is tremendously concerned. He is not a pacifist but would choose nonviolent means wherever possible. He is very concerned about keeping the means of the movement for social change as humane as possible. He had worried about actions like the one he tried to take heightening the level of violence in this country.”

**Michael Therriault**, 23, is a graduate of South High School and majored in psychology at the University of Minnesota. Therriault had for a brief time attended Nazareth Hall, a seminary. He refused to pay the \$25 graduation fee when he left the university and so has never received his diploma. He has worked in the Twin Cities Draft Information Center, a draft counseling service and refused induction himself.

Therriault has said he feels strongly that the draft is unjust and that it discriminates particularly against poor people. He said he felt that the name of the group with which he was caught, the Minnesota Conspiracy to Save Lives, was literally a life-saving project. He says the draft takes lives and bodies and uses them for purposes decided by the government without the assent of the people.

Therriault had also done research that showed the draft fell particularly heavily on rural areas and small towns, taking a higher proportion of men from those areas, which was the reason for attacking outstate draft offices.

**Clifton Ulen**, 22, is a close friend of Therriault and lives with him at 1214 SE 14<sup>th</sup> St. Ulen, from Hibbing, Minn., was attending the University of Minnesota and is described as “an outstanding student.” He had dreamed of going to law school and becoming a “people’s lawyer.”

Ulen, too, felt strongly about the draft and hoped the action he planned to

take would “give lives back.” He is described by friends as a particularly reflective person, whose political responses are not “reactionary radical” but reasoned out carefully.

Ulen and Therriault had learned to play cribbage joking that if they were caught they’d have something to do in jail. The reported yesterday morning that their guards wouldn’t allow them to have a cribbage board.

**Don Olson**, 26, is a soft-spoken activist who has headed Students Against Selective Service since 1967. Olson comes from a working-class background, is a graduate of the University of Minnesota with an international relations major and did two years of graduate work in public administration. He was president of Zeta Psi fraternity.

Olson had at one time planned a career in diplomacy or the foreign service and twice won The Minneapolis Star’s World Affairs Contest. However, he has been a full-time radical for about three years now, working at the Draft Information Center, teaching at the Free University and participating in several radical projects. He is a draft resister and his opposition to the draft is a matter of conscience as well as politics. Olson is a pacifist.

**William Tilton**, 22, is a well-known figure on the University of Minnesota campus. He has been active in student government there since his freshman year, including sitting on the Inter-fraternity Council, the All-University Judiciary Council, on the Morrill Hall investigation committee and for a term as vice-president of the Student Association.

Tilton is credited with “cooling” a number of tense situations, most notably the confrontation between police and demonstrators on the Nicollet Mall after the main rally of last October’s Moratorium. On that occasion, Tilton paced among the demonstrators pleading, “Let’s work for

peace. Break it up. You're not doing any good for peace this way."

Tilton was one of the leaders of the student strike at the university after the Cambodian Invasion and emphasized throughout the strike that it was against the war, not the university. Tilton has been active in the New Mobilization to End the War and the Liberation Coalition, the group supporting those arrested during the Morrill Hall incident. He turned in his draft card last Nov. 13.

He is an articulate radical and although he has not been a member of the radical movement as long as some who were arrested with him, his opposition to the war in Southeast Asia is of long standing. Most people who know him comment on his qualities of leadership and charisma.<sup>2</sup>

For better or worse, the truths and values for which these others risked their lives were in my hands. The best I could do was simply tell their stories as I told mine.

### **Attorney and Defendant: Me**

During the fall of 1968, my former college roommate Jim Hunt brought his friend Fred Ojile to visit me in Chicago. I had just completed my Masters in Theology at the University of San Francisco, and begun my doctoral studies at the University of Chicago's Divinity School. I had no scholarship, so I worked as an instructor at Rosary College, a suburban all women's Catholic school. I had never met Fred. "What are you going to do. Teach *Sacramental Theology* to a group of nubile young things?" Sounded good to me. I was only twenty-four and all the nubile certainly looked luscious. But I didn't say that; couldn't. Fred's remark wasn't a tease; it was an indictment. He just got out on a bail bond from a Milwaukee jail. He was a member of the "Milwaukee 14," a group that broke into a Selective Service draft board, stole the 1-A files, and burned them inside the arm-lock ring formed with their bodies. They sang and prayed as the cops broke their chain, cuffed them and stuffed them into a paddy wagon.

"Jail?!" I couldn't have been more perplexed ... and frightened. "You burned files?!" Fred

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<sup>2</sup> Update biographical information on the Minnesota 8 is in Appendix xxx.

became scary. “What good comes from going to prison?” It came across a bit too wooden, like a title to one of my lectures. Fred slowly snarled, “You should do something.” Accent on the *do*. It wasn’t enough for him that I filed for Conscientious Objector status. Nor that I completed my Masters and was a scholarly “lay theologian.” Fred was a former seminarian, himself, so he could give a rat’s ass. I accommodated him by arranging for several speeches and class appearances. To be truthful, I thought he was more than a tad nuts.

### **The Catholic Worker movement**

Fred was part of the “Catholic Worker” movement. During the 1920s many American intellectuals and activists were avowed socialists, communists or anarchists. Dorothy Day was one, but she soon converted to Roman Catholicism. She carried her social justice causes wrapped in Catholic dogma, doctrine and rituals. I had never heard about her nor the Catholic Workers until Ammon Hennesey spoke at my college, St. John’s University in central Minnesota.

“Are you a communist?” some idiot freshman rose to ask this very odd but passionate man. He had spoken about Dorothy Day, quoted the Trappist monk, Thomas Merton, and cited a host of other Catholic activists, most of whom I didn’t know. He recounted the numerous public protests the Catholic Workers made over the years: 1950’s anti-nuclear “Ban the Bomb” marches, World War II anti-war resistance, decades of marches on behalf of the poor and the working-class, again, events absolutely foreign to my world. I remember his clown-like socks, multi-colored like a Christmas elf’s stockings, they sagged around his ankles. By the way, the idiot was me.

Ammon exploded when I asked the question. It was 1963, and, for me, there was no difference between a socialist or a communist. I definitely had no clue what he meant when he called himself an anarchist. But his passion more than unsettled me. I sheepishly followed him and his group to a post-speech party-slash-discussion at a prof’s house. I didn’t ask him anymore questions.

Fred and Ammon – and all that I studied about the Catholic Workers – bewildered me. They seemed to want to be unhappy. They not only lived poorly and ascetically – I had experienced that myself during three monastery years prior to college– but they seemed hell-bent on perpetually risking their lives and tempting jail. Didn’t they understand that “laying down your

life for another” was an inspirational phrase, not a directive! In my mind of minds, I knew that they had stepped over the “religious fanatic” line.

**Father and son: “a clear conscience”**

My life does have a certain pattern. I am Charles Otto Kroncke, Jr.’s son. Inscribed on his gravestone, “Thy Will Be Done.” He is a man I watched kneel every day in prayer. His counsel, "a clear conscience is a greater thing than physical pleasure." As my trial began – for the first time ever - my mother shared with me my father’s letters to her during World War II. This man I called Dad I still hear speaking. (Note, I was born on 6 August 1944.)

17 October 1944

I think you are right about Charles. He will have to be a little gentlemen. In fact I want all my sons to be gentlemen. I don't want them to be sissies but I don't want roughnecks either. It seems that some people think that being a roughneck is a mark of a real boy and I may have once myself, but no more. Although I have seen no violence I have seen some of the results of it, and now I know how much value should be put on the finer things of life. I sincerely mean it when I say that my own ambition, my one ambition is to have my children grow up as Christian ladies and gentlemen. People who glory in violence and war, in my humble opinion, are to be pitied because they are very abnormal. Please don't mind my getting philosophical on you, but that is the way my thoughts run. God grant that the day will soon come when I will be with all of you again and can enjoy these finer things.

7 October 1944

Since I too wish I were with you but to sit around regretting things is not going to help Charles or George. What I did, I did with best intentions a father and husband ever did. I prayed hard before I joined, for guidance. I’m not trying to justify myself, but you

know, Sweetheart, I did not leave to shirk my duties. I would willingly die this moment if by that action I could aid you and the children in any manner whatsoever.

11 November 1944

How are you and the children? I hope and pray all of you are well. Today is the 26th Anniversary of the end of the last war. I wonder when this one is going to be finished? I hope soon. War really throws everything out of joint. When one thinks of all the lives and time, material wasted in prosecuting a war, one wonders whether civilization has really progressed as far as some claim. One thing, however, it should teach us to appreciate is peace and do all in our power to prevent any more of this foolishness. I am in one of my reforming moods but when I think of all this time I could be with you and the children, and think of all the others in similar circumstances, I get mad. Of course, I know I volunteered but I feel that that is something I should have done. It is the whole idea of wars that makes me mad. Let us pray that this war will end these silly controversies. I hope that our children will never see another war. If they don't, our sacrifices will not have been in vain.

With all my love, I am  
Devotedly yours, Charles

### **Dad and the “Manhattan Project”**

After enlisting, shortly after Pearl Harbor, dad was made a Lieutenant, j. g. Since he was a chemist, he was assigned to a base in Oak Ridge, Tennessee. My mother was greatly relieved to have her husband stateside. She was pregnant with her fourth child, me. The eldest, my sister Martha, had just turned six. Not long after his arrival at Oak Ridge, however, my dad calls to tell mom that he is being shipped to the South Pacific. What happened?

In brief, dad learned that he was working on a weapon of mass destruction, namely, the Atom

Bomb. Oak Ridge was part of the *Manhattan Project*. As dedicated and patriotic a conservative Republican citizen as he was, and as morally responsible as he remained, dad could not in conscience, as a Roman Catholic, work on a weapon that negated every premise of the “Just War” theory. He never discussed this with me, and I only learned about it after his death through the personal letters my mother shared with me as I prepared for trial.

In fact, my father passionately debated with me as I formed my early views on nonviolence and filed for my Conscientious Objector status. Pacifism seemed to him to be a worthy ideal, but impractical. He couldn’t grasp how I could position myself over against the authority of the state, even though I cited the moral condemnation of “Total War” of Vatican Council II. Dad knew how much I was influenced by the visionary spirituality of a Jesuit priest, Pierre Teilhard de Chardin. My father would always remind me that Teilhard submitted to papal authority and did not seek to publish his works during his own life time. “How can you, Francis, not submit?”

### **Conscientious Objector**

Fortunately, I got drafted, Spring of 1968. I say *fortunately* because I could now act according to *my* conscience. My draft board stamped “Conscientious Objector” on my 1-A file. They approved my Alternative Service. For two years I would be staff at the Newman Center, a Catholic student spirituality center, on the University of Minnesota campus. After that, I could get back to my doctoral studies.

Fortunate, in a certain self-centered, selfish way. Being a “CO,” as my status was popularly called, gave me a certain cachet in “The Movement.” It anointed me as a bona fide war resister. In certain circles a CO was cool and hip. Fortunate, then, in that I had witnessed to my moral beliefs, spoke my piece, and the draft board said, *Go in peace...not Off to war!*

I eagerly started my Alternative Service because, as all draftees do, I wanted to “get it over with.” I threw myself into program management, preaching and teaching. Yet my mind was equally busy with deciding where to resume my doctoral studies; back to Chicago or again to California at the Graduate Theological Union in Berkeley? But I was soon to learn that the draft board actually believes it is saying *Go in peace* to all draftees as they send them “Off to war!” In a curious reversal, the board’s “Off to peace!” actually translated as *Go to war*. I didn’t

understand, then, that war is always waged simultaneously at home as it is abroad.

*The peacenik goes to war:* grasp and savor the irony of my situation. It marks the first critical turning point in my story. Up to this time I thought that being nonviolent was a way to side-step or avoid violence. I thought that I was putting myself in a place where violence couldn't reach me; could make no demands on me. War, now, was for other people; not me.

Sometimes I catch myself in a sardonic "Hmmm!" when looking back. I was twenty-four, full of the thrashing, intense, barely controlled fire of youth. My mind was voracious. My heart unprotected and reckless. My spirits soaring. "The times they are a changin'." "Make love, not war!" moved me as it did others swept along by the Youth Movement.

I was a properly attired peacenik: I sported a full beard and hung an Egyptian ankh around my neck. This was a symbol of peace and a relic-testament to my faux-Hippie years in San Francisco as a graduate student. See, I wasn't a hippie. Rather than "Tune in. Turn on. Drop out." (which meant, scope out the situation, that is, *War is a bummer!*, smoke dope, amp up the acid rock 'n roll, jump down Alice's hole and get it on with the White Rabbit!) I followed the social and political reformers of the time and chanted "Tune in. Turn on." but "Get out and change the world!" Honestly, I was an arm-chair intellectual, not an activist. I wasn't prepared to deal with a hot war; definitely not primed for the battlefield.

If I had taken a standard CO job for my Alternative Service, which usually entailed working as a hospital orderly, I might have been able to avoid the battlefield. While at first I thought the job at the Newman Center was a plum, it turned out to be a peculiar version of the poison apple. Though I was in my element as a teacher and preacher, unexpectedly, I soon became a highly sought after draft counselor. Other than for my own case, I knew very little about the legal intricacies of draft policies and procedures. I had never been counseled nor provided counseling.

My draft resistance was sourced in the peculiarities of my personal intellectual and spiritual search. In college I was not a member of any political group nor did I participate in any of the civil rights demonstrations of the times. My father was a life-long Republican and if anyone had



asked me during those years I would have called myself the same. Back then, the phrase “liberal Republican” was not an oxymoron. I had a sense of social justice, but one solidly rooted in the conservative tradition of Catholic theological doctrine. Humorously, the unintended consequence of having long hair, a beard and dangling a peace symbol was that I look like the radical I was not.

### **Draft Raids *not* my Catholic Story #1**

If I had taken a different CO job, this would be a memoir of a retired college theologian reminiscing about his ardent years of moral courage and resistance that ended as he fulfilled his military obligation through Alternative Service. It would be primarily a recounting of an intellectual journey wrapped in theological language. I would tell you of my very conservative East Coast Irish Catholic youth. I would tell amusing tales involving nuns dressed like penguins but equipped with the torture tools of the Inquisition’s Torquemada. The focus of my story would describe the impact of the reform council called Vatican Council II. More than likely, the book’s theme would be a tale of how youthful moral choices determine one's lifelong journey. But, that didn’t happen.

If my draft board had not granted my CO status, I fully believe I would have gone to trial for refusing induction: declining to “step across the line!” when called. My trial preparation would have included arguments similar to those I made before my draft board during my CO plea. The court would have allowed me to tell the story of my personal moral development toward Christian pacifism. The courts allowed draft resisters to personally testify until they were blue in the face. However, they wouldn’t allow a jury to hear from other witnesses nor consider any facts, theories or interpretations about anything related to the Vietnam War. But that trial didn’t happen, either.

I mention these two *ifs* because to justify each action – being a CO or refusing induction – required simply telling my Catholic story. I would reference the *Don’t think; obey!* character of my altar boy youth, the unnerving impact of *Vatican Council II* as it condemned Total War, the influence of the visionary Teilhard de Chardin, and describe how my anti-war moral resistance was solidly grounded in historic and traditional Roman Catholic moral values and arguments. My trial testimony would cite specifics of the Roman Catholic “Just War” tradition. I would

recount how I, myself, slowly but inexorably became a nonviolent “Catholic Worker.” How I found the Catholic Workers not to be as fanatical as I once thought, though I’d still contend that “Catholic Radicals” like Fred Ojile had some loose screws. Whether I had been a CO or Catholic Radical draft resister, my courtroom testimony would have been fully understood and argued in Catholic moral terms.

Here I confess in writing what few know. Although my anti-war claim for CO status and my other acts of draft resistance flowed from my early Catholic moral values and spiritual understanding ...they did *not* lead to my breaking the law through draft raids.

My draft raids were responses to the stories of returning Vietnam veterans. In particular, to the story of Gordy Nielsen, a young Marine.

**Witness: Gordy Nielsen, Vietnam veteran**

What I now know is that *other people* make you risk your life for them. Gordy Nielsen is one reason I risked my life. He brought the battlefield right into my office. If he had not knocked on my Newman Center office door, not sat in a corner chair, and not brought the battlefield to me, I would never have raided draft boards.

I don’t know how long he attended Mass and heard me preach before he decided to contact me. After my inaugural sermon I was continually swamped, somewhat rudely overrun, by post-Mass visits from young men who expected me to give them authoritative guidance about whether they should resist the war or not. These visits included a small percentage of returned veterans, mostly grunts: those who had been in actual battle. I barely recall talking to a veteran officer. Foremost among these grunts was Gordy.

“If the peacenik won’t go to war, the war will come to the peacenik.” Gordy didn’t say that; just made it happen.

*Gordy's visit:* He lied about his age, at 16, to get into the Marines to fight the Communists. He was a hero. A small town Minnesota battlefield decorated genuine American hero. In Vietnam he was a Section Leader and Forward Observer, India Company -- the "Igniting Eye" -- Third

Battalion, Fifth Marines. The gist of his story:

We burned as many homes as we had matches for. You were a better Marine if you did more fantastic things, if you could burn more hootches ... The meaner you could be, the more gooks you could kill was the whole idea.

Then, he told me that he woke up at night with battlefield flashbacks and attacked his wife. You can imagine how flabbergasted I was. I had read many of the great and lesser psychologists and psychoanalysts, however, I knew nothing about clinical practice or the pragmatic schools. So what Gordy told me absolutely floored me. Neither of us had heard about post-traumatic stress syndrome. What happened in these sessions was that Gordy influenced and transformed me more than I did him.

Gordy then said, as he did later as a witness at my trial, that during one flashback, while he was setting fire to a Vietnam village, he had a battlefield conversion.

In dealing with myself, coming back and thinking I was right. And thinking that the things I had done were right because it was what I had been taught in boot camp, and then viewing it from the other side, instead of a gook, it was a human being. Instead of a hootch, it was a home. That really socked it to my head. It really blew my mind. Because I have never thought of a hootch being a home, it was an old grass hootch. And they were peasants, they weren't people.

What staggered me was not the concept, because I already believed that all people were children of God. What knocked me off my chair was the emotional intensity of what he was saying. If I would ever claim to have had a prophetic revelation laid at my feet, this was it. The thunderbolt simplicity of what Gordy said changed me forever. It made me surrender the complexities of theological abstractions and high-falutin' academic verbiage and yield to the passion of my heart.

After listening to Gordy, what more facts or truths would I have to ponder before I formed my conscience of Resistance? I mean, another human being comes into your personal space and says, *Hey, I went through this experience called Boot Camp. See, I didn't know it at the time, but it was a religious experience. Everyday the DIs chant and we chant with them. "Kill!" I went in a kid and came out a killer. I mean, Man, I put on that uniform and there's nothing I can't do. Least not nothing in the Nam. Dig it, Man, I'm gonna burn down your house. I'm gonna kill your kids. I'm gonna rape your wife. I'm gonna blow you apart, Man!* ... I sat there almost shit-in-my-pants freaked out: This kid's a walking time bomb!

Should I pretend that Gordy didn't scare me? That the other stressed-out veterans I began to meet didn't make me lock the bathroom door behind me when they were around? I liked these guys; admired many. But they weren't totally in control. *Admit it, Man, you were spooked!* Can you grasp what it was like to sit behind my safe Newman Center desk, in a room lined with books and books about books, and have someone, anyone, come in and tell you that on another day he had gotten up in the morning, said his prayers, got with his squad and spent the day burning down people's homes, destroying food caches, and even killing people? He then went back, ate chow, smoked dope, knelt by his cot and went to sleep.

Gordy's visit wasn't a public relations nor an information sharing junket. He was in serious trouble. His night-time flashbacks were family horror shows. He wanted something from me; that's why he came. He didn't just want to understand what happened or why. He wanted something to stop happening: he wanted the war to end. He wanted peace of mind and soul. And, he was asking me how I was going to help him.

### **"Burn this!"**

There I was: *Beaver 55* draft board raid, January 1970. While others spray-painted anti-war slogans on the wall, I conducted my ritual of peace. All my life I had prepared for this priestly moment. Now, I held up a 1-A file, prayed over it, asked the Almighty to transform the young man whose soul was manifest through these pieces of paper into a peacemaker. I can only confess to you -- I cannot explain -- that the room steadily filled up with blood; the walls screamed, screeched with the wails of the wounded, the maimed, the raped and the dying. As happened later when I read my father's letter to the jurors, I knew, simply knew, that it was I who

shed this blood. I who maimed, raped and murdered. For I was a soldier's son. I was a killing machine. In my soul a *milites Christi*, "soldier of Christ." More, that the killing would only stop, if it stopped with me. If I became a peacemaker.

I rifled through State Director Colonel Knight's desk. I slipped out of time and into another dimension. *I am standing next to Gordy as he reaches with his lighter to set fire to the thatched roof of a peasant's hootch. I hold up a blank draft card and say, "Burn this instead."*  
*It is done. I am Gordy; he is me. We are enfolded in a peace that surpasses understanding.*

I continued to stay there on the battlefield; reeling from the stench of burning hootches, dead animals and the unburied. My head was a pounding throb as gunfire and rockets roared and screeched. I was blinded by a fear so bone rattling that I saw only the Enemy: they were not children, not mothers and fathers, not kin: each and all, Enemy. I clutched my rifle ... Gordy shook me, roughly waked me: intoning "...not a gook...not a hootch." His guiding light, a flaming draft card, one then another.

I drew back the lid on Colonel Knight's secret cache: hundreds of blank draft cards and official rubber stamps. Gordy pressed a heap into my hands. "Peace!" They fluttered and flitted about – butterflies of peace. In the deafness of this calm I heard a celebratory voice, "This is my son in whom I am well pleased."

### **Vietnam Veterans Against the War - VVAW**

*Other people.* Gordy was representative of the profound influence returning veterans had on draft resisters and student protesters. Gordy's impact on me was replicated every day all across the country. Here I want to make a point that has been seriously misunderstood. That is, that the growth and intensity of draft resistance and student protest was *directly* related to the swell in the number of returning veterans. Organized in 1967, *Vietnam Veterans Against the War* was the group that actually ended the war. When people talk about peace people spitting on returning vets, it makes *me* mad enough to spit. For reality was exactly the opposite.

Consider this: you're between 18 and 25, just out of high school or your first menial job, you get drafted. In Nam almost every grunt has long hair, sports facial stubble, smokes dope, listens to

raucous rock 'n roll, tokes more dope, and chases every scent of female thing he can find. In time the unit you go in-country with is as fuming mad at the officers as at the Vietcong. Threats smolder and there are whispers about “fragging”. You hear black soldiers bitterly rant about how the Nam is like the ghetto. How it’s yellow people here, and black folk back home. *Just people of color getting fucked-over, everywhere.* One day, you make it through, and you come home; but you know it ain’t *you* that’s come home.

Like Gordy you go back to your neighborhood or small town. You look up and date your old high school sweetheart. Possibly you marry her. You seek out others who have been to war. You go to the local VFW or American Legion hall. There you watch old fat bellies get soused at the bar. They turn on you; start lecturing. You cringe when you hear Nam ridiculed as “not a real war.” You learn a bit of history. “Just like Korea. A goddam police action!” If you haven’t cut your hair, they mock, “Hippie!” Though the beer is free, the music is lousy. So where do you go?

Where to find other 18 to 25-year-olds, long hairs, dope smokers grooving on rock 'n roll? Who believe in free sex and strut with a definite anti-authoritarian attitude? Your local college campus, that's where. It’s also where the chapters of the *Vietnam Veterans Against the War* have their strongest influence. They’ve been bringing the battlefield into the classroom, onto the campus, and into the communes. You hang out; you join.

After Gordy’s knock on my door, it seemed like Vietnam veterans were coming out of the walls. Late at night in the communes, after long bouts of drinking and smoking, guys would simply pop up and start telling their stories. Few were eloquent; too many near-raving. Each story was heart rendering. I admit, I saw body parts. I heard stories which only my time in prison caused me at a later time to doubt. As with Gordy, more than one guy stared at me and said, “What are you going to do?” An echo of Fred Ojile’s *do*. I knew what he meant. It was the old unintended consequence again. My verbal ability, my passion, my intensity, all got me in trouble. For these vets called me out, “What are you going to do, Kroncke?”

Like Gordy, these veterans wanted justice, peace and healing. They wanted me to act, to do my “spiritual thing,” *Fuck, Man, get these demons out of my motherfucking head!*

### **Return of the exiles**

When I met with the draft resistance community in Toronto to give them the blank cards and stamps that I stole, I realized that I was carrying a box of holy documents. I had in my hands the most powerful instruments a human could possess. To others on the subway, it looked like a commonplace container: just a guy carrying a shoe box. Or, a box of index cards, family photos; possibly it contained a birthday toy for a kid, but it didn't. I carried human lives in this box. Yet unlike the military's body bag, when I opened it, a human soul rose, newborn. *Free! Joy! Peace! Love!* echoed instead of dying gasps and wails. These blank draft cards unleashed a Resurrection moment. They brought lives back from the dead. They enabled exiled war resisters to come home. They enabled *me* to be re-born.

As I prepared for trial, I was certain that no jury would understand the breadth and depth of my draft raid spiritual rapture. I might get them to understand if I talked Catholic but toned down my Catholic Radicalism. Assuredly, if I spoke about "Burn this!" and blood on the floor, the hot spit of an angry God of War, about Gordy and me in the presence of the God of Peace, they might rightly suggest to the judge that I be sent to a psychiatric prison. Even now, almost forty years later, I struggle to describe this experience.

### **Two Judges**

In Minnesota, a fair amount of judges and politicians are St. John's University, Collegeville, Minnesota graduates. St. John's was and remains the largest Benedictine abbey in the world. It had a significant influence on the liturgical reforms established by Vatican Council II. I was acutely aware of the gradual unfolding of my own moral development, so I realized that few in America or the Church considered themselves, as I did, a "radical." To capture the values and worldview of the judges, I cite their verbatim transcription at length. While I include how I felt about them back then, how I presently interpret and evaluate their judicial philosophy and action is contained in the *Afterword*.

Judge Edward Devitt was the first judge I ever observed. I knew just a bit about our shared Catholic background, that is, we both attended St. John's University, run by Benedictine monks. I would be less than forthcoming to not confess that I initially had high expectations. Since he

was Catholic and had advanced to a federal judgeship, I had expected him to be a lot like my dad, and so a man who sought wisdom. Catholic higher education was strongly focused on the development of one's moral character. If any judge would be open to the gravity and subtleties of our arguments, it would be Devitt. I was stone-cold wrong.

Though Devitt wasn't my judge, he was my alter ego. Every decision he made about morality – every one – I fully understood why. I saw myself in him. It was painful to observe because I once thought as he did. Nevertheless, I was flabbergasted. More, angered. *He knows better*, I said to myself, *of all people, he knows better*. Or, at least he should have. At my more tolerant moments, I realized that he was one of those smart kids who just isn't "deep." He was driven by something – he ruled the court with an iron hand – but he seemingly had not a shred of critical insight about himself.

James Edward Devitt was born on May 5, 1911 in St. Paul. My dad in 1909. His father died when he was ten, and this might have been the reason he was sent to the Benedictine Preparatory high school at St. John's. It was an all-boys school, and it operated like a seminary. It was quite insular, even during my years. St. John's is situated in the central Minnesota woods, some ten miles from the nearest town. It is described as "Behind the Pine Curtain" because it is remotely nestled in a sprawling pine forest. After graduation, Devitt earned his Law Degree from the University of North Dakota in 1935. From 1942 to 1945, he served as a Navy lieutenant commander, and received a Purple Heart. He was described as looking like a federal judge right out of Hollywood central casting.

Devitt was at St. John's in the 1920's, and I knew fairly well the sectarian worldview he was taught. For me, having attended St. John's while it was still an all-men's college and run like a seminary, this experience explained Devitt's moral orientation. He was a product of a rigorously disciplined Germanic strain of monastic Catholicism. When I there in the 1960's, St. John's was only then breaking away, in tiny theological fragments, from its authoritarian medieval Thomistic faith.

Of note, the monks contributed to Vatican Council II's liturgical reforms, not to doctrinal



reforms. In brief, at St. John's, conservative politics and dogmatic, self-righteous Catholicism were wedded. Even during my time, all students were required to study moral theology and take an anti-communism class. I also participated in the mandatory ROTC class.

This notwithstanding that such notably liberal people as Senator Eugene McCarthy were educated within these Benedictine halls. McCarthy and Devitt exemplify the argument over the impact of Nature vs. Nurture. Like Devitt, McCarthy attended St. John's Prep, and graduated from the University. In 1948, he ran against and beat the incumbent Devitt to represent Minnesota's Fourth Congressional District. In 1968 McCarthy unsuccessfully sought the Democratic nomination for president. His anti-war Vietnam attitude and bold stance as peace candidate caught national and international attention. For many, supporting McCarthy was the last justifiable effort made to reform the Democratic party and create a political peace platform. A call went out for hippies and radicals to cut their hair, shave their beards and mustaches, then go door-to-door "Clean for Gene."

Philip Neville was born on November 5, 1909 in Minneapolis. He was touted as a good golf player, a casual person easy to get along with, a congenial and conscientious judge, and someone who styled himself well read. In 1933, Neville received his Law Degree from the University of Minnesota.

Both men became Instructors in Law. Neville's field was Business law. However, their careers deviate a bit here. Devitt became Assistant Attorney General for Minnesota from 1939 to 1942. Before that, "at 24, he became municipal judge of East Grand Forks, the youngest man to hold that elective position." Neville meanwhile formed his own private firm *Neville, Johnson and Thompson* in Minneapolis. Devitt advances in Republican politics by being elected to the 80th Congress for the 4th District of Minnesota, and then becoming Probate Judge for Ramsey County from 1950 to 1954, topping it all off with an Eisenhower-Nixon crowning in 1954 as United States District Judge. Neville was appointed United States District attorney in 1952. He then received his life-time appointment to the Courts in 1967 under LBJ, with his friend Hubert Horatio Humphrey's kind intervention.

Both men published a book. Neville's was *Syllabus in Business Law*, and Devitt's a handbook on *Federal Jury Practice and Instruction*. Socially, their activities mimic a write-up in *Who's Who*. Devitt was known to be an aloof, consistently conservative person. His temperament caused his morality and politics to be clearly visible. He had the strict conservative make-up that saw the world in "black and white." There were no grays in between. To him we were "misguided men" who must be punished severely. "How could," he asked, "it be otherwise in an organized society?"

Neville presented himself as the quintessential open-minded judge. After the trial, in his chambers, he said, "Frank, I gave you your forum." I was really pissed. I retorted, "I didn't want a forum. I wanted justice." Did he think I was stupid? He tossed a few compliments my way, then proceeded to violate me in a way Devitt couldn't. I was disappointed with Devitt. I felt betrayed by Neville. I mean, what would you say if you came for a trial (a just decision) and were told to be happy with a forum (an exchange of ideas)? Bitterly, Neville tortured my soul, day after day, by leading me on, promising me that he was hearing me, letting me present to the jury right through my Closing Statement. It was difficult not to feel that he knew what was coming. Neville was as cleverly in control of everything in his courtroom as was Devitt. Possibly, more so.

Ken Tilsen shared my anger but he tried to console me by saying that Neville was known for allowing defendants to explore defense strategies that other judges, such as Devitt, would never consider even for a moment. I saw Neville as a cruel bastard, whereas he thought his actions reflected an admirable liberal trait.

It has been my policy, whether it is right or wrong, when somebody wishes to present a theory or advance a claim or set forth a reason that I generally, if I can accommodate them, let them do so on the theory that I am not the last word and that there are those above me and that if I were to cut them off without any chance to be heard on what they claim is a defense, then maybe I am not being fair to them and so forth.

Architecturally, Devitt's court drained my psychic energy. He had a modernized court, with high white ceilings lighted by banks of huge brilliant florescent tubes. Their high intensity glare ricocheted off a glossy, polished wood paneling that wrapped the room. The result burned into your eyes. As if on an high throne, Devitt sat, literally, above and on top of all of us. I think it elevated him about ten feet in the air. Even for men over six-foot-three, like me, when you walked up to Devitt's bench you had to crane your neck just to look at him. Further, there was hardly anything to draw attention away from him, except a flag and a photograph of the president, behind and to his side. Everything focused on him: The Honorable One. Yet, in Devitt's courtroom, the ultimate discomfort was the difficulty in hearing the lawyers and the judge. No one used microphones. The lawyers had their backs to the spectators. So *everyone* had to be sitting still, in near absolute silence. Even then you strained your ears to hear.

Every day Ken submitted a motion before the actual court day began protesting the courtroom atmosphere and the hostility of the Federal Marshals. Devitt, who was nothing if not shrewd and a master of his craft, always had a couple of tricks up his judicial sleeve. For example, he cordoned off the entire building with a bevy of armed troops. This gave us a bad public image and scared many people from attending the trial. As cleverly, he kept four "Reserved" rows open for attorneys. These rows were never filled. Rarely did attorneys come in such numbers to witness a trial not their own. Idling hours as spectators in court was not billable time. In this way, Devitt frustrated many, specifically older, supporters who couldn't tolerate standing outside in the wintry cold rain when they had scant chance of getting inside. This move also misled the jurors into thinking that our actions were not well supported. In line with my observations, one reporter remarked that Devitt's courtroom "mood resembled a Puritan church, with Marshals facing the audience to detect the slightest guffaw." (*Minneapolis Tribune*, November 8, 1970, "Atmosphere differs at two trials" by Bob Lundegaard.)

When our supporters sought entrance to the courthouse,

Federal marshals refused to let them into the tightly guarded building – even to warm up in the lobby – on grounds of security.

Tilton's mother was among those forced to wait outside the building until the courtroom was opened at 1:45 p.m. Then she and about 15 others were allowed in. The other 90 courtroom seats were reserved for prospective jurors. The marshals said that only people with official business could enter the building, although persons not associated with the march were allowed to wait in the lobby – for instance, a group of clean shaven law students who wanted to observe the trial. At one point, a marshal told a bearded protestor, “Move out of the way so the people can get in.” “I’m people,” retorted the protestor. “Not today you’re not,” the marshal said. Then he pulled the door shut. Later the marshal recounted the conversation to another marshal.” (“Trial of Minnesota 8 Begins, Bob Lundegaard, *Minneapolis Tribune*, November 3, 1970)

Devitt's signature phrase was succinctly stated during his sentencing speech: “Those who act out of an allegiance to a Higher Law than the Law of the Land are making Jungle Law.” Pause a moment and unpack this simple sentence. Devitt was a Catholic so, it was fair to assume, he, himself, pledged allegiance to a Higher Law than the Law of the Land. If he meant that the law of the land was not derived from a higher law, then would he have judged the American Revolutionaries as criminals? I could see him coming to this – in my mind, ignorant and fallacious set of conclusions – given his interpretation of Catholic moral theology, even American history. What I couldn't accept, nor understand, was why he so adamantly refused to consider our arguments? What was he afraid would happen? Did he think himself an intellectual inferior, and so feared being defeated by the inspired tongues of these rabble rousing “misguided men”? I didn't think so. But that he feared us, was, to me, evident. Why, was not. Not back then, at least.

Neville's ultimate actions reflected a kindred spirit. The judges agreed in substance; diverged as to style. In his Instructions to the Jury Neville stated,

Lastly, I want to talk with you about ... the Vietnam War and the

Selective Service System. In that connection I advise you that you have a *very limited responsibility in this case*. It is solely to make a determination under these standards of Law which I have stated to you as to whether these defendants are guilty or not guilty. And *that is all*. You have no philosophical, or religious, or theological responsibility at all! ...Well, *I advise you that you have no such responsibility. If the Vietnam war is wrong. If the Selective Service is unfair, and if other things are wrong in this country, the remedy lies in the Halls of Congress or in the Executive Branch of the Government. In our tripartite system of government it is the responsibility of Congress to enact the laws, even bad laws if they have a mind to and some of them may be very bad or very good. It is the responsibility of the Executive Department to enforce those laws and our responsibility, the Judicial Branch of the Government to interpret them and to apply them to particular fact situations, as we are doing here today.* (Emphases added.)

Finally,

Religious doctrine or belief of a person cannot be recognized or accepted as an excuse or justification for his committing an act which is a criminal offense against the law of the land. ...Further, it is the law that no one has the right to determine on a personal basis which laws will be obeyed and which will not, because of alleged evils.

When I challenged his actions, Neville revealed his core beliefs:

“Well, Mr. Kroncke I guess that I don't have to defend myself but I took an oath to enforce the law when I was made a judge.”

“And I was baptized before God to live a free life!”

“I can't ... maybe it would have been better to have ruled right away and had none of the evidence.”

“It might have been.”

“But I didn't think that was fair to you and I didn't think that was right, and *if* the purpose in your mind is to *focus attention* on the evils, we have been here eight days doing it, or six days, and maybe there is some advantage to that, but the law as I see it is what I read, and I'm sorry but that's the way ....”

I replied,

This is a difficult for me to say because, in a sense, I realize that I am naming you, in my understanding, as an immoral and evil person to people. But somewhere the problems of society go on, and somewhere people have responsibility, and you are the type of man who has had many people come before you with problems, especially with reference to the War, and you have, seemingly consistently -- as have all the judges in this District Court -- handled them in the same way, saying: “Well, the responsibility lies somewhere *up there*” ... with some unknown God called the State.

Neville and Devitt in a nutshell:

I don't need to argue whether this is an act of violence or not, but it is an act of *destruction of property*. If everyone in this country who didn't like the law took it unto himself to say, 'I don't like the law, automobiles are killing too many people in this country, and

therefore, I am going to break-in and destroy the plans for next years automobile - and they kill more people than the Vietnam war has killed every year, pretty near - if you take the law into your own hands because you don't like the result that you see, then we have no government and no laws at all. We just then have anarchy and the Court cannot countenance the proposition, despite the sincerity and the eloquence of your arguments, that because you are motivated by religious principles, or otherwise to do what you consider to be a moral duty, that you therefore have the right to say, "The law doesn't count. I believe it is wrong and therefore, I am going to do my best to impede it." That is just so contrary to our System, that it has consequences far reaching. (Neville)

The criminal acts for which the defendants have been found guilty were not just impulsive, minor transgressions, expressive of youthful nonconformity, but rather were part of a planned and organized, illegal effort by violence to cripple the operation of the United States Government in carrying out its Constitutional duty to provide for the national defense. Ripping off a draft office, as it was characterized by one of the defendants, is not a prank but a crime and a serious one. Criminal acts must be treated as such. These defendants would discuss their conduct on the basis of a sincerely held desire to show opposition to the Selective Service Law and to the Vietnam War. But the law is, and common sense dictates, that good motive, regardless of how deeply felt, does not justify or excuse the commission of a crime. If it did each of us would be exempt from responsibility for violating laws with which we do not agree.

A basic obligation of American citizenship is *to obey all laws*, those with which we agree and those with which we disagree. *How could*

*it be otherwise in an organized society?* While these defendants are not criminals, in the sense that robbers for instance are, whose crime is that they take money or property from others, they are criminals in an equally, if not more serious sense, because their criminal conduct strikes not just at the pocketbook of others but at the very foundation of government and therefore at the security and well being of all.

To condone their conduct or to dismiss it with a slap on the wrist would be to invite continued lawlessness and to approve violence as an agent for change. Change may well be needed in America but charge without order results only in chaos. Those who act out of allegiance to a higher law than the law of the land are making jungle law.

Freedom cannot exist in a society which permits violence. These *misguided* men are wrongly manifesting their opposition to the present state of affairs through recourse not to the law but to rebellion against the law and that is wrong, that is a crime sanctionable, as are all crimes, by conviction and punishment.  
(Devitt)

In sum, the judges

1. did not see America as in “extreme circumstances.” Neville did imply that certain evils existed (“if the purpose in your mind is to focus attention on the evils...”), but he did not feel compelled to allow the jury to hear about these evils. His action affirmed that he, like Devitt, was highly alarmed by our immoral action – burgling – and not by any alleged immoral action of the government, such as an undeclared and morally unjustifiable war.



2. did not accept that I and the others acted in a “measured way for reason of conscience.” Devitt simply told the “misguided men” to *Shut up!* Neville permitted me to use his courtroom to hold a “forum” and bring witnesses who added facts and compelling testimony about the War and related moral issues, but he was more disturbed by my “destruction of property.” He was adamant in stating that he had no truck with my claim that I had “philosophical, or religious, or theological responsibility.” He said to the jurors, “I advise you that you have no such responsibility.”
  
3. did not accept that I was effecting a “religious truth.” Neville said, “Religious doctrine or belief of a person cannot be recognized or accepted as an excuse or justification for committing an act which is a criminal offense against the law of the land.” In fact, neither judge accepted me as primarily a religious or spiritual agent. Rather, at my core, I was a violent person. I was, in Devitt’s words, a criminal “in an equally, if not more serious sense, because (my) criminal conduct strikes ... at the very foundation of government and therefore at the security and well being of all.” He assessed that, “To condone (my) conduct ... would be to invite lawlessness and to approve violence as an agent for change.” My ritual was not one of peace. Rather it was one of lawlessness and violence. I was not making peace. Rather I was making jungle law. When I heard the word “jungle,” I saw myself as a corrupter of civilization; of white male, Western, American and Christian civilization. In brief, to these men, I was a barbarian.
  
4. did not agree with my claim that resistance was patriotic as well as moral. Here was a difference that became clearer during the following decades. At the time I was appealing less to specific American acts of resistance, such as the American Revolution, itself, as I was to the simple truth that legality is derived from morality, not vice versa. I was staggered at the time to hear these statements:
  - “...no one has the right to determine on a personal basis which laws will be obeyed and which will not, because of alleged evils.”

- “A basic obligation of American citizenship is to obey all laws, those with which we agree and those with which we disagree. How could it be otherwise in an organized society.”

Could the first quote have been spoken by a German judge who claimed that the “alleged evils” of the concentration camps were insufficient justification for resistance to *der Fuhrer*?

Could the second be spoken to Native Americans, Afro-American slaves, abolitionists, feminist right-to-vote suffragettes and others for whom a law of the state or the church violated their basic human rights?

5. did not accept it as their duty to discern the “immoral acts of government.” As they directed the jurors – who, ideally, bring common-sense to the situation – to ignore all mention of the Vietnam war and other related issues, so did they, as did the appellate justices, decide not to decide. “*We need not decide here* in what extreme circumstance, if any, governmental acts may be legally resisted.” (Emphasis added.)

Every media report addressed the fact that the core argument of our trial and draft raid concerned the morality and legality of the Vietnam war. If the judges believed in “organized society,” and if, as Neville stated, the judicial branch’s role was “to interpret (laws) and to apply them to particular fact situations” why did they choose not to perform their duty? In the American tripartite balance-of-powers model of government, if I could not expect judgment and justice from individuals called Judges and Justices where else could or should I go? If they are not American society’s embodiment of wisdom, who is?

Actually, their shirking of their judicial duties confirmed what every Resister knew. Namely, that the power to change society, to remedy and right evils, to deliver human justice for human rights violations rests in the hands of “We, the People.” It is the People who responded to Jefferson’s call, “Rebellion to tyrants is obedience to God.”

Though Neville and Devitt ultimately conducted the same trial, where no testimony about the War or the Selective Service System was heard, the subtleties in their philosophical and political views required three trials. While I spoke often with Judge Neville, including once after prison, it never occurred to me, back then, to discuss this issue of his relationship with Devitt. Despite the slight differences in personality and professional style, by their actions they proved to be tribal brothers of the Black Robe.

### **The Twelve Jurors**

As Devitt's trials concluded, I wondered about the role of the jury. I had read a fair amount of American history, but realized that I knew precious little about the jury system. It made me highly curious to go back and find out how courts actually dealt with "extreme circumstances" and acts of conscientious citizens. After all, Americans had outlawed slavery. They had, in time, made voting a universal right. Bad laws had been resisted and corrected. True, I knew about Quaker nonviolent resistance throughout American history, notably, the Colonial witness against slavery of John Woolman up to the ongoing work of the Quaker inspired "American Friends Service Committee." This latter group was awarded the Nobel Peace Prize for its work with settling refugee Jews after World War II. People of conscience had suffered imprisonment, I knew that. But I didn't have the time, then, for further historical study. I was about to face my own "jury of peers."

A "jury of one's peers" is commonly cited as a basic citizen's right. Ken gave me a quick lesson in the fact that the Constitution does not use the word "peer." The Sixth Amendment entitled me to a "speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed." The best I could hope for was "impartial." But this was the age of the Youth Movement. "Don't trust anyone under 30," was a popular slogan. Could anyone not part of the Youth Movement possibly understand why we raided draft boards? Be even remotely impartial to "student protestors," "anti-war radicals," "Catholic Radicals," or anyone who looked like a "Hippie"?

*Voir dire* is the process of asking critical questions to a potential juror to determine whether he or

she should sit in judgment. It is always a tricky process, more art than science. In the end, here was my jury:

Harold L. Hill, mechanic and truck driver, married, veteran, son joining army.

Gladys Jaenson, telephone order board at *Daytons*, married, son 1-A.

John Delsing, book binder, retired veteran, sons in marines.

Ronald Bisson, claims representative insurance co., married, Vietnam veteran.

Irene C. Sathre, school bus driver, 11 children, 3 boys in service.

Jean M. Vrness, a braser, married, young sons.

Mrs. Dorothy Rush, Shaklee products supervisor, married, two navy veterans.

Cyrus A. Anderson, married, installs doors for Overhead Door Company, son a veteran.

Anna Gertner, married, farmer, three veterans.

Edward V. Oswald, assembler for *Ford Motor Co.*, married, foster children for 14 years, a veteran.

Mary L. Decker, housewife and part time worker for *Weight Watchers*, husband was an ex-marine.

### **Alternates**

Miss Mary E. Nelson, retired accountant.

Mr. Lyndon Rubel, farmer, married.

Mr. Dale A. Klemenhagen, mechanical engineer, veteran.

Mr. Claude T. McClure, vice president of materials of *Onin* division of *Studebaker Corp.*, married, son in service.

My concern about impartiality was underscored when a mistrial was declared in Devitt's second trial. During a lunch break, several of our mothers overheard a few jurors speaking. Ken read from the luncheon notes which contained such comments as,

“It's a waste of taxpayers' money,” and,

“The government is going to prove why they were there.”

One juror allegedly said,

“They could be putting their time to good use, like a lot of teenagers do today. They sit there smiling and smirking. If I were them, I would be crying. I would be ashamed.”

A trial reporter noted, that although

each gave a differing account of their lunchtime conversation, finally one of them, “Mrs. Jean Buckingham, substantially confirmed that there had been talk ‘along that line,’ that is, with derogatory references to the defendants.” (Bob Lundegaard, “Mistrial is Ruled in Draft Case” *Minneapolis Tribune* Thursday, November 19, 1970)

In a way this was funny and pathetic. At one point the comedy was almost rib-cracking. One juror, Julia Prozinski, kept saying how much Ken “looked like her doctor,” and this led her into an unending discussion of her “sciatica.”

During her testimony, the normally silent courtroom -- at least a half dozen federal Marshals are dispersed through it -- began to titter. Judge Devitt's bailiff rapped his gavel for silence, but when the judge himself began grinning broadly, the gavel-rapping stopped. (Lundegaard, *ibid.*)

{ Chapter 3 Quotes }

The character of the (Draft) records are no more 'irrelevant' to this matter than the character of the records would be if these were records perhaps of Jews being selected out for burning in the ovens of Dachau. (Ken Tilsen, Opening Statement)

Now what's Mr. Kroncke's argument? He says, I... did as you charge but I committed no crime. I administered a sacrament. ... Seven sacraments are not enough! To Baptism and Confirmation and the Eucharist and Penance and Holy Orders and Matrimony and Extreme Unction we add the EIGHTH SACRAMENT of the Roman Catholic Church -- *ripping off draft boards!*  
(Thorwald Anderson, District Attorney, prosecutor)

“In the depths of his conscience, man detects a law which he does not impose upon himself, but which holds him to obedience.” And, “For man has in his heart a law written by God. To obey it is the very dignity of man; according to it he will be judged.” (*Documents of Vatican Council II*)

It is our clear duty, then, to *strain every muscle* as we work for the time when all war can be completely outlawed by international consent. This goal undoubtedly requires the establishment of some *universal public authority* acknowledged as such by all, endowed with effective power to safeguard, on behalf of all, security, regard for justice, and respect for rights. (*Documents of Vatican Council II*. My emphases.)

### Chapter 3: Preparing for trial

Each side prepared for trial. I drew up a slew of questions, that I thought would be reasonably asked by a juror if he or she could interrogate me. Among them: Why did I do it? How did I become a raider? How important was Catholicism, all said and done? Why do I think the war is illegal? Why is it immoral? What did your family think? Who influenced you? To myself: How are you going to move even just one juror to understand that it wasn't a burglary, but a peace ritual?

Quite humorously, I faced my own "Fred Ojile paradox." I had to explain who I was when I was, myself, aghast at Fred's breaking the law, and how I was now one of his moral breed. The jurors were old enough to have faced a life crisis or two. Many stated that they were war veterans. However, I personally believed that I *could not* move them to imagine themselves as law breakers, because I knew that I wouldn't have raided if I hadn't met Gordy.

While Gordy was on the witness list, I couldn't be certain that he'd be able to conjure up the horrors of his battlefield conversion. I was always profoundly moved when Gordy related the simple yet shattering insight that he was burning his own home and killing his own family as he torched the hootch and killed the gooks. Others might not be. Plus, Ken warned me that Neville might reject any witness, or stop my line of questioning or cut short a testimony that became too impassioned.

I, personally, faced a harsh moral dilemma. I wasn't a dishonest guy, yet could I completely tell judge and jury about my draft board spiritual rapture? Mike was there with me, he's Catholic, and I knew he tolerated my theological flights of fancy, but, upon cross-examination, he'd probably say, "Well, sir, that's just Frank." But somehow I had to find a way. Otherwise, it did sound like just a simple burglary. Of some "misguided men" who were just using the wrong moral map. If for no other reason than my own sanity, I had to talk about the room filling up with blood and souls freed. I had to say, "They're not just paper files. They're special. They not only record information about young men, they actually represent those young men as potential soldiers. Without the 1-A files, there are no potential soldiers. There will be no killing. No battlefields." Yet, what was the one experience in my life that might grab the heart of a juror, that might stir just one moral conscience,

that might compel a juror to jump over the jury rail and embrace me?

I had to awaken the jury to the fact that the draft files were as special as the holy bread and wine used to make God present during Catholic Mass. I didn't want to leave them thinking I was satisfied with others claiming that my draft raid rapture was just a weird, idiosyncratic, eerie spiritual experience. I had to find a way to explain how I reasoned that the battlefield where I found Gordy was inside the draft office. Once again, I had to perform a ritual of peace and transport the jurors to the battlefield. This time I had to *Do it!* inside a courtroom.

My task was made both more and less difficult in that a trial is a secular ceremony. Like a religious ceremony, a trial is a ritualized celebration of a people's foundational beliefs. Foremost for Americans is, "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." The legal system is one governing tool used to ensure that these and other "unalienable Rights" are protected and fairly applied. At trial's end, the participants should experience a profound sense of justice. A trial seeks to make whole both individuals and society. Ideally, legal justice delivers social justice.

Practically, the judge acts as the Master of Ceremony. He carefully monitors compliance with all rules, procedures and customs. When necessary he enforces discipline, and, in extreme cases, metes out criminal penalties, even to trial attorneys. In this respect, the trial is fairly described as a legal ritual. Although I was attorney pro se, that is, a defendant and attorney, throughout the trial my personal experience was similar to a non-Catholic attending Holy Mass. I wasn't quite sure what came next, and I had my doubts that "justice" would be made present. My doubt was like that of a non-Catholic who hears the Catholic claim that the bread and wine is the "real presence" of Jesus' body and blood.

I had never been in a courtroom, before. Sporting a religious eye, I found the federal courtrooms to be constructed and adorned like a holy space. There were symbols of *We, the People*, for example, the American flag and plaques with copies of the Constitution and other founding documents. There was a physical railing that separated trial participants and spectators. This was



not unlike the altar-rail found in most Catholic churches that separates priests and lay people. Within the trial space, there were physical barriers between the judge's bench, the prosecution and defense tables, and the jury box. There were also traditional modes of dress. The judge wore a black robe. The attorneys were professionally attired. The jurors wore street clothes. Since I wanted the jurors to identify with me, I came casually outfitted.

The upside of this secular ceremonial setting was that it put the jurors in an altered state of consciousness. Most jurors would also be in court for the first time. Its peculiarities, I hoped, would heighten their curiosity and move them to pay close attention. Moreover, the judge told them that they were *not* to act normally. He spelled out his expectations. He gave specific instructions about how they were to act while in the courtroom and outside it. They were to follow a set of strict procedures. They had to listen intently. They had to obey the judge. They couldn't talk during the sessions. If they had questions, they had to write them down and the jury foreman would present them to the judge. Through repetition of the admonition, he reinforced the fact that they weren't supposed to discuss courtroom events once they left at day's end with anyone, not even their spouses.

From my perspective, what causes the altered state of consciousness is that, as a juror, you can't interact with me or anyone. What a strange experience, if you reflect a moment. During an average day, you usually communicate with someone. It's rare that you spend your day just listening and not saying anything. If you did, you'd call it an unusual day. Plus, you sit all day in a jury "box." It's a cordoned off space, with limited seating. While the seats are comfortable, it's more than likely that not too many of your fellow jurors have spent too many days all penned into a such a small, fenced space. Then, you are peered at, sometimes stared at, for hours by judge, prosecutor, trial attorneys, defendants, spectators and the press. *Whew!* Jury duty can be quite stressful. Add to all this that you can't snack, when you want. Or drink coffee. Or simply go to the bathroom, unless permitted by the judge. It's highly probable that this is your first-ever experience with being so tightly and mechanically controlled.

Trial lawyers and judges are normally individuals who can think on their feet. They are accustomed to processing diverse and often complex verbal and oral information at rapid speed.

They are trained to quickly analyze an issue and respond with a blistering repartee. They are professionally schooled in how to conduct a trial. For them, the courtroom is a bit of a detective game. They are constantly evaluating every iota of verbal and nonverbal information to discover weaknesses in the other side's argument and conduct. Add to this that it's the rare juror who has any legal training or background and it's easy to grasp why a juror often sits there more baffled and bewildered than understanding.

The prosecution and defense stories often come to a juror in bits and pieces; sometimes in blocks of highly specialized testimony. In one sense, the jury box is a place where the individual juror is required to think critically, even philosophically. For many this is an unfamiliar and highly nerve-racking demand. In short, you are at the receiving end of a quite peculiar process. You are expected to determine the facts, with information often provided by legal experts who've been trained to convince you which "facts" are facts. In my case, the prosecution tells you it's a burglary. The defense says it's a ritual of peace. Imagine what begins to happen to your body, mind and spirits if the trial plods on for days.

As a teacher, I knew that some jurors would be totally lost. Not everyone processes information aurally. Many learners need to jot down notes to keep track of a complex story. Others need to ask questions on the spot to comprehend the trend of an argument. At its best, when the jurors finally assemble to deliberate, their individual weaknesses are strengthened through collective memory and insight. At worst, they totally confuse and frustrate one another. In such a setting, anything could happen; that was my opportunity.

What I hoped was that the jurors would look beyond what I did to who I was and then what and why I did it. I decided to frame it for them that way, so in my Opening Statement I said, "I did it. Now I want to tell you why." I knew that the judge and DA didn't care why. But the jurors were human beings, not attorneys. A bit of a joke there, but the point is that people want a human story. I was hoping that at least one juror would think in the back of his or her mind, "If these young men aren't here because of the war, why did they do what they did? Maybe I should listen to Frank." I was hoping that commonsense would prevail, and that the boldness of the radical act of raiding a draft board, coupled with my use of theological and moral imagery and argument

would make a juror pause and decide, “If he risked his life for what he believed, I should at least make an effort to understand what he’s saying.”

My ability to tell my story as persuasively as I wanted was made more difficult because of the trial’s formal procedures. To a degree, I was boxed in by its rigid format. For instance, neither as attorney nor defendant would I have a chance to directly interact with the jurors. I would be in direct, personal, face to face contact with them only when I made my Opening and Closing statements. Even then, I would be only in visual contact with them, not interactive communication.

I participated in the *voir dire* process where Ken asked questions of a prospective juror and then we collectively decided to accept or reject a specific juror. The prosecutor and defense spoke at set times, and we followed formal procedures when cross-examining witnesses. Witnesses were supposed to speak only when questioned. Their questions were supposed to be brief and factual. However, the judge had broad discretion as to what a witness could say. Even if something was actually said, the judge could direct that the jurors ignore what they heard and also have it stricken from the official record. At any time, the prosecutor or defense attorney could voice an objection to a line of questioning. Again, the judge decides whether a question is permitted.

Most everyone has watched a TV trial, but you prepare anticipating that no trial runs as smoothly as it does on television. Witnesses won’t always testify in a compelling manner. There will be a professional dogfight going on between the District Attorney and the defense to avoid or catch the other side in what is termed “reversible error.” This error would be used after the trial in forming the appellate brief for each side. In this line, Ken would keep an ear open for prosecutorial mistakes. This would lead to an ongoing evaluation of whether or not to call a certain witness, because his testimony might open a line of inquiry on cross-examination that wouldn’t be beneficial to our case. Jurors are human beings, so I just would just have to watch if someone nodded off or was clearly distracted or simply bored. Unlike a classroom, I wouldn’t be able to call for an intermission so that everyone could stand up and stretch: *Wake up!*

In brief, I would have little control over how the trial proceeded and the extent and quality of testimony. It would all come down, as it did in the Devitt trials, to my personal testimony. Here was

where the court's ceremonial structure turned to my benefit. I played two roles: defendant and attorney. If I were just a defendant, then I'd have to rely upon Ken to elicit my story of the ritual of peace. That would be a formidable task for him. However, I was my own attorney. Since I couldn't cross-examine myself – at least not in a fashion that didn't become ludicrous – the judge would allow me to simply talk when on the witness stand. The prosecutor would raise a “standing objection” to the Defense of Necessity from day one, so he would have little interest in interfering with my testimony in anyway that would alienate the jurors. It would be to his benefit to let me babble on, “get it all out.” There is a legal quip, “He who represents himself has a fool for an attorney.” The DA would have no reason to expect that I was an exception to that quip's insight. So, after I testified, he would request the judge to finally rule on the standing objection to my defense.

As the trial got closer, it appeared that Neville would accept the Defense of Necessity and let me say whatever I wanted to the jurors. I was excited and cowed. I knew the fool who represented me. I hoped that he would bring his A-game to court. When Neville approved our defense, I prepared my Opening Statement. I got what I asked for: I was totally in control of my own fate. *Man, was I out of my league!* At Devitt's sentencing, Chuck Turchick, one of the fastest dry wits on the planet observed:

I was sitting here trying to figure out what I was going to say and I was reading, of all things, the Indictment, and it reads “The United States of America versus Clifton Ulen, Charles Larry Turchick and William Leo Tilton” ...*those* are formidable odds. And then we are only left with Bill and myself and that became even more formidable. And it came to my mind, the mythical scales of justice, you know, the balanced scales in the legal system, and I asked myself, “Well, we lost the trial and we are being sentenced. Well, if they are really balanced does that mean that if the United States of America lost that the United States of America would be sentenced?”

Formidable odds, indeed. Just Mike and I versus the United States of America. Just me standing

before judge and jury. Could I make the voice of the *Minnesota 8* heard?

### **Higher Allegiance**

The question I had to raise was, *Is it reasonable for an American who is a Christian/ Catholic to appeal to a Higher Allegiance if the government acts immorally?* I had to make “Yes!” seem like a “self-evident truth,” a bedrock principle of the “In God We Trust” America, and, in my particular case, a positive reformulation of mainline beliefs, not as a radical break with tradition. I needed to stress that I was more a reformer and less a radical; a tad radical, but not crazy. Fortunately, the Catholic tradition has numerous chapters about “acceptable” reformers and prophets, who are often labeled saints or mystics. If I could move the jurors to see me in one of these traditional roles – minus any seeming self-glorification – then I might have a long-shot.

Could the words of Vatican Council II and Pope John, plus some strong witnesses, cause at least one juror to pause; stir his or her conscience and soul? If I could artfully mingle my personal passion and commitment to nonviolence, well, who knows?

I had to accomplish what one witness, Father William Hunt, later attempted, namely, make the jurors believe that it is American to appeal to a Higher Allegiance. Confront them with the Christian roots of America. At his swearing-in, before he placed his hand on the Bible, Father Hunt cleverly encapsulated my argument when he noted that

the Court itself sanctions the use of an oath as an authority which will protect the type of testimony that I am about to give. It appeals to a *higher authority* as a sanction for believing that my testimony will be truthful. (My emphasis.)

Still, I was very far from being optimistic. It would become clear that Gordy and I are the story. That the ritual of peace flows from our experience. What will they think about the two of us? That he’s just a nutty vet? One who threw his medals over the White House fence in protest. Just a kid who couldn’t make the final cut, that being, returning to civilian life? *Maybe*. They might have sympathy for him. Cut him a bit of slack. But me? Will they see and respect me as an educated,

articulate, middle-class Catholic theologian, or despise me as a cowardly “draft dodger”? Ah, the irony of it all – I was now Fred Ojile in their eyes. Uncomfortably, I now heard echoed my past verdict on him: “a bit over the religious fanatic line.”

The night-before the trial opened, I walked around Lake Harriet, totally sober, in lively conversation with God Almighty and Just, “Why did you want me to do this? *Why?*”

### **My Catholic Background**

Like the judges: Devitt, a Roman Catholic, Neville, a protestant, I expected a majority of the jurors to be Christians or else quite familiar with mainline Christian beliefs. After all, I was in America’s Heartland. The fabled “Land of 10,000 lakes.” It was the “North Country” settled by descendants of Vikings and other northern Europeans. Denominationally, the area was heavily Lutheran, with a strong dose of German and Irish Roman Catholicism, and rounded out with many mainline protestant churches. I assumed that they would even be familiar with the word “sacrament” that was central to my argument.

However, I did not expect them to be familiar with the recently concluded Vatican Council II. Though the activities and controversies surrounding the Council’s reforms were widely covered in popular media, I doubted that any of the jurors, even if Catholic, had read much of the *Documents of Vatican Council II* that I intended to submit as evidence. Prudence dictated that I proceed with that assumption. I was fairly confident that they knew about Pope John XXIII, who had become an international media darling. I further presumed that they were aware that Pope John had “shaken things up” in the Catholic church, but I couldn’t presume that they knew exactly what that meant.

### **Catholic boy**

I was the quintessential “Catholic boy.” As the third son raised in a New Jersey family of strict Irish Catholic “Jansenists,” I was biologically pre-selected, so to speak, as a candidate for the priesthood. My eldest brother was Charles Otto Kroncke, III. That took care of the Germanic concern for patriarchal continuity in the lineage. George, the second, had his fling with the dissolute side of life, as befitted a Prodigal second son. Then came Francis.

I remember my Irish grandmother placing her arthritic hand on my head – with one finger gnarled and bent - and telling me what a fine priest I will make – not “would” but “will.” I remember that moment as a priest does his official ordination anointing.

Before I was old enough to be trained as an altar-boy, the Nuns selected me to be a special acolyte. I was dressed in a papal white cassock and served in an elite group of torchbearers. My future was fairly predictable. I became an altar-boy, entered the minor seminary for my last two years of high school, became invested as a Franciscan novice, one Friar Otto, O.F.M., Conv., and then I failed! There is no other way to describe an exit from the monastery. Though it was my decision, everyone, most especially my father, would see it as a failure. Simply, I had failed to live up to the Call from God. “He who puts his hand to the plow and looks back is not fit for the Kingdom of God.” (Luke 9:62)

“... *not fit*...” I can never quite adequately describe the look in my father’s eyes as he and my mother greeted me upon my return from the monastery. I stepped off the bus in downtown St. Paul and sunk into a quagmire of disappointment and resignation. More, there was something else there that was never spoken between us. It was that something which I only came to grasp after my trial as I felt it, once again, in my reaction to Judge Neville’s “I gave you a forum” speech. It was a sense of betrayal.

After leaving the monastery, I enrolled at St. John’s. It was not unlike the seminary. It was, at that time, an all-male college. The campus was remote, and only seniors could have cars. So contact with the fairer sex required planning and a lot of hitch-hiking. My time at St. John’s was devoted to intense academic studying. I planned on becoming a college professor, and so I majored in philosophy. Long story short, after graduation, I found out that one of the impacts of Vatican Council II was the opening of theological study to lay people. It had been centuries since the Church had permitted lay people to become theologians.

I obtained my Masters in Theology in 1968 from the University of San Francisco, a Jesuit school. I was already processing my Conscientious Objector status. Because I desperately needed a job, I persuaded a nearby women’s college (the now defunct, *San Francisco College for*

*Women*, run by Madams of the Sacred Heart) to hire me. Shamelessly, I hyped myself like a Madison Avenue marketing maven. I was more sizzle than substance. I made the most of my scholarly study of Teilhard de Chardin. He was becoming all the rage, and I convinced the nuns that I was on the cutting edge of theological thought. Actually, my focus was on the Patristic Era, that of the early Fathers of the Church. Really dull stuff for my mostly teenage girl students. Although I was living in the Haight-Ashbury Hippie district, I was far from being a radical theologian. The Haight is right next to USF, and had student affordable rents. Amusingly, I have to recount that I lived in the Haight during the 1967 Summer of Love, but didn't put any flowers in my hair. I was probably reading St. Augustine while the street air was a fog of hashish, and the nearby Golden Gate Park alive with bongo drumming and lithe fairy-tale nymphs dancing with their satyr bearded Free Lovers. *Oh, well.*

In the fall of 1968, I began a doctoral program at the Divinity School of the University of Chicago. I taught at Rosary College in a western suburb. It was another all female college, but run by the religious sisters of the Dominican Order. I was directed by the president to develop a series of social justice seminars. Once again, I was selected because I looked like the radical I wasn't. As mentioned, at this time, I had a beard and wore a medallion with the Egyptian ankh symbol. This was considered a symbol of life, of peace, and of the goddess, Isis. I was young, cool and hip. Or at least I thought so.

This is when I brought Fred Ojile, other Catholic Workers and Catholic Radicals to speak on campus. While they personally challenged me, I wasn't instantly drawn to their level of radicalism, neither theological nor political. I nursed a growing respect for their nonviolent, symbolic acts of law breaking protest and Resistance, but I didn't feel compelled to join them. Then, I met Fred Hampton, a young Black Panther.

When Fred Hampton and his entourage came to the exclusive suburb of River Forest, he was shadowed by a line of police cars. I had never witnessed such a spectacle. I was new to Chicago and the heavy-handed racial tactics of the Democratic boss, Mayor Richard Daley. The Black Panthers, at that time, were nonviolent. Their focus was on community projects such as the free "Breakfast for School Children" program. Fred was a street-savvy charismatic leader with a



touch of the Baptist preacher's hellfire and brimstone thunder. I had him speak on several occasions, and once he invited me to speak at a Panther meeting. To say the least, I was scared out of my mind. I told him that I would speak only if he could guarantee that no one was carrying a gun. He looked at me as if I was from the planet Mars. Though he couldn't make that guarantee, he told me that I'd be safe.

I had to speak after he had just jacked up the audience. He spoke about injustices, the oppression of "the pigs," and the need for a revolution in America. What could I say after that? I can hardly remember a word of my speech. I do remember that I was the only white guy in a sea of angry young men and a few "righteous sisters." After the speech, we sat around drinking coffee in what turned out to be our last time together. A year or so later, on November 13, 1969, I read about his murder in the morning paper while sitting at my Newman Center office, drinking coffee. At that moment, I recalled, vividly, a simple sentence from our final meeting. "Frank," he pointed as he spoke, "the only difference between you and me is that you go that way," towards the suburbs, "and I go this way," he pointed to the area outside - Southside Chicago.

I read about Fred's murder, and I spoke about his influence during my next Sunday sermon. I was beyond distraught. If Fred was correct, I was alive simply because I had been born white and middle-class. *Sweet Jesus*, what was I to do? Civil rights and racial injustice now haunted me as I saw Fred's face in every black person I met from that day forward. As I struggled with whether being a Conscientious Objector was enough, a young Vietnam veteran knocks on my door. "Hi, have a minute?" "Sure. I'm Frank." "Yes, I know. I'm Gordy."

If Fred and Gordy weren't sufficient messengers from God, delivering the uncomfortable insight that I wasn't doing enough to resist the evils of war and social injustice, my dad had passed away – it seemed like yesterday - on December 18, 1968. I delivered his eulogy. I spoke of him as "a good man." I was teaching at Rosary College when he died. As I taught, I kept searching my heart to see if I was my father's son. "Am I a good man?"

Just after my father's burial, at a New Year's Eve party I met and fell in love with Karen Clark. She was a young public health nurse who was deeply committed to social justice. After

graduating from St. Teresa's College in southern Minnesota, she moved north to the Twin Cities to serve the migrant community that settled in South Saint Paul, Minnesota. This group of mainly Hispanic migrants had been as invisible to me as was the social injustices committed against them. I found Karen's sense of social justice unnerving. It was fitting, possibly fated, that I actually overheard Karen talking with other party revelers about "Teilhard." It took me some time to get her personal attention, but soon we became companions and lovers. Karen was my first contact with a truly independent feminist spirit. Though she pursued her own causes, throughout my Resistance she was always right there. More than I can recount, Karen was a spiritual guide as I sought to answer the question Fred Ojile, Fred Hampton and my father's life raised, "Am I a good man?"

What had prepared me to respond to this question? I was nothing if not the ideal Catholic Boy. I was raised to be a "Defender of the Faith." To all around me, I seemed destined to spend my life as an innovative theologian, but in service to the Church. There was nothing in my life that indicated I would someday become a Catholic Radical and a law breaker.

I was profoundly influenced by the reforms of Vatican Council II, and my initial response to this question was defined in terms of the doctrinal reforms of the Council. Yet, at first, I did not interpret nor respond to the Council as a radical. As noted, I was originally put off by what I perceived as the fanaticism of Catholic Workers and Catholic Radicals.

So, where is the seed? There must be some sign, no matter how meager. Possibly, my deviation towards pacifism and nonviolence is explained by my faithfully praying the "Prayer of Saint Francis." This was Saint Francis of Assisi, the founder of the Franciscan Order that I entered as a seminarian and novice monk. I had this prayer on holy cards that I used as bookmarks. I had it on a poster. Tellingly, I had it embossed on my heart.

The sentiments of this prayer laid seeds that flowered into my radical resistance to the ecclesiastical imagery and authority of the institutional and patriarchal Church. I offered this prayer because it struck a deep chord in my soul. Without being self-aware, this prayer was source for interpreting my Catholic heritage in terms of nonviolence and peacemaking. As you

read it, note the imagery and the spiritual dynamics that it sets loose. It evidently caused abiding unrest in my early Catholic soul.

Lord, make me an instrument of Your peace.

Where there is hatred, let me sow love;

where there is injury, pardon;

where there is doubt, faith;

where there is despair, hope;

where there is darkness, light;

and where there is sadness, joy.

O, Divine Master,

grant that I may not so much seek

to be consoled as to console;

to be understood as to understand;

to be loved as to love;

for it is in giving that we receive;

it is in pardoning that we are pardoned;

and it is in dying that we are born to eternal life.

*Prayer of St. Francis of Assisi*

### **Vatican Council II's impact on my spiritual and moral development**

Imbued with the spirit of St. Francis, I read and interpreted the *Documents of Vatican Council II* as my spiritual guide in answering how to be a good man.

Pope John XXIII opened Vatican Council II on October 11, 1962. When asked why the Council was needed, he reportedly opened a window and said, "I want to throw open the windows of the Church so that we can see out and the people can see in." The general sessions of the Council were held in the fall of four successive years, 1962-1965. The Pope also invited other Christian Churches to send observers to the Council. Representatives were sent from a range of Protestant and Orthodox Churches, including the Russian Orthodox Church. The Catholic hierarchy was in full attendance. This included the Pope and all the Cardinals and Bishops. Many other

theologians and prominent figures attended as observers and experts. Father William Hunt, a witness at my trial, was a theological *peritus* or expert at the Council.

Though Pope John invited non-Catholics to look inside the Church, it was understood that the Council was not convened to launch a radical revolution, that is, overthrow the fundamentals of the faith. Rather, as with most previous Catholic Councils, it sought to firm up the Church's doctrinal positions in respect to current times, strengthen the Church's authoritative station, and assert its spiritual and moral leadership throughout the world. Indeed, it could call for bold reform because the Council was confident that its truths were both perennial and eternal.

The Council's *Documents* were a conscious effort to assert the Church's relevance, but, more importantly, to demonstrate that its doctrines and dogmas not only mattered but were key for the continued development of societies, cultures and individuals. I admit that I jumped up out of my seat as I first read these *Documents*. However, right from the start, there were forces inside the Church that resisted the Council's inspiration. In fact, that's what made the times so exciting. Everything seemed to be up for discussion. However, even among my fellow young theologians not everyone was as widely inspired as others.

Why was I so dramatically moved? Simply, the new terms and imagery fashioned by the Council to speak to modern times was so fresh and poetic that it was open for diverse interpretations. As a theologian I rightly responded to the potential revolutionary import of these reforming terms and imagery. However, I was possibly simply too young to realize how carefully crafted they were to support quite traditional and orthodox interpretations.

At the time, I was dramatically moved by several of the major statements and images that spoke of the Church as Universal and One. Though the *Documents* affirm the "Apostolic" character of the Church, that is, its claim that St. Peter was the first pope, the papers offered a new image for the Church. While still "Mother Church," the Council forwarded the image, "People of God." As others have commented, this had a sub-text of democratic leveling. Again, as the Internet has "flattened" corporate hierarchies, at least in respect to communication, so did this image flatten the ecclesiastical hierarchy. Throughout the *Documents*, priests, bishops, nuns and laity have

their group identity image shifted. The “People of God” becomes the main iconic image; “The Church,” secondary. This new phrase and iconic image of the People of God seemed to say that all Earth’s peoples were the People of God. That there was no longer One Church, only One Family. “People of God” implied a radical openness, a true ecumenism. This profound change tapped into an exuberant emotion of hopefulness, which set people like me loose.

Understand that when I first read the *Documents*, I was not a political activist. In fact, I was just beginning to read Teilhard de Chardin, and I was still a year away from meeting my first pacifist, Jim Hunt. A fellow philosophy major, Jim and I lived off-campus during our senior year. Our other roommate, John Lauerman, was a staunch Republican and supporter of the war. To frame the specific uneasiness of our personal world, John, a pro-war, fairly wealthy ROTC cadet officer threatened, “If I go to war and come back again you probably realize I'm going to hate you.” He meant Jim, but he didn’t exclude me. John went to war, came home, and I’ve never seen nor heard from him since.

All in all, the Council’s mandate soon unsettled my whole life. Its call to deal with social justice issues, especially with Total War, would throw a wrench into my plans to simply study academic theology and become a life-long college professor.

Below are key quotes upon which I reflected and that caused a revolution inside me. At the time, I thought my personal revolution simply mirrored the revolution, not just the reform, set in motion by the Council. Clearly, now I understand why I misread the Council.

Before you read these quotes, note that nothing in the *Documents* enabled the so-called “People of God” to declare itself a pacifistic People or Church. Though there are daunting condemnations of Total War and other social injustices, there is no call for the formation of “social sacraments” or similar notions. Nevertheless, these quotes are sufficient, I hope, to enable you to understand how logical, rational, theological and morally responsible my draft resistance and draft raider actions were. These were, for me, catalytic quotes.

- I heard that it was my duty, not just that of the priests and other religious, to be a leader. “But the laity, by their very vocation, seek the kingdom of God by engaging in temporal affairs and by ordering them according to the plan of God.”
- I heard that it was my role to look at what was going on in my world, right now, and be bold enough to analyze it and then formulate moral responses: “...the Church has always had the duty of scrutinizing the signs of the times and interpreting them in light of the gospel.” And, “The holy People of God shares in Christ’s prophetic office.”
- As the Council intended, I was to help find “solutions” to evil situations and difficult problems: “...the Council wishes to speak to all men in order to illuminate the mystery of man and to cooperate in finding the solution to the outstanding problems of our time.”
- I heard, possibly with a bit more insight than the Council intended, that I was to look, not at external laws but inside myself for answers. For me, this meant the external laws of the Church and Society. “In the depths of his conscience, man detects a law which he does not impose upon himself, but which holds him to obedience.” And, “For man has in his heart a law written by God. To obey it is the very dignity of man; according to it he will be judged.”

I was ready! The summer after I graduated college, I reflected on and planned my future. My Vaticanized moral views challenged me to “Take on the world! It is your duty as well as your right. Follow your conscience!” More, if I didn’t carve out a personal moral plan of action, one that responded to the inspiration of the Holy Spirit, “according to it he will be judged.”

This is why I took a Masters in theology at the University of San Francisco. I sincerely believed that I could change the world by studying Patristic theology. I felt that if I became a systematic theologian, I could reform the Church and by doing so change the world for the better.

Below are more *Documents* paragraph headings and quotes. They illustrate how the Council shifted the controlling iconic images and phrases of my spiritual worldview, and indicate how that shift changed the issues I confronted as I carved out my sense of moral responsibility.

Paragraph titles in the *Documents* include,

- “Reverence for the Human Person”
- “Reverence and Love for Enemies”
- “The Essential Equality of Men: and Social Justice.”

I was challenged to commit to “The fostering of peace and the promotion of a community of nations.” To understand “The Nature of Peace” as, “Peace is not merely the absence of war. Nor can it be reduced solely to the maintenance of a balance of power between enemies.”

Historically, in the Sixties and early Seventies, social-justice issues were nightly news topics of the day. Civil rights and the “dream” of Martin Luther King Jr. were causing a true revolution in America’s self-perception. Issues of racism, sexism, war and imperialism placed deep and unsettling challenges before spiritual and religious leaders. Prophetically, King called for acts of nonviolent civil disobedience. It was a time when going to jail or “doing time” in prison forced many in religious and secular leadership positions to face the realities of America’s and the Church’s dark side. If Americans and if Christians wanted to be true to the common values of their democratic and faith traditions, they would have not only to think but act radically. Secular and religious leaders sought to read the “signs of the times.”

Although a few Catholic bishops expressed support for Catholic Radicals and other Christian nonviolent Resistance, few took to the streets to witness. As with America’s political leadership, after being frustrated by the Hierarchy’s lack of leadership in the anti-war movement, I stopped looking to them with expectations of great things. When I responded to the death of Fred Hampton and the spiritual insights of Gordy Nielsen, I was responding to these two as genuine prophets of the People – of all People of the Earth. The truths that arose from their heroic witnesses challenged me to the core, morally and spiritually.

Again, the language and imagery of the topics discussed by the Council formed my bridge from being a reformer to a radical; from being a Conscientious Objector to a Draft Raider. I read about:

- “The Avoidance of War”
- “Curbing the Savagery of War” and
- “Total War.”

These words challenged me to reflect and then act upon the insight that “the horror and perversity of war are immensely magnified by the multiplication of scientific weapons.” Along with the Council Fathers, I concluded that “all these considerations compel us to undertake an evaluation of war with an entirely new attitude.” In concert with Teilhard’s vision, the *Documents* formed the basis for both my “Conscientious Objector” and Draft Resister claims.

In a major shift that affected my Secular “American Democracy” chapter, the *Documents*’ conclusions compelled me to work on an *international* basis to develop solutions to “The Arms Race.” Note this quote: “Therefore, it can be said again: the arms race is an utterly treacherous trap for humanity, and one which injures the poor to an intolerable degree.” I simply felt I had no choice, especially after reading “The Total Banning of War, and International Action for Avoiding War”:

It is our clear duty, then, to *strain every muscle* as we work for the time when all war can be completely outlawed by international consent. This goal undoubtedly requires the establishment of some *universal public authority* acknowledged as such by all, endowed with effective power to safeguard, on behalf of all, security, regard for justice, and respect for rights. (My emphases. )

Even in light of all this, I must admit that this was my personal theological interpretation of the Council’s intent and the meaning of the *Documents*. Possibly deserving the adjective



“idiosyncratic.” At times, I do wonder why I responded as the prophet Isaiah did:

Then I heard the voice of the Lord saying, “Whom shall I send?  
Who will go for us?” And I said, “Here I am. Send me!” (Isaiah  
6:8)

The issues before me were of the darkest evil – “Total War.” *Truly, I cannot account, intellectually, why I did what I did.* I simply trust in what I came to discover, that I responded to Gordy by raiding draft boards because he needed deep social, cultural and spiritual healing. It was a healing that I heard the Council says it was offering all people. As it condemned Total War so it was logical to me as a theologian to fashion a way to express that condemnation and to release a healing spirit. So, in obedience, I enacted a social ritual of peace inside the Little Falls draft board. “Well, sir, that’s Frank.”

What the Council stated in its *Documents* unleashed a fire of the Holy Spirit in me, which fatefully moved me with the same shudder of deep personal emotions captured in a pop song of the day, “Wild thing, I think you move me! You make my heart sing. You make everything groovy.”

Yeah, *groovy*. Until the trial and “serving time” in the Slammer.

### **Vatican Council II’s impact on my secular worldview**

I thought a bit more about the secular American tradition of Democracy than you might anticipate for someone raised within a sectarian educational system. You might doubly doubt that when I state that my strict and harsh Jansenistic strain of Irish Catholicism imbued me with a sense of separateness. I was always aware of my dual citizenship: as secular American and religious Catholic. As immigrants and sectarians, my family manifested the typical “minority” mentality. We saw America as non-Catholic and fraught with all the temptations to sin offered by a materialistic and hedonistic society and culture. The Irish on my mother’s side weren’t impoverished “shanty Irish,” still, that ethnic segment of my family tree was self-conscious about being seen as “less than full Americans.”

Furthermore, I knew that America was a special country for Protestants. Here, only Protestants were elected President. Yet, my Germanic father trumped this bit of nationalism by reminding everyone who listened that the Roman Catholic Church, in its Apostolic claim that it was founded by St. Peter, himself, had outlasted numerous cultures and societies. He'd draw up a list: Romans, Greeks, Aztecs, Egyptians, Russian Tsars, even Hitler's Nazism were among those societies, cultures and civilizations that came and went as "The Church prevailed." Dad had no doubt that Communism, in its Stalinist, Maoist or Cuban form, would likewise soon become a dusty footnote in Catholic church history books.

My dad loved America. He was a staunch conservative Republican who used to whisper that "FDR was the devil"! Yet, I never forgot his firm political advice about what makes Democracy work. "You can disagree with a candidate. But once he is elected president, you support him, wholeheartedly." His WWII war stories were always funny, and he and mom always voted. "I like Ike!" was my first memory of political awareness.

Before college, there was no conflict between the basic ideals and moral virtues of Catholicism and American Democracy. Even Jesus said, "Render unto Caesar the things that are Caesar's, and unto God the things that are God's." For a long time, this simple New Testament verse seemed to solve the matter. After all, in America there is the Separation of Church and State. While it was evident that America was a materialistic society and had its flaws, there just didn't seem to be any real problems balancing the two allegiances. I was proud to be a Roman Catholic American. Iconically, this complementarity was best evidenced by the ever-present Stars and Stripes within the sanctuary area not far distant from the priest as he celebrated the Daily Mass at which I regularly served as an altar-boy.

As a secular American, you might read the *Documents* and bristle. After all, how long ago was the Church's last great political era? That of the "Holy Roman Empire"? Who were these Bishops and this Pope to set down the vision and articulate the moral obligations and duties for everyone, these, "men of good will"? On the other hand, you could consider that the Church was being a bit Americanized, in that their ecumenism was marked with a "democratic" streak.

I had no problem with the Church telling America or any secular nation how to imagine the world. I was used to their Apostolic self-image. However, I was strongly lured by what appeared to be the common ground in the imagery of “We, the People” and the “People of God.” The Church also called me to be a *citizen* of conscience, to become a leader in temporal matters, and to get involved in national and international issues of common concern to all nations and peoples. The Council didn’t use the term “globalization,” but they clearly saw themselves providing leadership and a global vision. As you read the *Documents*, there is no doubt that the Council intended to assert moral and spiritual authority and leadership, and to exert moral and spiritual influence on *all* cultures and other religions.

The forwarding of “the duty of scrutinizing the sign of the times” meant getting socially involved. From one perspective, the Council was mobilizing all citizens. The focus on individual conscience aligned with America’s enchantment with rugged individualism. The *Document’s* overall tone was one of “muscular Christianity” that matched the macho streak of American heroes from Natty Bumppo to Teddy Roosevelt to the likes of those beloved Hollywood frontiersmen such as Gary Cooper and John Wayne.

Two core quotes stand out in my personal development. They are a bit long, but worth reviewing.

“The Circumstances of Culture in the World Today”

*NEW FORMS OF LIVING*

The living conditions of modern man have been so profoundly changed in their social and cultural dimensions, that we can speak of a new age in human history. Fresh avenues are open, therefore, for the refinement and the wider diffusion of culture. These avenues have been paved by the enormous growth of natural, human, and social sciences, by progress in technology, and by advances in the development and organization of the means by which men communicate with one another.

Hence the culture of today possesses particular characteristics. For example, the so-called exact sciences sharpen critical judgment to a very fine edge. Recent psychological research explains human activity more profoundly. Historical studies make a signal contribution to bringing men to see things in their changeable and evolutionary aspects. Customs and usages are becoming increasingly uniform. Industrialization, urbanization, and other causes of community living create new forms of culture (mass-culture), from which arise new ways of thinking, acting, and making use of leisure. The growth of communication between the various nations and social groups opens more widely to all the treasures of different cultures.

Thus, little by little, a more universal form of human culture is developing, one which will promote and express the unity of the human race to the degree that it preserves the particular features of the different cultures. (See, *Appendix xxx.* )

Can you sense the breadth and depth of intellectual, social and moral engagement to which this called me? Can you spy the images and dynamics which will emerge in the then nascent globalization movement? “A new age in human history.” “Enormous growth...and advances...by which men communicate with one another.” Like the impact of Teilhard’s imagery, the Council’s imagery anticipated the emergence that of a world wherein all Life forms, human and other, are intricately and intractably interconnected and interrelated. One properly described as a Divine Milieu.

The Council praised the hard and soft sciences. It noted that “customs and usages are becoming increasingly uniform.” It cited “mass-culture” as a new form. Then, it asserted an early multiculturalism, noting “all the treasures of different cultures.” Finally, the *Documents* exude an embracing universalism and optimism in which everyone can bask, “a more universal form of

human culture” which “promotes, expresses and preserves” the “unity of the human race” and “different cultures.”

While the Council appeared boldly optimistic, the Fathers realized the difficulty of their task.

Nevertheless, in the face of modern development of the world, an ever-increasing number of people are *raising the most basic questions* or recognizing them with a new sharpness: what is man? What is this sense *of sorrow, of evil, of death*, which continues to exist despite so much progress? What is the purpose of these victories, *purchased at so high a cost*? What can man offer to society, what can he expect from it? What follows this earthly life? (My emphases)

Indeed, the Council tapped in my deep East Coast, Irish-Catholic blind-obedience conservatism while rousing my youthful American optimism. In sum, instead of ignoring “the world” as many interpreted the traditional phrase, “in the world but not of the world,” I heard their call to engage the world. In words similar to President John F. Kennedy’s “Ask not what your country can do for you. Ask what you can do for your country,” I heard, “Ask not what your Church can do for you. Ask what you can do for the People of God.” I was deeply challenged and passionately inspired when I heard that the religious and secular traditions, spiritual and scientific knowledge, and conscience and obedience needed to be - and could be – integrated; if not flawlessly harmonized.

In sum, “Thus we are witnesses of the *birth of a new humanism*, one in which man is defined first of all by his responsibility toward his brothers and toward history.” (My emphasis. )

#### **Vatican Council II’s impact on my scientific worldview**

As to raging issues in the scientific worldview, such was a topic of my everyday life. A Notre Dame graduate, my dad was a chemist with a broad Western Classics’ education. This was a bit unusual for his Catholic generation. Since Science was considered to have an atheistic philosophical core, most Catholics shunned the moral temptation inherent in training to become a scientist. However, Notre Dame had a highly respected chemistry department, led by Reverend

Julius Nieuwland, C. S. C, who invented synthetic rubber (neoprene). My father graduated in 1932. He was also on the wrestling team, which earned him a Yearbook tag of “width and wisdom go together.” He was proud that as part of a Civil Engineering course he aided in the layout of the university’s golf course. Upon graduation, he eagerly launched his career as a research scientist in a commercial laboratory.

I was always aware of my father’s work. He’d bring home small vials of the plastics he was developing. He was proud of what he did. Since dad was a man trained in the Classics, he always positioned matters within an historical sweep of events and ideas. I’m sure, at some time, he pointed out the atheistic temptation of doing science, but, in the main, I grew up understanding that anything developed or discovered by human reason was simply a further manifestation of the majesty of creation and the unfathomable mystery of God’s world. It was “God’s world.”

As mentioned, the moral dilemma he faced when assigned to work on the Manhattan Project highlighted the reality and import of the Catholic Tradition’s moral discomfort with the basic philosophical underpinnings of Science. His dutiful compliance with his re-assignment to a supply ship in the South Pacific underscores his deep respect for secular authority.

### **Teilhard and the Council**

Many Catholic and other critics of the Council cited it as flawed because it built upon the vision and theology of Teilhard de Chardin. One *Documents’* paragraph even presents the image of Christ, using two key Teilhardian terms: Alpha and Omega. While Christ as the Alpha and Omega is found in Christian scripture, its use was an intentionally respectful and reverential Conciliar nod towards the insights of Teilhard. His influence can clearly be read in the very optimistic statements about science.

The Council’s situates its affirmation of scientific work within a call to recognize God’s design and the individual’s moral responsibilities, “...the Council wishes to speak to all men in order to illuminate the mystery of man and to cooperate in finding the solution to the outstanding problems of our time.” God’s design was one of “mystery,” a term which implied that reality is basically unknowable by rational thought. This was a very Traditional sentiment, that is, that

rational man needs Divine Revelation to understand the world and the human situation. Yet, the quite dramatic and historic character of this sentence was the simple fact that the Council was speaking to the scientific world. More, it invited scientists to cooperate and work collaboratively to develop solutions to international problems. History's scientific greats, such as, Galileo Galilei, Johannes Kepler, Nicolas Copernicus, Leonardo Da Vinci, and Giordano Bruno would have been, and most certainly Teilhard, even Albert Einstein, and surely most believing scientists were, enthralled.

However, and irksome to some scientists, the Council assumed a moral right to offer advice to the scientific community. Non-believing scientists who read these passages might not be as charmed as I was. However, for me, all this "cooperation" talk was a green-light to engage science imbued with Teilhard's optimistic faith.

For earthly matters and the concerns of faith derive from the same God. Indeed, whoever labors to penetrate the secrets of reality with a humble and steady mind, is, *even unawares*, being led by the hand of God, who holds all things in existence, and gives them their identity. (My emphasis. )

Consequently, we cannot but deplore certain habits of mind, sometimes found too among Christians, which do not sufficiently attend to the rightful independence of science.

In conclusion, however, I must honestly position the following short sentence.

"But when God is forgotten the creature itself grows unintelligible."

This was both proclamation and warning. It kept me focused on Teilhard's insight that all knowing is human knowing, and the truth that scientists still faced the temptation of Faust's Bargain and of the seduction of power manifest in the tale of Frankenstein.

## Talking Catholic

Although my ritual of peace inside the draft board evoked a spiritual rapture which traditional Catholic and Christian imagery and language could not adequately express, for the trial I concluded that I could only “talk Catholic.” I simply had to be me. Moreover, Catholicism was a well-known frame of reference, and most jurors should value Christian language, even if they, as did some protestants and secularists, hated the Roman church. The Catholic Church’s historical tradition served as a good resource for telling a moral story. It is replete with arguments on every conceivable moral issue. “Peace and War” going right back to New Testament times. Just about everyone’s heard, “Render therefore unto Caesar the things which are Caesar's; and unto God the things that are God's.”

Besides, because of Vatican II’s ecumenical reach, it was fitting that I bring in Protestant, even non-Christian, theology and examples. Heavyweight Protestant pacifistic scholars and theologians such as the Mennonite, John Howard Yoder (*Politics of Jesus*) and G.H.C. McGregor (*The New Testament basis of pacifism*). Quoted Gandhi; the Buddhist monk, Thich Nhat Hanh – his *Lotus in a Sea of Fire* rocked my world. Even if the jurors didn’t know a Buddhist from a burglar, they should respect the broad spiritual context of my argument.

A plan developed: tell a story of faith wrapped with growing-up loving my Dad, his war experiences, my religious years in the seminary and monastery, meeting Gordy on the battlefield, my search for how to be a peacemaker and a patriot ... and, if it all came together, move them to anguish with me over radical obedience to Vatican Council II’s condemnation of Total War.

Time for another confession: There were times when I got pretty down on myself. “There’s no deception worse than self-deception.” That’s one I often quoted; here I applied it to myself. *Am I really so shameless {arrogant, egomaniacal, pigheaded} as to claim that I am a Good Man and they not?* At times I just wanted to say nothing. Just stand there as a silent witness; in the Quaker “passive nonresistance” tradition of wordlessly “Speaking truth to power.” Should I say more than Martin Luther dared when he thundered, “Here I stand!”? But things are never that easy. I can’t just turn the other cheek and go *Baa-Baa*-ing off to jail. My overwrought sense of obligation and duty did me in. I heard the echo of Gandhi’s directive, “You must be the change you wish to see in the



world.” *Damn*, I chose to enact a ritual of peace inside the draft board, so how could I leave before preaching the sermon? *Of my life!*

Besides, my Catholic story had a “talking American” chapter. This might grab a juror or two’s interest; be their story. At this time, my version of America’s Secular history was fairly mainstream. Even though I gobbled up every “new history” and other revisionist fact about America, I still loved the grand story of the march of Democracy. I identified with the populist revolutions against all hierarchical kings. I swelled with pride as I read about the Frontiersmen, the advance of Progress, the moral purity of the resistance to Hitler, and I was still holding out that America had a Manifest Destiny to do good, worldwide.

True, I argued that the government had strayed, especially since Harry Truman’s institution of the “peace time draft.” I denounced the Selective Service System as a violation of the 13<sup>th</sup> Amendment’s protection from involuntary servitude (“Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction”), and claimed that it violated the 8<sup>th</sup> Amendment’s prohibition on “cruel and unusual punishments” in light of its capricious, almost whimsical method of selecting and evaluating draftees. I positioned our own draft resistance as a chapter in the long history of popular draft riots that met just about every major American declaration of war.

As an American Catholic, I also had JFK to brandish about; nuts not to. I’ll tell them that there is no incompatibility with being a good secular citizen and a man of faith. I’ll throw in some – just enough, not too much – about the Church and social justice; appeal to the farmers, the little people. Here in Minnesota Roman Catholic Bishop John Ireland was a legend; no doubt most of the jurors had heard about his good deeds. Most, more than likely, had driven on his namesake boulevard that connects the state capitol area to the Catholic cathedral in Saint Paul. Bishop Ireland gave the Church in America bragging rights when it came to talking about who was a champion of the working class.

### **Teilhard made me do it!**

I was ready with a moral and spiritual story that tapped the Roman Catholic tradition, and the values

of America's secular democracy. Powerful stuff. *Maybe*. But my draft raiding story only made sense because of how my spirituality was influenced by the worldview, of all people, a paleontologist. If he were alive, I could have stated, "Your Honor, I now call Father Pierre Teilhard de Chardin to the witness stand."

For my final three years at St. John's, I was in an Honors Program that studied the "Great Books" curriculum founded by Mortimer Adler at the University of Chicago. My honors thesis was titled "Teilhard de Chardin's Personalizing Universe." Pierre Teilhard de Chardin, S. J., was a Jesuit priest, paleontologist and co-discoverer of "Peking Man." He served as professor of geology at the Catholic Institute in Paris, director of the National Geologic Survey of China, and director of the National Research Center of France. Teilhard interpreted evolution as a spiritual phenomenon. He forwarded a vision of a "Divine Milieu," in which the divine is present through everything and everyone. In brief, Teilhard's spiritual vision radically changed my life. After reading him, it was inevitable that I ended up raiding draft boards. So, there was no way I could explain myself without talking about Teilhard.

Teilhard was a highly controversial scientific and spiritual figure. He saw matter and spirit as two aspects of divine energy. For him the presence of God could be sense inside an atom as well as throughout the universe. Spiritually, his thought strongly influenced the reforms articulated by Vatican Council II. The Council's embrace of scientific knowledge, its openness to the world, but most notably its engagement with the world expressed Teilhard's vision and values. Council phrases such as "People of God," "men of goodwill," "sign of the times" reflect his influences. These were the three areas in which Teilhard most influenced me. I discuss Teilhard influence on me and the Council, later.

Teilhard was censored by the Vatican during his life-time (he died Easter Sunday, 1955). The Vatican directed him not to seek publication, and he cooperated. His writings, however, were mimeographed and circulated "under the table" among religious and secular intellectuals, worldwide. In 1964, I had to obtain written permission from the local bishop to enter the "Library of Forbidden Books" (*Librorum Index Prohibitorum*) housed in the Benedictine monastery attached to the university. As a lay scholar, I could not read Teilhard without

Hierarchical approval. A sign of the rapidity of change that marked the Sixties is that within two years Teilhard's books were stocked in the paperback section of St. John's student bookstore.

Teilhard artfully integrates values of the religious, secular and scientific worldviews. But the most daunting challenge was the quite explicit demand that I carve out a personal spirituality based on accepting the insight that my personal presence and moral acts create the world, right now. My personal presence is only fully manifest as I engage the another. In Teilhard's vision, I, in my person, am all and everything that evolution is striving to create. Consequently, I, through my personal presence, imagine and so create the world. There is no world other than the personal world. My personal world is created by my engagement with you, the Other.

The core aspects of his spiritual imagination are:

1) As the brain manifests a mind, so does the Earth manifest a mind-sphere ("Noosphere"). As the heart manifests a spirit, so does the Earth manifest a spirit-sphere ("Christosphere"). As the body manifests personal presence, so does the Earth manifest a meta-personal presence, Life, itself. Together, all express a Divine Milieu.

2) Every human and every human act counts. This means that every person and personal act - physical, mental, emotional, spiritual - creates the Divine Milieu.

Teilhard imagined God is "in everything," what is termed panentheism. Evolution is God's way of revealing the fullness of humanity. The Earth is alive. We – you, me, every person – are the conscience of the living Earth.

How I make myself present depends upon how I engage other people. In my terms, if I kill someone, then the collective human brain (Noosphere) thinks murderous thoughts. If I kill someone, the human heart is cold and evil. If I kill someone, I block the realization of the presence of the Divine Milieu. There is nothing that I do that does not have a direct impact on the character and quality of life on Earth. Everything I do counts.

I believed Teilhard with my whole heart. I was ready to weave his vision into my defense. Everyday, I strove to live, consciously, in this Divine Milieu. It was why I was so ripe for Gordy's message. For in the Divine Milieu every person counts, there are no gooks. Everyone enacts a ritual of peace as they embrace "that of God" in you, me and the stranger. For my testimony, I coined a phrase, "socio-political sacramental acts." The phrase links the secular and the spiritual.

It was the insight that every personal act counts that would prove the difference maker. Teilhard's "personalizing universe" converted me from a Conscientious Objector to Catholic Radical draft board raider. He made me understand the worldwide impact of my personal moral action. He also made me understand that physical objects and the material world could manifest the presence of God, if I made them manifestation of my mind and heart. Objects such as 1-A files would remain only paper files unless I used them to make manifest their spiritual presence, that is, as manifestations of the killing God.

Yet, Teilhard was also my worst enemy. I, myself, was still plumbing the spiritual wisdom of his majestic vision. Nevertheless, Teilhard's Christianity that was not mainstream, not in the Catholic church nor the mainline Protestant denominations. While his theology was a key source for Vatican II's reformation, that's exactly the double-edged sword. His was a theology that was yet reforming the Church. It had not trickled down into seminary training or the popular consciousness of the average parish priest or parishioner. I wrote my Masters thesis on Teilhard at the University of San Francisco, but it was a cutting-edge theology school of the day. Himself a friend of Teilhard, whose writings were also restricted, I explored the Divine Milieu with Max Wildiers, O.F.M., Cap.

Teilhard's spiritual vision was still turning the Catholic-Christian world – theologians and bishops – upside down; as it was mine. I realized that it took me years and several graduate seminars to grasp the magnificence and subtleties of his Divine Milieu vision. Even my own teaching on his evolutionary spirituality covered several college semesters. Now, I had to convey all this in a trial. For how long – an hour? With a jury that cannot ask questions? *Impossible!*

I was best by a nagging question: *Am I ready?* Is the student prepared, O Master? To make present, in the courtroom, the Divine Milieu using a "Defense of Necessity"? Could I weave a compelling

story of “Higher Allegiance” that obligated me to perform a socio-political sacramental act? *God help me!*

### **Examining my life**

A trial is “the real thing” and as Ken counseled, I had to get a plan, and a fall-back Plan B, even disaster scenarios C and D. No one knew what was going to happen, because the Judge’s reactions were unpredictable. So, using all my best academic skills, I sat down in the middle of my world of books and scholarly resources. I went to the origin and source of my religious and spiritual tradition and re-read the Bible, stem to stern. I copied numerous verses: from the Old Testament prophets and the New Testament’s “Sermon on the Mount.” I lined up my theological and spiritual champions. I tested myself, “Tell the truth. Don’t make up a story. If it ain’t there, if no one said it, don’t pretend. You know the Tradition is full, but not complete.” I talked to myself a lot during this planning phase. No other draft raider has ever had the opportunity that is in front of me. If the Defense of Necessity was accepted, I was ready.

I went into semi-monastic seclusion. I stacked books, magazines, newspaper clippings, photographs, posters, some vinyl 45s and 78s with protest voices and songs, personal letters, everything I considered an influence and a source of my spirituality, and launched out on a re-examination of my life. I wanted to be ready for anything the prosecutor will throw at me. I didn’t want to be hazy or hard to pin down. I remembered how shocked and disoriented I was, at my arraignment, when I heard “international Catholic conspiracy.” Who knew what tact they would take? If I didn’t have my Ps and Qs down pat, I’d regret my lack of discipline, forever.

Generously, Lee and Mary Lynch offered me and my girlfriend, Karen Clark, the isolation I needed at their upstate rural retreat, “Reykjavik Point.” There, I had the time to reflect upon the heady past years of draft raiding. I had been so absorbed by the war, that it had been sometime since I actually “had nothing to do but think.” I began working on the developmental history of my various Catholic identities: altar boy-monk-theologian-Conscientious Objector-draft raider.

Clearly, I confronted a monumental task. I not only had to witness and profess but also convert at least one of the jurors to accepting my story that America was in extreme circumstances, that

draft raids were measured and reasoned acts, and that the Defense of Necessity with its appeal to obedience to a Higher Allegiance trumped the government's charge of burglary. But such a conversion, akin to Gordy's battlefield spiritual conversion, does not result from reasoned argument nor the logical summation of facts and interpretations. It only comes from an individual's heartfelt, personal acceptance of truth. Somehow my surface words and emotions had to strike the depths in the soul of a juror. In this light, I fashioned my Opening Statement knowing that everything was beyond my control. If ever called to submit and obey, it was now that I heard this Call.

### **Draft raids *not* my Catholic story #2**

I realized that everything I had ever learned about Christianity was summed up in Gordy's battlefield revelation.

“...instead of a gook, it was a human being.”

“...instead of a hootch, it was a home.”

Why hadn't he realized that before he went to Nam? You might consider that he was very young. He lied about his age to join the Marines. You might consider that he was a mid-western small town boy; just not sophisticated. Yet he was raised in the Christian tradition; educated in American schools. There was a clue here for me to ponder. I did brood over it, long and hard. I just didn't like what it was a clue to.

Gordy had to go to the other side of the world to find his sacred spot. Like Moses before the burning bush, this young American had to go into the jungle of Vietnam. Why?

I sat down and reflected upon my own upbringing. I already knew the truth of what Gordy told me, that everyone is a child of God, but why had I not acted upon it as he had? I could repeat his words, but Gordy owned them. I could translate *gook* and *hootch* into Scripture-speak, but Gordy made them God's revelation through his passion.

What was I to feel through Gordy's experience? Why wasn't I as passionate as he was? He risked his life, and now was risking it again as he came to me, confessed and sought help. He

could have retreated into drugs or become a workaholic or slipped into some other repressed persona, but he didn't. He came to me because he wanted to more fully understand his own feelings. The result: he forced me to more fully understand my own.

Gordy needed a story. His "Christian American small town boy" one couldn't hold this chapter about gooks being people and hootches being homes. He came to me because he thought I – a teacher, theologian and preacher – had a story that would make sense out of the battlefield that now raged within his bedroom and inside his soul. The truth is that I had no counsel to give. I just couldn't reach out to Gordy and hand him some theological or spiritual placebo. I wanted to connect to his passion, but how?

### **Holy Mass: God of Peace, God of War**

During my years as a young altar boy, I occasionally served at a Mass offered by an off-duty military chaplain. Chaplains were heroes. They risked their lives to bring the presence of God to men who had committed a violation of the fifth commandment, *Thou shall not kill*. These men confessed, were forgiven and received the body and blood of Jesus Christ, oftentimes moments before they went back into battle. Chaplains represented the uniqueness of the call to be a priest. Priests make God present in the midst of the human situation, whether good or evil. Though I was not consciously analyzing the fact, celebrating Mass on the battlefield was testimony to God's unconditional love for humans. Jesus came to save all: saints and sinners, rich and poor, powerful or powerless. As his representative, priests put their lives in harm's way to console, comfort and heal the human soul.

That Catholics served during war-time was a never questioned duty. Another hero of those days was Cardinal Francis Joseph Spellman, then archbishop of New York and vicar of the United States Armed Forces. An early supporter of the Vietnam War, while in Saigon, he stated, "My country, may it always be right," followed by, "Right or wrong, my country!" Fidel Castro called Spellman the "Cardinal of the Pentagon."

It never dawned on me to ask, "How could you administer Holy Communion to men about to kill?" Nor to ponder, "Why doesn't reception of the Body and Blood of Christ turn men into pacifists?" These became nagging questions after meeting Gordy.

What had Gordy experienced and received at the moment he was torching a Vietnamese hootch? I grasped that at that moment he became aware that he was serving the God of death and destruction. He realized that peace could never flow from his violent and destructive actions. He realized that he was wrong. More, that he had been trained by his country to act in this manner. A good and moral individual, he had been trained by his Christian teachers to act evilly. For being a killer, for being a Christian war-maker, they gave him a medal.

### **Sacraments**

All my life, when I faced moral or spiritual difficulties, I found great comfort in the Catholic sacraments. Sacraments are rituals that mark significant moments of a person's spiritual journey. The Catholics have seven sacraments. They are rituals that celebrate the cycle of life: the moment of birth (Baptism), emergence into young adulthood (Confirmation), marriage (Matrimony), becoming a priest (Holy Orders) and dying (Extreme Unction or Last Rites). These are one-time events, with marriage considered to be such. Other sacraments celebrate recurring events: admission of sins and reconciliation (Confession) and communion with God (Holy Eucharist). Sacraments are acts that bestow and affirm one's identity as a Catholic. If you sin and fall away, they can reconcile and re-admit you to communal identity; they heal and make whole.

Confessing and receiving absolution always had a profound psychological effect. When I received Holy Communion I was not only humbled by God's gift but felt healed in that my body was now part of God's body. His flesh, my flesh: I was whole. The sacraments are mysterious and mystical experiences, yet they had a direct impact on everyday profane living. Once absolved and in communion with my God, I felt acutely conscious of my obligation to treat everyone I would meet that day as if I was meeting Jesus Christ in them. If I found someone in difficulty, I would urge them to take advantage of the benefits that the sacraments offered, as I experienced them.

Sacraments create identity. They heal and make a person whole. Once I identify with my God ("I am a Christian by Baptism"), I am healed (all sins forgiven) and reconciled (in communion with all the People of God); at this moment I am holy. *Sacraments is a way of talking about profane,*



*everyday life and events.* Sacraments are rituals that find in profane, secular and everyday events a presence that heals and makes one whole. While “sacraments” is most often used in a religious context, I claim it as a word that describes how identity, healing and wholeness occurs in the profane and secular world.

When Gordy said that it was not a hootch but a home, not a gook but a person, I realized that he had a sacramental experience. There was no more accurate description. On the battlefield, Gordy’s identity changed. He was no longer a killer, because there simply were no longer any gooks. He sensed himself as a part of a whole. He was in communion with all people and a sensed that he was, himself, part of the worldwide community in which all humans are celebrated as family. Gordy experienced that there are no gooks, just other humans.

Gordy’s act of destruction of profane matter, that is, hootches, was the ritual act that effected his spiritual insight: they’re homes. More, it effected his spiritual truth, namely, he realized that it was his own home! Many rituals involve an act of destruction, such as the breaking of the communion bread. At first, I didn’t speak to him in terms of sacraments and spiritual experience. In fact what I want to make clear is that I couldn’t speak in those terms. Gordy’s experience didn’t fit into traditional Catholic sacramental or spiritual terms.

Let me make this point more clearly: as traditionally defined, sacraments make God present to you, an individual within your intimate, soulful space. There are no “social” sacraments. Nothing that Catholics do makes God present to a group or within a social space; there is no talk of a “people’s soul.” Sacraments are administered within a religious space, with set liturgical formulas and rites. This sacred space – a holy spot – is defined by the way it *separates* itself from profane and secular space. On the battlefield, the priest and Mass worshippers believe that they step outside of profane “space and time” and into the intimate holy spot created by their worship.

What Gordy revealed is that the battlefield is a holy spot. A spot where he experienced healing, a sense of wholeness, and identity. He forced me to face this new spiritual truth that the battlefield is where humans experience the presence of their God as a group. It is where the social

sacrament that confers group identity, healing and wholeness occurs. Gordy's experience turned my world upside down and inside out. I learned that there are social sacraments, but not in the religious context, rather in the secular and profane world. If I really wanted to be a sacramental theologian, I would have to more fully understand "social sacraments."

### **War as secular ritual**

War is a group ritual, a social sacrament. Through warring a group confirms its identity. You hear, "America { *We, the People* } is at war." Through warring, society is healed and made whole. You hear, "War ensures our freedoms. Protects Democracy." It is claimed that war makes present peace, security, safety, comfort, freedom and other communal sensations of wholeness and healthiness. War is a celebration replete with ecstatic moments. The group shouts, *America wins!*

The secular sacramental act is the soldier slaying the enemy. Through this killing act blood is shed. It is society's sacred blood. Blood shed by a soldier is a hero's blood; it is honored. Often medals and the iconic national flag are bestowed on families of fallen heroes. Blood shed by an enemy is redemptive blood. It is blood that *must* be shed for society to have its identity. When the enemy bleeds, American blood runs true and blue: healthy and whole.

Society accepts that the individual soldier must violate bedrock social moral values in order to protect the group; to validate its core values. Through the soldier, "We, the People" are one and whole. Once the ritual of war is over, the soldier is not allowed to kill. Once demobilized neither he nor his killing is held sacred by the group. He disrobes, sets down his arms and becomes average Joe Citizen, again. War is a secular ritual. It is entered and exited through military ceremony. One phase of that ceremony is the process of being drafted which includes Registering and then "stepping forward" at the Induction Center to take an oath of allegiance.

What unnerved me was the obvious threat that Gordy represented to me and to my American Roman Catholic story. Neither the American nor the Roman Catholic chapters in my personal story led to draft raids. I had situated my Conscientious Objector claim within the American pacifist tradition, that cited historical precedents back to the moral witness of the colonial Quakers and other pacifistic groups. I had argued for my CO status based upon the morality of

dissent that the principles of Roman Catholicism's "Just War" theory set forth. But neither this history nor these principles provided me with an argument for breaking the law through draft raids.

I was unnerved by Gordy's spiritual experience because it indicated that if I wanted to find the God of peace, I would have to go onto the battlefield. If I wanted to soulfully respond to Gordy's need for a story that I'd have to go back with him onto the battlefield, there, to confront with him the God of Death with the powers of the God of Peace. But how? My primary story was religious. I am a theologian. His was secular. He's a soldier. There was a connection, at least Gordy thought so, that's why he visited me. What had Gordy experienced that I was not understanding? Once again, Teilhard's spiritual vision provided the link.

Though I wasn't making the connection in words, I was slowly connecting on a spiritual level as I continued to attend Daily Mass. I began to see that, in many ways, the Catholic ritual of the Holy Mass is a battlefield scene. It is a ritual of human sacrifice. Roman soldiers spear Jesus' side as he hangs from the cross. The Holy Mass is an experience of God making himself present in the human moment to all who attend the Mass and partake of Holy Communion. Catholics speak of the "real presence" and claim that this is the presence of the Resurrected Christ. The Holy Mass is a foretaste of the Resurrection joys of the individual being present with God in heaven. It is a spirituality that is fulfilled after life on this earth is over. But, as with the Catholic notion of sacrament, the Mass concerns *individual* sacrifice and individual salvation. I was taught that the Mass is a celebration of Jesus' act. Through Mass, I as an individual am healed and made whole. In my person I become One with Jesus Christ. The Mass does not heal and whole groups, nations or peoples.

It slowly dawned on me that Gordy had a Teilhardian spiritual moment. Gordy had a foretaste of the horrors of hell as he enacted the ritual of pillage and destruction. Amazingly, it turned into a foretaste of the joys of being *fully present* as a human being on earth. It was an experience of himself as a member of the One human family. He experienced that about himself at the same moment he realized that the gook was a person. Gordy's was a social, communal experience. He experienced the other, here "gooks," as precious. Gooks counted. All people counted. Killing

gooks was killing himself.

Through the gook, Gordy came to know himself. He found that his own life counted. More, he came to me because he sensed that he had sinned, that is, polluted the Noosphere with evil images and energy. Though he did not have the words, Gordy's flashbacks and nightmares occurred because the evil he did in Vietnam lives on in collective memory. He polluted the Divine Milieu. His quest was to reverse the experience. Expel the demons. Right himself with the world. Clearly, Gordy was seeking a sacramental act that would make him a peacemaker.

As I worked out my notion of socio-political sacramental act, I was sensitive to its clumsiness. The phrase itself might stand in the way of someone understanding what stood behind the phrase. So, I had to explain how it already existed. While the phrase "draft board" sounds passive and does not lead one to think of it as a sacred space where individuals are transformed, the phrase "Boot Camp" does. Gordy realized that society put him through a identity forming ritual. He new the innocent sixteen year old who entered Boot Camp and came out a killer. Everything about Boot Camp was a social and political ritual. He wore special clothes. Learned battlefield chants. Bonded with his team. But the most basic transformation was that Boot Camp enabled him to live as if the human family was not one. Instead of the other as precious and a life that counts, the other was enemy and the human family fragmented into political camps: Communism and Democracy. He was made part of a very small whole: a single nation.

Only within Teilhard's vision could I begin to connect with the sacramental character of Gordy's Boot Camp experience. My time in the monastery never approached the communal experience he had in camp. To that time in my life, my spiritual journey was narrowly focused on my personal identity, my virtue and my salvation. I had not been called me to risk my life for anyone, nor to put my life in harm's way for my beliefs.

Yet Gordy sat before me in desperate need; anguished despair. Though he had this peculiar sacred-secular spiritual experience, it hadn't changed the realities of everyday life in America, namely, that he, and all vets, were still at war. He came to me seeking comfort: possibly forgiveness. All of us on the Newman Center staff represented the Church to vets like Gordy. I

might have finally encouraged him to pray, to go to confession, or attend Mass, daily. It would not have been out of character for me to respond to him with those suggestions. What I must make clear to you is that, after he left my office, I realized that neither I nor the Catholic Church could give Gordy what he needed.

It is at this point, as I attended and preached at Masses, that a sense of being irrelevant and immaterial began to nag me. The words I spoke from the pulpit - sometimes thundered - did *not* lead people to exit the church with their hearts committed to peace and their wills committed to ending the war.

Gordy's visit kick-started my search for a social ritual that would sustain his battlefield experience. He needed a way, every day, to reconnect to the holy experience of being in the presence of the God of peace. I did, too!

**“You should be ashamed of yourself!”**

*People leaving church after Mass.* I sensed that I was having little effect in moving people to commit to lives as peacemakers. At least, I hoped that those who heard me preach went out and re-enacted a scene from my own life. To note: My first-ever act of anti-war protest.

My first protest involved handing out a letter from a renown Catholic preacher, Bishop Fulton. J. Sheen. My father rarely missed one of the Bishop's weekly TV shows, and I most often sat at dad's feet. Bishop Sheen had written an article in a national Catholic weekly that cast doubt upon the morality of the war. I was in graduate school in San Francisco (1967), and with several other young theologians stood on the pavement outside a church handing out copies as Sunday Mass let out.

Since this was my first public act of anti-war activity – very low-key by all standards – I was acutely aware of what I was doing, and hyper-sensitive to every look and gesture. My heart thumped as people brushed by, most taking a leaflet. Towards the end of this task an elderly woman – expensively dressed and bejeweled – slowly made her way towards me. I can still see her wobbling step as she placed her left foot forward, then leaned and slightly pivoted on her cane. It took her a minute to reach me, but she did not stop to take a leaflet - she almost didn't

stop! - she pressed her face close to mine as only the grandmotherly are accustomed and rasped, “You should be ashamed of yourself!” Then she yanked a leaflet from my trembling hand. I watched her float away, for that is how everything seemed at that moment, as if I were bobbing up and down in the ocean, drowning, and she the ship departing that did not throw me a life preserver.

All Bishop Sheen was saying, and I affirming, was the primacy of “Thou shall not kill.” From the Newman Center pulpit, I was continuing to do the same, and probably being as ineffectual.

In an effort to respond to Gordy, I realized that neither the God of death and destruction nor the God of peace are made present in the Holy Mass. I assessed this since after Mass people do not *necessarily* go to war nor do they go out to make peace. Some might hand out leaflets, like I did. Others just went home to watch a TV sports event. Whatever the Mass made present, it did not consequentially move the hearts of individuals in respect to the issues of war and peace. On the battlefield or at a celebration, the ritual of Mass made some God present, but it was neither the God of Peace nor the God of War.

How to ritually respond to Gordy’s battlefield sacramental experience? At my trial, the prosecutor mocked me by saying,

Now what's Mr. Kroncke's argument? He says, I... did as you charge but I committed no crime. I administered a sacrament. ... Seven sacraments are not enough! To Baptism and Confirmation and the Eucharist and Penance and Holy Orders and Matrimony and Extreme Unction we add the EIGHTH SACRAMENT of the Roman Catholic Church -- *ripping off draft boards!*

More than he knew, his ridicule was insightful and accurate.

**“To live as if I am no one's enemy”**

What Gordy brought to me was a new way of feeling. He had acted on the battlefield not from some moment of intellectual clarity, but from an overwhelming primal emotional impulse. In my

words, Gordy did not want to feel as if he was any one's enemy. He not only did not want to name anyone as his enemy, he wanted *to live as if he was no one's enemy*. This was how I came to express the feeling of his actions and its impact on my emotional self.

As just noted, after Mass I could still live as if I am someone's enemy. Mass didn't transport me to the spiritual state of living as if I am no one's enemy. I had to face the possibility that my spiritual language and sacred rituals were more a part of the problem than the solution. I only had to look at the Catholic hierarchy and observe how they passively responded to the war for a validation of this unhappy insight.

Though my mind and heart were inspired by the words of Pope John XXIII and by Vatican Council II's condemnation of Total War, no new rituals were developed to make present the spiritual reality to which their words pointed. Indeed, their words called out for a new sacrament, a ritual of peace, that would heal and whole all people. A sacrament through which you and I, as Gordy did, would experience a new identity as members of the one, human family. A sacrament through which you and I could be healed so that we lived as if no one's enemy.

I saw Vatican Council II's spiritual insights to mean that my actions were to directly impact global matters, such as Total War. Its spiritual insights called the individual to a new identity, namely, as a "citizen of conscience." My personal response to Vatican Council II was to its condemnation of Total War. Would the world, through the war in Indochina, initiate a nuclear holocaust? Would the world, through the Vietnam War, enter into a phase of endless warring where you and I were to live as if everyone is our enemy? All the vision and moral challenges of the Council necessitated the development of something new within Catholicism, namely, social sacraments. How else to make present Pope John's "Peace on Earth"? How else to enable worshippers to connect with their God who condemns Total War?

But all around America and the world, things just continued to get worse. A Dark Night was descending upon the human family. Soon, even the Newman Center became a dry hole. While the center's director, Father Harry Bury, continued to inspire hundreds of students and other parishioners each week, it was the ritual of Holy Mass that left me bereft and empty. Father

Bury, one of my personal heroes, later chained himself along with several other men to the American embassy gate in Saigon. His life gives meaning to the phrase, “Peace priest.” Harry, like most other Catholic Radicals, continued to find spiritual and moral nourishment from the sacraments of the Church.

Personally, I was beyond being highly distressed. I was truly desperate. I yearned to feel the comfort, forgiveness and holiness of the sacraments as I had experienced all my life. I wanted to feel their promise once again, that “peace beyond understanding,” but I didn’t; couldn’t. I was genuinely troubled by the fact that I could not recall one chaplain ever telling me that, after he offered Mass on the battlefield, a soldier came to him and said that he had to throw down his arms. You can understand, then, that when Gordy told me that he did throw down his arms, I was at a loss to understand the ritual character of the moment. You might say, Why even consider it a ritual moment? Because if Gordy had only suffered battlefield fatigue, he would have run away, then, hopefully, sought some psychiatric care. But, he didn’t. Rather, he brought back a message – a revelation of staggering simplicity – “There is no need for war, anymore.” Simply, in the global village, all humans are family: gook...person...hootch...home. All warfare is friendly-fire.

If we are to have peace on earth, we must all live as if we are no one’s enemy.

### **Draft raids as rituals of peace**

How could I or others so act that we could testify, as Gordy did, that

“...instead of a gook, it was a human being.”

“...instead of a hootch, it was a home.”?

Experientially, I could no longer live with what other Catholic Radical draft raiders continued to accept. They believed that, *at its core*, the Catholic moral tradition affirmed a pacifistic, nonviolent and anti-war ethic. I had come to discern and acknowledge that the tradition never had and, more significantly, could not and would never support pacifism nor illegal acts of resistance. Yes, I understood my fellow raider’s passion, intelligence and moral courage. Among others, priests like Joe Mulligan, S.J. came to Minnesota and eloquently articulated what was



termed “Divine Disobedience.” They, and all Catholic Radicals, were and remain champions. But I came to accept that the Holy Mass and the sacraments actually distracted and sidetracked people from opposing the war. They did so because they kept the individual’s focus on his/her own intimate spiritual life. The Mass was an act of personal piety. There were no social or public sacraments, nor other rituals that evoked the ecstasy Gordy felt when he lived, in that battlefield moment, as if he was no one’s enemy.

Abruptly, one day, I walked out of the Newman Center, across campus and over the Mississippi to the University of Minnesota’s West Bank and walked-up into the *Twin Cities Draft Information Center* (TCDIC). As I mentioned, my anti-war resistance was sourced in my personal moral beliefs. I had never sought draft-counseling. But now I wanted to find those in the anti-war movement who might be like Gordy. I wanted to meet those men who had put their lives in harm’s way and were facing prison sentences.

At the top of TCDIC’s long stairway, as if waiting for me, was Dave Gutknecht. Dave was, and is, an extraordinary character among idiosyncratic characters; his draft resistance case was being reviewed by the US Supreme Court. The “Gutknecht vs. United States of America” decision prevented draft boards from expediting the processing of draft resisters, that is, jumping their 1-A files to the front of the line and so hastening their induction, refusal, trials and eventual imprisonments. Dave and I would spend time, together, in federal prison at Sandstone, Minnesota.

Dave, and most I met at the TCDIC, were, in my way of thinking, “secular” men. Their stories were filled with pacifistic beliefs, nonviolent actions, political motivations, anti-authoritarian predispositions and the like. Few knelt down in prayer with me or felt called to participate in an exorcism of a federal building. If they did, it was more on a lark than a testimony to faith; a bit of “guerilla theater.” Like Gordy, these resisters simply but heroically strove to be good men.

The monumental shift in my thinking was recognizing that the TCDIC was another sacred-secular place. I was compelled to admit this, once again, in response to my emotions. The TCDIC was, more than the Newman Center, the place where young males went to “consult the

oracle.” It was similar to the Catholic confessional. It was there that men bared their souls; anguished over their bleak options – war, prison or exile; broke-down and/or broke-through to a mature moral self. They left the TCDIC buoyed by a deep experience that is by all measure rightly called spiritual, because they were healed and whole, with a moral identity, here, as draft resisters. They left having resolved whether they were in service to the God of Death or the God of Peace.

Though young men visited my office after Mass, the TCDIC was the holy space I sought. It was there that I, myself, could tangibly feel the presence of a peaceful holiness. The men and women who gathered there – to talk, argue, counsel, and flirt – were grappling with demons and angels, much like Jacob did in the Hebrew testament. They were Daniel in the lion’s den. But they didn’t talk Catholic Radical. At times I felt that I was the only Catholic Radical west of Chicago. But if it wasn’t for their passionate, at times intemperate witness to peace and acts of in-the-street resistance, I would not have found a way to be with Gordy on the battlefield.

That’s the rub. I found my deepest spiritual experience in a place and among people with a vision mainly secular. Their morality was grounded in the new radical interpretations of American history, the philosophies of American thinkers such as Thoreau, Emerson, Dewey and Chomsky, constitutional law arguments about the Bill of Rights, and so forth. They read the Beat poets, enthusiastically sang along with Bob Dylan, Simon and Garfunkel, the Doors, Janis Joplin and the weird strains of acid rock. Joe Hill and Woody Guthrie were idols. Many were influenced by French Existentialists such as Camus, Genet and Sartre. They read “the Russians” – notably the novels of Dostoevsky, Turgenev, Gogol and Tolstoy. Franz Kafka, Nikos Kazantzakis, the plays of Samuel Beckett were also in the stacks. These I had read and heard. But then there were volumes of Marx, Mao’s Red Book, Frantz Fanon, Che Guevara, “Red Emma” Goldman, Lenin’s library and assorted anarchists, most of these I had never heard of nor read; in time I did, a bit here and there. Simply, they were grounded in a different worldview, and told quite a distinctive story of Resistance. Actually, to them, as I’ve acknowledged, I was the odd man out. Guys could be inspired by one of my sermon or a passionate oratorical outburst in class, but if they needed to be where the God of Peace was, I had to send them to TCDIC. *Damn!* This reality threw all my traditional theological sureties out the window.

In a way, I became a closeted Catholic. Fellow draft resisters who knew me back then are laughing as they read that. They know that I outwardly persisted in my Catholic babble all the way through trial and even when I argued before the appellate court. But I was winding down inside; in respect to my emotional and faith commitment to the Church. I had to continue to talk Catholic – I knew little else – but I was feeling odd; actually, though the word has taken on other connotations, I felt queerly. My feelings were more than a bit off the track, a curiosity to myself, at times somewhat giddy; at times I felt deranged!

**“Socio-political sacramental act”**

“Socio-political sacramental act.” I was trying to compose a phrase that explained why raiding draft offices was a spiritual necessity. Somehow a public sacrament had to be ritualized or I would have no way to properly respond to Gordy’s battlefield experience.

Two facts are of paramount importance for understanding why I cobbled together this hyphenated phrase. First, registering for the draft is the *only* act that every American male, at eighteen, must do. There are no exceptions. If you are mentally ill, a novice in the monastery, Joe Athlete, deaf and dumb, a paraplegic – your physical condition is not relevant; if you are eighteen and breathing, you must register or face imprisonment. Now, obviously, there are deferments. But that’s after you register. I was in my Franciscan monk robes when the Novice Master drove me into a small Indiana post office to register. No exceptions; some deferments. Registering is an act that bestows identity. So, it is sacramental in that it is necessary and the culturally defining way for a male to become an American.

As Ken Tilsen clarified during Opening Argument,

The character of the (Draft) records are no more 'irrelevant' to this matter than the character of the records would be if these were records perhaps of Jews being selected out for burning in the ovens of Dachau.

Second, the draft system is a social institution anchoring political power. That I, an individual,

raided a board, or that you decide to do so, is of little to no importance. That the board is raided, is. The draft board is the secular holy spot. So, I and others reasoned the best way to make a social protest is to do it *anonymously*. We would become “raiders” not just individuals making a moral statement. We all learned this lesson the hard way. As I noted, the media turned the personalities of earlier draft raiders into “good copy.” Too often why the draft board *had to be* raided, why *only* the 1-A files were destroyed, that the Supreme Court had *never* ruled on the constitutionality of the Selective Service System (“involuntary servitude”), and other key facts about “the System” were omitted in favor of pointing out some peculiarity of an individual resister. For example, so-and-so is a Marxist or an anarchists or a former Vice President of the University’s student body; it went on.

Once you grasp the social and cultural ecstasy latent in a draft card, then you understand why I call a draft raid a symbolic speech-act. Ecstasy: the God-like experience of killing someone, and not being held accountable! The primal crime: Cain and Abel. Anonymity: so that the media’s focus is on the letters we mail them, or on the content of the interviews we get as representatives of a given draft raid group. In January 1970 after our first Minnesota raid - the *Beaver 55* action - since no one got caught or arrested, several raiders (two women, two men) “surface” and call a press conference at the University of Minnesota. There they claimed moral and political responsibility while not admitting that they did it. This tactic worked superbly. The *Beaver 55* strutted in front of the FBI – untouchables!

Unfortunately, six months later, “The Minnesota Conspiracy to Save Lives” lost its anonymity as eight of us were nabbed and became the “Minnesota 8.” Our life stories, then, as predicted, became media fodder, and it was almost next to impossible to get an article written that focused on an in-depth analysis of the war and the questionable constitutionality of the Selective Service System.

To grasp the impact on the System of destroying 1-A files, remember, in clear contrast to the present, which is a high-tech era, the Sixties was a paper-based information age. There were *no backup copies* to the 1-A files. So when we destroyed a file, we effectively gave a life making decision back to the potential draftee. However, since he could elect to re-register with the draft,

there was no certainty that our raids would realize their intended end of keeping the draftee out of the war.

I and my fellow draft raiders were acutely aware of the symbolic nature of the draft raid. We were all becoming weary and our voices strained from personal testimonies. We eagerly sought a new way to speak peace, and we wanted to do something as a group. As I've acknowledged, we were desperate men and women, and were at the point where we were willing to just throw a wrench into the goddam machinery of war, simply to stop it for a moment. The wrench was my life, and the lives of the other raiders.

In sum, after prayerful meditation and agonizing hours of self-doubt and plain ole knee-knocking fear, I jettisoned my Catholicism *as I* broke glass and door-lock and stepped into my first draft board. I entered the secular Holy of Holies. This is what I was *not prepared* to explain at trial. Namely, that the draft raids were not so much acts of moral witness as they were secular ritual celebrations that made manifest a spiritual experience for which traditional Catholic moral terms proved wanting. While other Catholic Radical draft raiders positioned their acts within the Catholic moral tradition, I simply could no longer.

### **How could I hold my world together?**

I admit that even before Judge Neville wielded his majestic gavel, my American Roman Catholic voice had seriously wearied and weakened. It all happened so quickly that I strain to detail an exact chronology. 1968-1969 was an absolutely chaotic and crazy time in America. Here are some significant events.

1968 started with the Tet Offensive and an infamous picture of a South Vietnamese officer executing a Vietcong soldier: leaving no doubt, it's all just murder. After this American defeat and this horrific image it is rapidly downhill for America. The My Lai massacre. The assassinations of Martin Luther King and Robert Kennedy. At that year's Democratic Convention, cops attack protesters, and 1968's obit is written, "The whole world is watching!" *The Chicago 7* trial ensues: madness and mayhem. Nixon is elected. He inherits the Democrat's war: JFK and LBJ. Astronauts shoot for the moon. Over 500,000 American troops in Vietnam; over 33,000 killed. Muhammad Ali is convicted for refusing induction. Black Power. Women's

Movement. Gay Revolution. Man- on-the-Moon. Nixon bombs and bombs. Woodstock. Hordes of protesters stage Moratorium Marches on Washington, D.C. and cities across the nation. Sit-ins on campuses proliferate. Draft raids follow draft raids. 1969 ends: “Operation Breakfast,” the carpet-bombing of Cambodia. ... Kent State, Jackson State, the first Earth Day and the *Beaver 55* and *Minnesota 8* are yet to come in 1970.

*1970:* At innumerable rallies, in classrooms up and down the state, after Sunday services in church meeting rooms of every denomination, and to whomever would lend an ear, day in and day out, my voice pleads, bleeds, urges and condemns with the special vision, imagery, hope and dream of my soul, American and Roman Catholic.

*Christian America.*

*Christian pacifism.*

*We, the People. Free Speech.*

*“Citee on a hill.”*

*“Blessed are the peacemakers.”*

*“Do not think that I have come to abolish the law or the prophets. I have come not to abolish but to fulfill.”*

*“No, no, we are not satisfied, and we will not be satisfied until justice rolls like waters, and righteousness like a mighty stream.”*

My god, what a trembling time it was. Dreamers of ancient times rising upon the voices of my fellow Americans and Christians!

My god, what a horrid, depressing, terrifying time.

I articulated to the world how I understood and believed in nonviolence and Christian pacifism. I discussed the morality of war with academics, professors, activists, students, returning vets and others who argued from diverse religious traditions, secular beliefs and even atheistic premises. It is difficult to convey how emotionally dense and time compressed were the years from 1963 to 1974, which comprise what is properly called the Sixties. It was, simply, a decade that lasted a

century. So, in time, I, as other activists did, burned out. I said what I wanted to say so often that I wanted to stop hearing myself say it. The upshot is that when I decided to plan draft raids, the act was testament to my waning voice, to my wearying personal story of resistance.

It was a desperate act, but the draft raid action was an attempt to hold my world together. However, already a world increasingly in shambles, intellectually and spiritually. I broke the law of America (sabotage) and of my Church (stealing) out of sheer emotion. It was the emotion first tapped when I met Gordy Nielsen. I wanted to feel as I wanted to live, that is, “to live as if I am no one’s enemy.” I knew that I could be and was being called enemy, but I didn’t have to accept and live that way. I wanted to stop living as if I was a gook. I wanted to stop living as if my home was a hootch. I wanted off the battlefield, which is what America was. I wanted to feel at peace, not just speak it.

My dilemma then in preparing for trial was that I myself was quite tired of re-telling my Catholic seminarian-monk-theologian-CO story. But what else could I do, once arrested? If I didn’t “talk Catholic,” I wouldn’t have any way to say what I wanted to say. So I began to prepare to “tell my Catholic story, one more time.”

### **The “Defense of Necessity”**

Ken Tilsen, our lead attorney, was Jewish and had rabble rousing socialists sitting out on the limbs of his family tree. Since he obtained his law degree from the University of Minnesota Law School in 1950, Ken remained at the forefront of social justice defense attorneys. Ken was a courageous, very articulate, bright and insightful guy with a sharp sense of humor. At one point, after hearing a rendition of my Catholic Radical story, he sighed and said, “Frank, you’re going to have to defend yourself. I don’t understand a word of what you just said!” Several of my co-defendants nodded in agreement as everyone laughed.

When Ken began to discuss the “Defense of Necessity” argument with us, I had to dust off my academic books and start outlining the intellectual part of my trial defense. Our defense was to argue that Mike and I committed one evil (that is, breaking the law) in order to avoid a greater evil (that is, the Vietnam War.) This defense does *not* have long-standing precedent in criminal law. In fact, it is just suggested in the Model Penal Code, which is a series of theoretical laws

which are offered to judges and lawyers as possible defenses.

Ken found legal precedents, though most were from the last century. For example, Often a person who has stolen a boat to save a drowning swimmer has the charges of theft dropped. So, too, a person blowing up a dam that floods a valley killing a thousand people is justified if the act was necessary to avoid the deaths of a million in a city above the dam.

I knew that we were in an impossible legal situation. My claim that my being faithful to Catholic moral truths, for example, Thou shall not kill and the condemnation of Total War by Vatican Council II, among others, were not legal precedents. More, they intelligible to the legal mind. What I mean is that America, as is true of other sovereign states, does not recognize any power higher than itself. That is why it claims sovereignty. Moreover, and this is in contrast to other modern nation states, America has no legal category for “prisoner of conscience” nor “political prisoner.”

With no hope to truly persuade the judges, what could I do with the jurors? I spent a bit of time researching the tradition in American law as to “jury nullification.”

Jury nullification occurs when a jury returns a verdict of "Not Guilty" despite its belief that the defendant is guilty of the violation charged. The jury in effect *nullifies* a law that it believes is either immoral or wrongly applied to the defendant whose fate they are charged with deciding.

Jury nullification appeared at ... times in our history when the government has tried to enforce morally repugnant or unpopular laws. In the early 1800s, nullification was practiced in cases brought under the Alien and Sedition Act. In the mid 1800s, northern juries practiced nullification in prosecutions brought against individuals accused of harboring slaves in violation of the Fugitive Slave Laws. And in the Prohibition Era of the 1930s, many juries practiced



nullification in prosecutions brought against individuals accused of violating alcohol control laws. (Doug Linder)

As rare as jury nullification was, it gave purpose to presenting my Catholic story in as compelling a fashion as I could. This slim hope was enough for me. I never pretended that I thought the jury should find us Not-Guilty. In fact, I would open my trial, “We did it. And I want to tell you why.” Nevertheless, we approached this nullification option, indirectly. I wanted Neville to seriously consider the Defense of Necessity, and I knew that directly pressing the jury on this issue was certain to anger him.

I insinuated this option through asserting that the juror, themselves, could appeal, as I was, to a “Higher Allegiance.” We would have been more aggressive with this ploy if Neville had cut the trial short, say, after a day of testimony. When he let it go on till we were through with all our witnesses, the surprising possibility that the case was going to be heard by the jurors tempered our use of this tactic. However achieved, I knew that my only hope laid in moving the jury to nullify whatever action Neville felt compelled to take in light of Devitt’s having already delivered the maximum sentence to my co-defendants before my trial began. But, I doubted if any of the jurors knew of this bit of American legal history. It would, indeed, be a miracle if – by their own wits - they chose to nullify.

So, I have a legal chance; even if a *barely* barely one. All I have to do is preach the best sermon of my life! All I have to do is sway twelve other humans beings. Piece of cake, eh?

You might think, after years of teaching and public speaking, that I could quickly rip off a courtroom story that would succinctly and cogently convey the rightness of protesting the war in Vietnam. But it didn't go that way. See, it wasn't just that I had my Catholic Radical story to tell but that every day I became increasingly aware that my whole life was on trial. I was only going to get *one shot*. It's a bit like facing a firing squad. They give you one last cigarette and say, "You have anything final to say?" Even if you did have something incredibly fabulous, astounding and amazing to say, would they not fire?

### **Framing a trial “sermon”**

Could I convert just one juror to adjust their current moral worldview so as to accept mine? Where would an argument from pacifism or Christian pacifism fit, if it fit at all? Did any of them ever think a dissenting thought? Ever criticize their church’s belief? How would I get them to accept that I was a “good man”? That I was a responsible theologian, spiritual seeker, and preacher of the holy Word? I just went with my instinct: Preach your heart out!

I went over in my mind 100,000 times how I would make my Opening Statement. I heard echo through my head, "a fool for an attorney." I realized -- with an aching, sinking heart -- that Ken was the only real attorney in the room. So I gave up on being intellectually clever or artful. I decided to simply relate, in a loose chronology, how I developed my moral conscience as my Catholic identities changed. I wanted the jury to know about my family, my father's service in World War II, the moral and spiritual character of our household, and that my moral resistance had slowly, ever so slowly, evolved into the moral views of a Catholic Radical draft board raider.

I decided to simply tell them who Francis X. Kroncke was. “We did it. I want to tell you why.” Indeed, I had a fool for an attorney.

Yet, who was I kidding? Christian pacifism was *not* a core part of *my* Roman Catholic moral tradition. I first came across it when I was preparing to make my CO defense. It was, however, part of the Protestant Reformation tradition, notably, among Quakers (Religious Society of Friends). The Quakers were a major force in America’s Colonial and Revolutionary War eras. When I began discussing my moral objection to war, a draft board member, who never stopped processing files or stamping draft cards as I spoke, paused for a hard moment, looked at me incredulously, and stated as if making an infallible statement, "I'm a Catholic. I went to war." Clearly, not a garrulous or articulate man, he caught the essence of the Roman Catholic tradition, that is, Catholics have a long history of killing diverse peoples, including heretics, infidels and anyone else out of favor with the Pope.

Even though I admired, respected and emulated what are called "historic peace churches," such

as the Quakers and Mennonites, I knew that Christian pacifism was more honored, even by these sects, during peacetime than practiced during war time. (I was aware that the Vietnam War had a “Catholic-Quaker” character. JFK, a Catholic, started it; Richard M. Nixon, a Quaker, ended it.)

I was not up to deceiving myself. As I prepared, I had to face the brutal fact that during my classroom education as a Catholic moral theologian, I *had never* entered into a discussion about breaking the law as a moral act. How was I to get the jurors to understand that it was *necessary* to break the law?

This was really a harder task than it appears. It was not just a matter of oratorical skill, rather, I had to replicate what happened when Gordy first spoke to me. Remember, he didn't change my thinking; no, he changed my heart, how I was feeling. I realized that I would have to first get the jurors to identify with what we shared in common: a love of God and country.

**“All rise!”**

Looking back, I realize that my only advantage was that I was young and inexperienced, enthusiastic and deeply passionate about my beliefs. While my mind's words might fail me, my impassioned heart would carry the day. If I was going to the slaughterhouse, I would not bow nor *baa!* Wiser-heads might have negotiated a plea bargain. At that moment, if I was God's fool, so be it.

The day was upon us. The trial opened January 11<sup>th</sup> and concluded on January 18, 1971. We didn't know, on day one, how Neville would proceed. We were prepared. We had witnesses. I had my trial plan and “sermon” in hand. Thank goodness, Ken actually had a coherent legal strategy and tactic. I floundered even with him.

{ Chapter 4 opening quotes }

“Mr. Kuesner.”

“No. The only thing I have seen -- there has been some signs painted on the sidewalks saying,

“Hang the Minnesota Eight!” I don't think that would influence me.”

Prospective juror's answer during *Voir Dire* examination.

**“Public Hanging Favored** *To the Editor:* Many people have seen fit publicly to go to the aid of the eight charged with raids on draft offices. The eight persons don't mean any harm; they only want recognition. I would like to see them get the recognition they deserve during the Aquatennial - a public hanging of all eight. *David B. Dahlberg*, St. Louis Park (*Minneapolis Tribune*, July 17, 1970.)”

### **The Minnesota 8 and the Letter-Writers**

by *John Berryman*

Here's one who wants them hanged. A poor sick mind,  
signing itself & saying where it's from:

St. Louis Park: Out of the woodwork vermin come.

To crises rise our worst, and (some) our best  
to dare illegal deeds in an unpopular cause  
defying prison because they feel they ought, because  
the sanity & honour seem endangered,  
or seem convulsed, of their own country, and  
a flaccid people can't be got to understand  
its state without some violence undertaken,  
by somebody without a thing to gain,  
to shock it into resisting – one program pain  
of treatment back to health of the body politic:  
to stop napalming pint-sized yellow men

& their slant-eyed children, and ground arms & come home again

O the Signers broke the law, and deserved hanging,

by the weird light of the sage of St. Louis Park,

who probably admires them. These bear their rare mark.

John Berryman was the University of Minnesota Regents' professor of humanities, author of "The Dream Saga," winner of the Pulitzer Prize, Bollingen Award and National Book Award. Published in "Letters to the Editor," *Minneapolis Tribune*, Tuesday July 21, 1970.

"Those who act out of an allegiance to a Higher Law than the Law of the Land are making Jungle Law."  
Judge Edward Devitt at Sentencing

"Since the right to command is required by the moral order and has its source in God, it follows that, if civil authorities legislate for or allow anything that is contrary to the will of God, neither the laws made nor the authorizations granted can be binding on the consciences of the citizens, since we must obey God rather than men. Otherwise, authority breaks down completely and results in shameful abuse." Pope John XXIII, *Pacem in Terris*, Part II, par. 51.

"The Catholic Radical is involved in socio-political concerns because the demands of Jesus call upon him to build an earth in which people ... can share with each other the loving intimacy of God. The having of the Christian experience is almost rendered null by a society which keeps its people in constant fear of annihilation. And draft records are a concrete symbol of that society which must be changed if man is to have a true Christian experience." (Frank Kroncke quoted in "Draft-raid defendant to plead religious rights," *News of the Churches*, *Minneapolis Star*, January 2, 1971)

## Chapter 4: “The trial that wasn’t”

The trial hadn’t started but the defendants were already sentenced. That’s it, in a nutshell.

The trial happened: January 11 through 18, 1971. Check the appellate citation: UNITED STATES of America, Plaintiff-Appellee, v. Francis X. KRONCKE and Michael D. THERRIAULT, Defendants-Appellants, United States Court of Appeals, Eighth Circuit 459 F.2d 697 (1972)

But what is a trial if it’s over before it starts? Shades of Franz Kafka. But that’s what happened. Based on Judge Devitt’s handling of the other two trials, Mike and I knew that we were already sentenced to the maximum of five years before my Opening Statement. Everything in our trial story is a bit ass-backwards. I will anticipate and tell you that

- a) the other five served six more months in prison than Mike and I. Although our trials were just one month apart, unpredictably, our appeal decision went undecided for six more months after they surrendered and entered prison.
- b) All seven of us were paroled on July 23, 1973. This happened despite the fact that the others had been initially told by the parole board that they were serving a minimum of 36 months. Was this influenced by the widespread national shock at the “Watergate scandal”?
- c) The other five never had a second parole hearing. They just received letters saying “Get the fuck out of our prison!” – or words to that effect. This action violated a basic rule of prison culture, namely, “Equal time for equal crime.”

But most of all, let me assure you of one truth:

- d) The “Minnesota 8” ended the war!

Indulge me. Neville was correct in judging Mike and my testimony to be irrelevant and immaterial. Our trial really didn’t matter. The Resistance community was dug-in, depressed but

still there. There was a pervasive feeling of hopeless ineffectiveness. The war was raging as hot and insanely as ever. Nixon continued to pressure federal judges and they were cramming the federal pens with draft resisters of all stripes. Nevertheless, I claim that our trial ended the war. How's that?

### **No good deed goes unpunished: Daniel Ellsberg testifies**

My claim about ending the war is linked to the "good deed" Neville apparently felt he was doing on my behalf. In an exchange that stills finds me scratching my head, Neville said, in his chambers after the trial, "Frank, I gave you your forum." I snapped back, "I didn't want a forum, I wanted justice." Whoever heard of a judge using his courtroom to host a forum, not a trial?

Neville was being, I surmise, a good liberal judge in his estimation. He was affording this earnest young man, me, a forum. Neville had judged plenty other earnest men because, for whatever reason, his docket consistently tallied the highest number of draft trials in the federal district. So, he could afford to be generous. In effect Neville patted me on the head and said, "Francis, you're not dumb enough to think that this Defense of Necessity stuff is anything but nonsense? Look, Devitt's right, but I can give you a forum. Fair exchange? A forum instead of a trial?" After all, a judge is always in control, right? He has unlimited discretion, right? So, he can do whatever he wants in his courtroom, right?

Well, there are things you can control, and then not. Plus, there's a reason for the quip, "No good deed goes unpunished."

Ken Tilsen received a call from Noam Chomsky, a leading antiwar leader of the times. Chomsky had a conflict and couldn't make the trial. He assured Ken that he had an even better witness, someone who would really shake things up. This guy was a top civil servant who served on the staff of the Secretary of Defense, Robert McNamara. Ken then related to us that he wasn't sure what the fellow would testify about. We all shrugged, *Okay*. If Chomsky was sending him out, we'd follow his lead.

Daniel Ellsberg was an Establishment "whiz kid" and one of a small team of scholars that

McNamara directed to write a history of America's involvement in Indochina since the end of World War II. "I became attached to a study group in the Department of Defense set up by Secretary of Defense McNamara to do an objective study of the decision making on Vietnam going basic to 1940 and going up to 1968." A Marine officer he twice served in Vietnam, and earned the highest security clearance of any civilian. He testified that he was a GS-18, the "highest Civil Service rating in the Defense Department" and an FSR-1, "a Foreign Service rank just below a Presidential appointee." He worked for the Department of Defense, the State Department, was a Harvard Fellow, a RAND think-tanker, a collaborator on the now infamous "Pacification Program" in Vietnam. Ellsberg was also a member of "the so called William Bundy working group analyzing alternative strategies for the President in the fall of 1964." In short, an All American boy, soldier, scholar, civil servant. Some called him "genius."

Neville could have rejected our request for this Daniel Ellsberg, who wasn't on our original witness list. Clearly, Neville knew as little about Ellsberg as we did. That soon changed. Again, I can only guess what Neville was thinking the night-before Ellsberg testified. Here was a very peculiar witness. In the sense that Ellsberg was not known to any of us. He had no direct Minnesota ties. What he did have was this killer resume. Among other things that Neville had to ponder and assess was Ellsberg's top security clearance and the fact that he had worked closely with Defense Secretary McNamara. So why was he here as a witness for some local yokel North Country draft board raiders? What was he planning to say?

The next day a quite different Neville appeared in court. It is accurate to say that he was Devitt-esque. Neville's posture transformed to that of a zoo keeper watching a particularly unpredictable wild creature. Ellsberg sat in the witness chair. Neville's mind parried back and forth with Ellsberg's every word. Eyes followed their prey. Every blink. Every gesture. The air was anxious.

As Ellsberg stated,

While I was working for the Government I was quite ignorant, I would say of the principles of non-violence in an explicit way. How-



ever, as I came to understand them as important, the principle of non-inflicting injury on others, and the Gandhian principle of acting truthfully, and it is a case of coincidence that a great deal of my analysis in the Government had come to revolve around the question of *truthfulness* and the consequences of Congress and the public, although ...

Neville raised a hand to stop him in mid-sentence. Then Neville rattled off his mantra:

“I AM GOING TO SUSTAIN THE OBJECTION TO ANY CRITICISM OF THIS ADMINISTRATION OR PAST ADMINISTRATIONS OR CONGRESS OR ANYTHING ELSE!”

The “anything else” is verbatim. Neville appeared exasperated. Why? Up to this time, the trial had proceeded without any surprises. No witness or defense attorney caused him any concern. Neville correctly sensed that Ken was laying out some trap. He was maneuvering Ellsberg through a series of questions and answers for some purpose. Neville was on top of his game. If only he had known – if we had known! – that this witness was attempting to find a legal way to release the *Pentagon Papers*.

But pay-back is fair. Neville was, unknown to me at this time, conducting a forum. Based upon his own house rules, Neville had not disqualified any proposed witnesses. So he was caught in a “Catch 22” situation. If he had approved the other twelve witnesses, he had to let this one take the stand. What he didn’t have to do was let Ellsberg really say anything significant. Neville wasn’t going to let his trial get out of hand.

### **Ending the war**

Ellsberg was the only scholar and policymaker to read the complete historical study submitted to Secretary McNamara. This massive study became known, in time, as “The Pentagon Papers.” Ellsberg tracked and traced a long-standing pattern of deception and lying. It was a complex pattern that involved officers in the field, government agencies and agents, Congressmen and

political operatives all the way up to – and, by inference, including - the Oval Office during several presidential administrations. When Ellsberg finally resigned himself to the fact that the government was going to suppress this report, with his former RAND colleague Anthony Russo he made several surreptitious copies. Ellsberg was also aided and abetted by the Xeroxing talents of his two teenage children, Robert and Mary.

For a time, Ellsberg attempted to release the *Papers* through legal channels. He approached several high ranking Congressmen and major national media outlets. As a witness at our trial, after answering a series of pre-planned questions, Ellsberg anticipated that the prosecutor would rise to challenge him. He hoped to hear, “You can’t prove that the government lied!” In response Ellsberg intended to unsnap his briefcase and *Voila!* present the *Pentagon Papers* as evidence. However, that didn’t happen. Neville deftly prevented Ellsberg from saying anything. As Ellsberg left the courtroom, we still didn’t know what he was trying to say. Upon the release of the *Papers*, about six months later, I was floored, “*That’s* what he was going to do at our trial!”

### **“Speak truth to power!”**

Historians of the Vietnam War will argue for centuries over both its initiating cause (“Did the Bay of Tonkin incident really happen?”) and its terminating cause (“Make love, not war!”). Few, I aver, will doubt that Daniel Ellsberg’s release of the *Pentagon Papers* (June 13, 1971) was a major terminating cause. Ellsberg’s activity was known to the FBI and other high officials several years before our trial. However, no one knew exactly what documents he possessed, and bringing him to trial risked opening a Pandora’s Box. A trial would achieve what Ellsberg sought, namely public awareness. So, the FBI had counseled against a trial. Yet, President Nixon despised Ellsberg, and wanted revenge for what he deemed Ellsberg’s traitorous act. To discredit him, the President authorized an illegal raid on Ellsberg’s psychiatrist’s office. Evidently, Nixon was hoping to find some Freudian slips in Ellsberg’s analysis file. When this bungled burglary came to light, it only heightened Ellsberg’s stature as it diminished Nixon’s.

The connection with us was part of Ellsberg’s connection with all draft resisters. He stated, at our trial, that he was strongly influenced in forming his moral decision to release the *Pentagon Papers* (an act of civil disobedience) by nonviolent draft resisters.

The example of people who have committed themselves to non-violence and who have acted on it has had a great influence on me. It has led me to try to learn their motivations and thinking. I have studied books that they have given me, but most of all, I have been impressed by their actions and their characters, and that has had a very strong influence on my life...

I didn't know that Ellsberg was "packing" the *Pentagon Papers* in his briefcase, ready to release them upon cross-examination. While waiting to enter prison, he and I (and others of the *Minnesota 8*) had many long telephone conversations. We discussed nonviolence, life in prison, what the Quaker testimony of "Speak truth to power" actually meant in terms of how a peacemaker must act, and so forth. Nevertheless, I was still blown-away by – and grateful for – his courage and commitment in risking his life the day he released the *Papers*. There were few in the Resistance who did not fear for Ellsberg's life. After all, political assassinations had become acceptable policy here at home as well as in Vietnam.

If Ellsberg had testified and released the *Pentagon Papers*, I wonder what would have happened? The trial might have been interrupted, and everyone indicted for treason. At the time, Ellsberg's testimony had little impact on our jury, but a great impact on our lives as we got to know him better. The lesson I draw from Ellsberg's chapter in our trial account is that if you act according to your conscience, good things will happen.

Later, during his own trial, Ellsberg restated that his personal commitment to risk prison was significantly strengthened by the risk he saw draft resisters and draft raiders take. So, in one small way, the draft raids of the *Minnesota 8* helped topple Nixon and end the war. (Or, at least this is how I like to "connect the dots" when talking to my sons, and hope to do with my grandkids.)

"You seven had more influence than seven senators."

(Daniel Ellsberg in telephone conversation with

Frank Kroncke, cited in *Minneapolis Tribune*, August 5, 1973)

### **My testimony**

What did I say to the jurors? I spoke for almost three hours, with a short break in between. Since I was attorney *pro se* I called myself as my own witness. I said to Neville, “Do you expect me to sit in the witness stand and, to ask myself a question, jump down and pace, then hurry back to the witness stand to answer myself?” He smiled one of the few times during the trial. “No, Mr. Kroncke, just proceed.”

I no longer have the full trial transcript. However, before entering prison I composed a lengthy account of key parts of the trial and attending events. This manuscript included excerpts from witnesses, list of juror names, testimony from the FBI, news clippings from mainline, alternative and “underground” newspapers, and other materials related to the trial and the times. In the section that presents my personal witness stand testimony, I follow a structure that I set down in this pre-prison account. When I explain “socio-political sacramental acts,” I closely follow the text of my appellate brief. In this brief I was forced, by appellate guidelines, to be as succinct as possible.

Note that the written text inadequately conveys the emotional charge of spoken testimony. The virtue of a written text is that it is linear, whereas oral presentations are filled with starts-and-stops, rambling asides, and incomplete statements. If you’ve ever read a court reporter’s transcript, you understand the inherent disorderliness of public speeches, unless the speaker is reading verbatim text. I chose to excerpt my appellate brief in an attempt to present a difficult concept, that is, “socio-political sacramental acts” in the most readable format.

I mentioned that our appeal decision took six months longer than the other two trial appeals. This was quite unexpected, but it gave me time to do two things: 1) dress like a Catholic priest and travel to visit two of the 8 who were already in prison (Bill Tilton in Milan, Michigan and Brad Beneke in Ashland, Kentucky), and 2) compose the trial account, titled “Patriotism Means Resistance,” that I deposited with the Minnesota Historical Society. In Appendix “x”, there are

links to this material, a “Minnesota 8” website, and a play jointly produced by two Minnesota organizations: the *History Theatre* and the *Playwright Center*.

I’ve mentioned the difficulty in assessing whether what I said during trial would be heard by the jurors as I wanted it understood. I knew that my story was at once simple as a good Catholic boy following his conscience, to as complex as a good Catholic boy breaking the law to be in the presence of his God. I wished that I could give them an outline to follow, or at least a bulleted summary when they left for the deliberation room. No matter how eloquent I might be, whatever I said would end up being remembered and summarized by jurors who did not know one another and had never worked together. I considered that jury deliberation was a bit like the game of “telephone.” My testimony would be passed from one juror to another, “What did he say?” “What did he mean?” From teaching, I knew how short most people’s memory span were. I also knew that they’d most clearly remember dramatic and unusual language or events. When I delivered a sermon, I was mainly explaining scriptural stories and theological truths that the congregation had heard before. To be effective a sermon had to inspire, sometimes even shock, to waken the soul and conscience. Consequently, I approached my trial as if preparing a sermon, namely, I was ready to preach and convert.

I would be the last witness. Thirteen proceeded me.

### **Witnesses**

Consider the difficulties I faced. I had to charm, inform, inspire, persuade and move twelve other human beings. Now, I had to be a shameless egomaniac to believe that I could do that. What I learned on first day teaching college was how easy it was to be misunderstood, even, ignored. This was why witnesses were useful. They presented important facts, but, more, they were different personalities. It would be extraordinary if every juror liked me. Or that they identified with my moral quest. Witnesses were like guest-speakers. They said what you wanted to teach, and, hopefully, reinforced what you’d already taught. They could be effective where I was not, because the juror who didn’t like my personality would be charmed by a given witness’ ways and argument.

The witnesses shored up my argument about America being in extreme circumstances, the

illegality and immorality of the war and the Selective Service System, my religious and theological interpretation of socio-political sacramental acts, and the necessity and impact of nonviolent Resistance, citing American history and contemporary. All testified, despite the government's standing objection, on a range of issues, including:

- the damage to Vietnamese society caused by the war,
- the impact of the war on Cambodia,
- the extent of civilian casualties in Vietnam and Cambodia,
- the impact of an act of civil disobedience on bringing the war to an end,
- the ecological damage to Vietnam,
- the extent to which draftees carry the burden of the war,
- the effect of domestic protests and acts of civil disobedience on the decision-making of high government officials, and
- the probability that the war will continue unless there is domestic opposition to it.

Testimony was given by:

1. David Gutknecht, a founder of the Twin Cities Draft Information Center. He was a draft resister and counselor. The Supreme Court ruled in his favor, see, *Gutknecht v. United States*, 396 U.S. 295, 90 S.Ct. 506, 24 L.Ed.2d 532 (1970). After a second trial, he served time with us at Sandstone Federal Correctional Institution, Minnesota.
2. Gordon S. Neilson, a Marine veteran of the Vietnam war.
3. Robert E. Anderson, an Army veteran of the Vietnam war. He led an Army infantry squad in 1967-68. Also, a legislative research assistant.
4. Romeyn Taylor, Professor of History, University of Minnesota. Professor Taylor was a specialist in Chinese and Asian history.
5. Marv Davidov, an internationally renown peace activist. He was a Civil Rights Freedom Rider, and founder of the "Honeywell Project" that focused on corporate war profiteers.
6. Arthur H. Westing, Professor of Biology, Windom College, Putney, Vermont. He served as Director, American Academy for the Advancement of Science's study on ecological effects of military uses of herbicides in Vietnam.

7. Andrew J. Glass, a prominent journalist. He was the Congressional correspondent for the *National Journal*, a periodical devoted to the coverage of federal government policies and related issues. It is primarily for use as a research tool by other newspapers, government agencies and officials, and corporations
8. Daniel Ellsberg, a Senior Research Associate, Center for International Studies, Massachusetts Institute of Technology. For sixteen years he was a researcher and consultant to the federal government and an expert participant in decision-making on national defense matters.
9. Staughton Lynd, an historian and author who specialized in the history of nonviolence, American radicalism, and draft resistance.
10. Alan Hooper, Professor of Genetics and Cell Biology, University of Minnesota. He was an expert of military funding of academic research projects. He spoke about the “military-educational complex.”
11. Mark L. Jasenko, the Director of Religious Education, St. Michael's Parish, Prior Lake, Minnesota. He was a former Roman Catholic seminarian.
12. Alfred Janicke, a priest, and noted Catholic Radical. He served time in prison as one of the draft board raiders in the “Milwaukee 14” raid.
13. William C. Hunt, Director, Newman Center, University of Minnesota. A Catholic priest, he attended Vatican II as an official expert in theology (“peritus”). He was also a Professor of Theology at St. Paul Seminary, that trained local archdiocesan seminarians and priests.

An odd but telling twist was that Neville required a pre-screening of the color slides Professor Westing had that showed the devastating effect of the military’s herbicidal sprayings on the terrain of South Vietnam. These slides had been presented, just a few days before, to the full Academy at a meeting in Chicago. One powerful comment he made was that the land could not be used for farming for twenty-five years or more. Pretty startling information for those jurors from farm families. But that’s not the clincher. At the show’s conclusion, Neville stated that all slides with people in them had to be removed. I just couldn’t believe what I was hearing. Clearly, he didn’t want the jurors to identify with the Vietnamese peasant farmers. However, by this time I was getting used to Neville’s artful use of judicial power. He fine-tuned whatever was going to

happen in his courtroom. So, I could almost here him say, as he turned towards me with paternal affection, “Let’s pretend that there are no people in Vietnam, okay?”

Then, consider the differing impacts Bill Hunt and Al Janicke, both Roman Catholic priests, had on the jurors. Al drew the rapt attention of several jurors as he identified himself as a Catholic priest who was an ex-con. They listened as he spoke of his own a draft raid and trial as one of the “Milwaukee 14.” His impassioned voice shuddered with prophetic boom.

I AM PLEADING and you notice from my voice - I AM PLEADING along with Pope John and in that tradition THAT HUMAN LIFE IS IMPORTANT! All people, whether Christian or not, are HUMAN, and as a member of the Human Society, PEOPLE ARE IMPORTANT. In fact, they are so important that it’s from the Tradition that we come from that we have the stipulation that LIFE, as such, IS OF BASIC IMPORTANCE!

When Al testified, no juror napped. If any feared the Judgment of God, Al moved them to my side.

In sharp contrast, Father Bill Hunt was pastoral minister and dignity personified. If ever the word “priestly” conveyed intelligent and compassionate authority, it was rightly applied to Father Hunt. Though he was my college roommate’s older brother, I had only recently gotten to know him. I noted his many distinctions, among them, Doctor of Sacred Theology, seminary professor and New Testament scholar. I had him take ample time to explain the significance of his service to the local Archbishop as a *peritus*, a theological expert while at Vatican Council II. I noted that Father Hunt was popularly known as “the Bishop’s theologian.” These facts gave added weight to a dramatic moment that he consciously evoked as he placed his hand on the Bible to be sworn in. Father made a point of asking the Court Reporter to record this swearing-in oath that states, “... I will tell the whole truth and nothing but the truth so help me God!”

When asked why, he replied:



Basically because I think it affirms a relationship between the Court and higher authority; that the Court itself sanctions the use of an oath as an authority which will protect the type of testimony that I am about to give. It appeals to a higher authority as a sanction for believing that my testimony will be truthful.

I could have said that, but coming from Father Hunt even Neville noticeably paused and appeared reflective. Neville was listening, but he remained unmoved. When Father Hunt pleaded for leniency at our sentencing, he learned a hard lesson about “higher authority.” Neville didn’t utter, rather he lived out Devitt’s statement, “Those who act out of an allegiance to a Higher Law than the Law of the Land are making Jungle Law.”

However, I believed that my argument for draft raids as symbolic acts were strengthened by Father Hunt’s and another theologian’s witness. Father Hunt quoted the Scripture passage that described Jesus’ violent act of expelling the money changers from the Temple. When Jesus said, “You have made my Father's house a robber's cave,” Father Hunt pointed out that Jesus meant,

That the activities of the money changers in this most sacred area of the Hebrew life, namely the temple itself, was doing violence to the orderly process of worship and to the actual freedom of the Jewish people on that day to worship. And in protest to the violence that was going on in the temple, Jesus engaged in this symbolic activity, which brought it to the attention of the people.

Mark Jesenko, a Catholic lay theologian, was the young man mothers want their daughters to bring home. Prince Valiant handsome, his corporate dress only enhanced the paced and thoughtful confidence that distinguished his presentation. I’m sure it was noted, especially by the mothers in the jury box, that Mark was the physical antithesis of my hairy counter-cultural panache. Nevertheless, he made my points.

I am sure that most of us are aware of the Eucharist or Last Supper. Here we take the ordinary symbols of bread and wine as symbols of the sustaining of life itself. And we use them to express through consecration the very preservation and continuance of life between man and God which, by the way, we do not separate from life as we are living it at the present time, as we are living it here in this Courtroom.

Now we also ask ourselves how many or what types of symbolic or sacramental actions can we actually derive, and we found that there really is no limit. We have to speak specifically of sacraments, first of all, in the sense of this individual Jesus of Nazareth, because in a most unique and perfect way he symbolized God's effective presence among man or with man in time and space. The continuance of that effective presence is achieved through the Church, the second sacrament.

Then we have what we call specific sacraments, a set of sacraments, specific sacraments, baptism, Eucharist, penitence, etc., but also our everyday lives and actions in virtue of the fact that we share in the divine life can also be sacramental.

In sharp contrast to Mark, Marv Davidov was a feisty witness. He was the quintessential hard-driving Radical. Marv's life was dedicated to being in "the streets to force justice from the suites." His "Honeywell Project" was a thorn in the side of Minneapolis based Honeywell Corporation. Marv brought international attention to Honeywell, but it was not the type a corporation likes. Honeywell transformed itself from a thermostat technology leader to the foremost manufacturer of anti-personnel bombs. Throughout the world, Honeywell came to exemplify corporate war profiteering. A long-time nonviolence trainer Marv informed the jurors about why Resisters choose to act nonviolently.

Non-violence is the art and science of the attempt to solve human conflict without using murder, exploitation or brutality, either physically, spiritually, or psychologically. Anyone involved in the process of non-violence or who believes in the philosophy of non-violence has to go through certain stages in an attempt to solve any conflict.

One has to discover, first, if in fact there is a conflict. One has to discover if there is an injustice, because the philosophy of non-violence can only work in just situations. You can't use non-violence to defend injustices. Having discovered there is a conflict, that there are injustices present, one goes through various stages in the development and the use of the technique and philosophy.

The aspect of reconciliation is the fundamental aspect of, or one of the fundamental aspects of non-violence. But it is also speaking and acting out profoundly against the injustice, no matter what the consequences to one's self, but holding open the possibility of reconciliation with the opponent.

Of all the witnesses, Neville knew Marv. Every judge in Minnesota did. Marv got Neville's hackles up. Marv's testimony was a slug-fest. The high dudgeon of it all reached a peak with Marv Davidov. As he was testifying that he came back to Minneapolis in 1968 and helped organize the

*Honeywell Project ... an attempt by local citizens to stop the directors of the Honeywell Corporation from producing anti-personnel fragmentation bombs and many other hideous weapons which have been used indiscriminately against men, women and children in Vietnam,*

Neville pounced on the first syllable “Honey ...”

Again you are editorializing about things. He asked you what you did. You returned to Minneapolis in 1968 and helped organize the Honeywell Project. We are not here trying the *Honeywell Corporation*.

Marv: “I wonder why, sometimes.”

Marv then tried to introduce a Honeywell fragmentation bomb as evidence in our case. A fragmentation bomb has hundreds of small knives – “flechettes” – inside. By design, when it exploded it savaged human flesh. It was not meant to destroy property. Only babies, old people, mothers, little kids, even animals: *Scream!* Neville dismissively rejected it. But Marv kept pushing about the evil complicity of the corporate leaders of Honeywell. Neville fumed. In a surge of (moral? economic? patriotic?) protectionism, he boiled:

We are not here trying Minneapolis Honeywell. Whether they are just or unjust or proper or improper in what their Board of Directors do ....

Marv tried to speak a syllable in response and Zeus’ fury raged.

*You are not to talk! You are not to talk!* You are a witness to be asked questions of and to give answers.

When the noted American historian, Staughton Lynd, a Quaker and pacifist, began speaking about the

tradition which begins with Socrates, or in a different way with Jesus of Nazareth, of individuals defying orders of the State which

they felt to be in contradiction to conscience or universal human right.

A tradition he noted,

In American history, this tradition begins very early. For example, in the Massachusetts Bay Colony in the 17th century, members of the religious group to which I belong, the Quakers, insisted on witnessing to their religion despite orders of the State to leave the Colony. And in many cases they were imprisoned or executed.

Neville quickly interrupted him.

This is exactly what I did not want to get into. It is a discussion of history. We are not trying the Boston Tea Party and we are not trying the Civil War. We are here about July 10th and two people who came into the Draft Board. I just don't see the relevance of all this.

The other witnesses opened communication with a juror or two. Each had an impact on specific jurors. This positive – and, I must recount, at times negative – impact was quite visibly manifested by the jurors. Over the hours, most listened intently while others uncomfortably squirmed. At times, one nodded off, or tilted forward, elbow on knee, and gazed up at the ceiling. Indeed, the jurors “spoke” to me if only through nonverbal communication.

All in all, the trial unfolded not unlike acts in the Theatre of the Absurd. I strained for a week to persuade a jury that only hears and has no voice during the trial. Tellingly, after several hours of deliberation, when they tried to speak with one voice, they couldn't. They were split, six-six. They even stated that they had trouble selecting a foreman. Then when Neville “hears” their voice, he forcibly corrected and stifled them. He refused to hear what they heard, namely, that the *Documents of Vatican II* were relevant and that I did perform a ritual of peace. Finally, after the verdict, when their individual citizen voices were restored, several claimed that the verdict

was not their true voice. They publicly stated that they could only utter what Neville wanted to hear.

Mrs. Dorothy Rush said afterwards that “We did a very difficult job. It’s no fun sending two young men to prison. But we had to follow the judge’s instructions.” If the instructions had been different, she said “Some jurors had their feelings and I had mine, but I’d rather not say what they were.” ... “We felt we had no alternative since all their evidence was stricken, said Edward Oswald.” (“Draft Raid Defendants Convicted,” Bob Lundegaard, 19 January, 1971 *Minneapolis Tribune*.)

The trial was simply, “The trial that wasn’t.”

### **Mike’s testimony**

As a co-defendant Mike’s testimony was expressed through responses to the questions asked by Ken and myself. Mike’s Resistance had a deep philosophical and moral base. While in college Mike had written a paper for a philosophy class outlining his reasons for Resistance. Ken submitted this paper as evidence, and he had Mike read it to the jurors.

In the essay Mike takes on all the standard objections to Resistance, namely, that “such a movement is futile,” “irrational,” and “impractical.” Mike then set refuted these claims. His core message stood out:

My commitment to the Resistance does indeed have significance and meaning for me because I believe that all men are brothers. And my commitment entails using my life in accordance with my inner feelings to make brotherhood a reality in the world. The best place to begin creating this better world is at home. And the first place for me to make a contribution to the goal of creating, a better world is in my own behavior and my own way of life. In choosing to serve

an ideal of brother hood and love I have at the same time necessarily refused to serve the contradictory master of the Selective Service System and the War. Therefore, it was necessary (ethically imperative) for me to cease cooperation with the Selective Service System and thus violate its laws.

Mike was my temperamental opposite. While he spoke with clarity, his was a pacifying intensity. His words issued a sharp moral challenge, but his body language was such that the jurors felt as if he was putting his arm around them, encouraging them like a close friend.

I don't think we were vandals who went into the Draft Board for kicks. We weren't merely concerned about protecting ourselves from committing an illegal or immoral act connected with the war. We were in effect concerned about bringing such acts to an end. And I think you could also say, recognize that certain freedoms are basic freedoms while others are not. And that the freedom of one man to kill another is *not* a basic freedom. And for us to impose ourselves between the killer and killed is *not* to violate the person of the killer in a fundamental fashion; or those who recruit people to kill. I FEEL THAT THE DEATH OF ANY PERSON IS A TRAGEDY.

There is no amount of property which can justify the tremendous toll which the war has taken. I think what happens is that it becomes like the weekly football games. Or something, where statistics are looked at as the way of winning. (Emphases added.)

There was no doubt in my mind that Mike had burned this simple moral truth into each and every juror's mind and soul. That he and I acted upon our belief, "that the death of any person is a tragedy."

On the witness stand, the first part of my personal trial testimony focused on an overview of my religious and moral background. I laid the groundwork for explaining my transformation into a Catholic Radical draft board raider.

**“Ladies and gentlemen of the jury, I am ...”**

Francis X. Kroncke, third son, fourth child of nine ....

When I was young, I was told that when I died that I would have to account for my life. Roman Catholic theology stated that the beginning of my afterlife would bring about a meeting with St. Peter at the Pearly Gates. He would have the Book of Life in his arms. This Book already had me pegged. St. Peter would know who I was and what I had done. He knew *everything*, so I was forewarned. I would have no way of embellishing my story or conning the old guy. No, I was there to be judged. I was going to be *nailed* by what I did, not by what I said or could say in my defense. The bottom-line was, “Did you lead a moral life?” This was my Final Judgment. If the verdict was “Good Man,” I went to paradise. If not, well, things would start to get really hot!

One purpose of this Final Judgment story is that it kept me focused on what I was doing every day: today, *right now*. At every moment, I was supposed to be conscious of God’s presence and act in a moral way, which meant in obedience to His commandments. If I lost my focus and, by some misfortune, died while doing something bad, there would be no second chances. The Final Judgment could occur at anytime, anywhere. Fearfully, even before I might finish this sent ...!

Since I heard this Final Judgment story during my tender years -- that is, my age of innocence -- it strongly influenced how I felt about myself and life in general. For some reason, which I had then yet to fully grasp, the “world” and “other people” were bent on tempting me to do bad things. Both were considered “occasions of sin.” While I was told to love everyone, even my enemies, I heard, loud and clear, the unspoken message that others, from family members to distant strangers, were to be cautiously approached. More, that they were basically to be feared. As I now understand, I was being connected to one of my primary spiritual emotions, namely, fear of the “other.”

In this world, which for me was the Irish Roman Catholic world of gloomy and strict Puritan-like



Christianity called “Jansenism,” other people were temptations simply because the Devil overcame them and used them for his vile purposes. Of course, it was also clear that I could be a minion of the Devil and be a temptation for others and cause them to do bad things. With another twist, I was told that I was even a temptation to me, myself and I!

As odd as that might sound, it was explained to me that all humans, myself included, had “two natures.” One was a “fallen nature,” the result of an Original Sin. I was told to recognize that I was born rotten to the core. The other nature, the “nature of grace,” was the result of my having been saved through the sufferings of Jesus Christ. However, I was told to be constantly aware of giving into temptations, which would arouse my fallen nature. Though Jesus had saved me, the Devil continued to prey upon me. This view was summed up in the verse I chanted before retiring in the monastery at the prayer hour called *Compline* – “Be sober, be watchful! For your adversary the devil, as a roaring lion, goes about seeking someone to devour. Resist him, steadfast in the faith.” (1 Peter 5:8-9) That snake Satan was still able to tempt me and undo what Jesus had done. I could be bad. I could fall out of the state of grace. I could die in deep sinfulness. This simple but chilling story of the Final Judgment moved me to become a reflective person.

Emotionally, I feared myself! The only one I could trust was God. Righting my emotional self with God, then, became a daily spiritual quest. Fortunately, my Catholic worldview came with religious rituals and spiritual practices with which I could ground myself and be confident that I was right with God. At the end of each day, I, as with others of my faith, habitually knelt down and conducted an Examination of Conscience. This was my own review of what good – and bad – I had done that day. There were occasions where I would consider that I had actually acted evilly. These were times when I had either considered or committed a Mortal Sin. The significant point, here, is that I was instructed to examine my life, to look deeply at my intentions as well as my actions, on a daily basis. While this formed certain useful intellectual habits, such as analyzing and evaluating what influenced me and the why and how of my responses, it also molded my basic feelings about myself and life in general.

My basic feelings could be summed up in the phrase that opens Charles Dickens’ famous novel,

*The Tale of Two Cities*. That is, “It was the best of times, it was the worst of times.” On any given day, at any moment, I could look at myself and judge that I was having the best time of my life, that I was the best I’d ever been – healthy, wise, in the dough. Life was grand. God’s graciousness could be seen in the astounding beauty of nature, or made present through the hug my mother gave me, or through a kindness received from or given to a stranger. Yet, I was simultaneously having the worst of times in every respect. Life was rotten, that is, Earth is not Paradise. I was a fallen, depraved sinner. The “bad me” would take over and I’d do things of which I was ashamed, and that I’d only confess in the darkness of the priestly Confessional. In short, *right now*, I deserved to suffer the fires of hell.

As I grew and matured I recognized another curious aspect to these dueling feelings. Namely, that when I was having one of my best-of-times, someone else was having their worst. And, vice versa. This aspect was evident as personal relationships developed. But it was more apparent as I became aware of the larger world, and came to know how truly worse or better off many people were. So, at any time, I could pause, review the world situation, and then convince myself that though I was happy, I should be sad, or though I was sad, I should be happy. As significant, I learned that I, unfortunately without much effort, could turn someone’s feeling of joy and optimism into despair and pessimism. And, with a bit more effort, make others laugh and see the brighter side when they were down or gloomy.

Here’s where St. Peter comes back into the picture. At my Final Judgment he wants me to account for myself. But he’s judging me based on what I’ve done for others. He doesn’t care whether I am healthy, wealthy and wise, rather, if, like his Savior Jesus, I’ve been a true servant of others. He wants to know if I am a moral man, a Good Guy, someone with even just a slight odor of heroism. He checks my personal history in the Book of Life to assess whether I, in any way, ever experienced putting my life in harm’s way to help another person who was having their worst time. For even though the Other was an occasion for temptation, I was also not to become an occasion for them. Rather, I was to help them have one of their best-of-times experiences. I was charged with a moral obligation to love others with an unconditional love. Yet, I was to love without succumbing to the temptation of the sin of pride. For I was *not* the source of this unconditional love. Rather, it flowed *through* me from Jesus’ divine love. In fact,

so I was taught, I could only be a conduit for this unconditional love as I surrendered any personal desire for or claim on my own worthiness to receive such unconditional love.

Growing up was, then, a constant up and down ride on this emotional and moral roller coaster. This Final Judgment story expressed the controlling premise of the overall Tradition that Roman Catholic Christianity recounted to me. It came at every moment, every day, through every action. During worship at Daily Mass. In the classroom through recitation of the “Baltimore Catechism’s” Q & As. Through the obligatory inscribing “J. M. J.” atop every sheet and every page of my homework pad - “Jesus. Mary. Joseph.” It was whispered by the sacred statues and the ever-present crucifixes which adorned every room at home and at school. The very spoken and unspoken premise of the Tradition was that it’s *okay to feel rotten!* Indeed, how else should one feel? The world is doomed. Humanity is doomed. The only hope is to die in the state of grace and escape this “Earthly vale of tears.” All in all, the times felt quite a bit more worst than best.

### **Think best, feel worst**

I want to be clear about the Catholic tradition and how its feeling rotten emotion formed and influenced my thinking. On the one hand, I was to feel, *not think*, that the world was doomed, that I was rotten, etc. I was not to think that way, because I was Saved, and I was to think Saved. I was even to think of my enemy as a child of God and someone for whom I should be willing to lay down my life, even though I was to fear him. Clearly, on the thinking level, many things did not flow logically. Certainly, they did not link up smoothly with my personal emotional state. The Catholic pennon read, “Think it the best of times, feel it as the worst.”

This conflict between thinking and emotion would become significant in my young adult life as I faced the contradiction between affirming, “Thou shall not kill,” and then swearing allegiance to an army whose core purpose is to kill. It was a conflict that I never smoothly resolved. I could follow the logical thinking that would lead to my killing another, by applying the principles of the Catholic “Just War Theory,” but I could never feel, in my heart, that it was a Christian act.

Despite my personal emotional conflicts, I was to think that everything was Good because Jesus had Saved me. Heightening my turmoil was the fact that Jesus saved me because I was, and am,

a miserable sinner. My working solution: as long as I continued to feel deeply miserable in my gut, I had no obligation to figure out how to solve all the heady intellectual issues. Rather, the conflict between my emotions and my mind was to be resolved by my submitting to a greater mind, namely, God's as revealed through Mother Church, led here on Earth by the Roman Catholic Pope.

This was my comfort, that the Catholic tradition contained this centuries-old, ready-made template inside it with which to develop my personal morality and spirituality, namely, "Think it the best of times, feel it as the worst." This certainty was a distinct benefit of belonging to the "One, Holy, Catholic and Apostolic" Church. As a hierarchical, authoritarian and benevolent dictatorship, I was not to think too much. Indeed, the Roman Catholic Tradition possesses the most extensive and thorough-going set of Big Answers I have ever encountered. Few other religious traditions have created a practical manual for the development of its spiritual imagination and religious worldview as Roman Catholicism has through the works of St. Thomas Aquinas, specifically, his majestic *Summa Theologica*.

Intellectually, in terms of beliefs, doctrines and dogmas, the Church and her priests instructed me how to compose my personal moral and spiritual story, and helped me avoid the pitfalls of worldly temptation. Of note is that this obedient submission to the priest and Mother Church could only happen if I, once again, affirmed my miserable self's inability to be anything but profoundly miserable. I was even expected to see myself as a miserable thinker, as someone who must follow by rote and not presume to possess intellectual skills surpassing those of the anointed priests and bishops. In sum, the emphasis was on thinking that everything was Good, Right and Just because of what Jesus had accomplished and that the Church preserved. However, I was to feel rotten and dwell in fear and dread -- that is, feel what only a miserable sinner born into Original Sin should feel: *deeply miserable*, truly rotten in mind, heart and soul.

### **Monastic years**

It took me many decades of following the discipline and practices of being miserable before I realized that I didn't feel miserable. Yet I couldn't describe myself as "happy." I was still too deeply grounded in the Catholic tradition to tap into the joy of being. Despite all the hullabaloo around the "Resurrected Christ," the joys of Easter were always piddling compared to the

panoply of the feeling-miserable practices and religious rituals of the Passion and Death of Christ. Indeed, mine was a slow-developing awareness of feeling “not-miserable.” Ironically, it began when I entered the seminary to study to become a priest.

During my junior and senior year in high school, I entered the “minor seminary.” After graduation, I was invested as a novice Franciscan monk, one “Friar Otto.” I followed the ancient tradition of “*Ora et Labora*,” that is, “Pray and Work.” I chanted (badly and off-key) the hourly prayers of the “Divine Office.” I threw myself, prostrate before the Master and the community, as I accused myself of sins and failures during the confessional discipline called “Culpa.” I thickened the calluses around my knee caps as I prayerfully crawled and scraped my way around the circle of the twelve Stations of the Cross. Then, one day, I realized that I had to leave.

As expected, most of my friends, family and fellow monks, back then as they do today, figured that I gave up my priestly call because of sexual temptations. But that wasn’t it. Somehow the *twisted maleness* fostered by, and the narrowness of the spiritual vision of, the monastery repulsed me. It found “joy and grace” only in suffering; mainly, self-abuse. Though I mortified and inflicted pain upon my body in holy discipline, I simply was not a “*milites Christi*,” that is, a “soldier of Christ.” Something inside of me said, “This is not a truly holy place.”

In brief, I was too damn “not miserable” to stay! My heart yearned for something other than pain and deprivation.

**“Praise the Lord and pass the ammo!”**

When I encountered my first pacifist, my college roommate Jim Hunt, I thought he was screwy. Though I had just left the Franciscan monastery I was still intent on searching out the meaning and demands of Jesus’ message. As a Roman Catholic, I had over a millennium of Tradition to draw upon as guidance. The Tradition is the accumulated wisdom of great thinkers and souls, called the “Fathers of the Church.” I studied how they carved their personal spiritualities and developed their moral consciences from the Tradition and, in turn, often changed parts of the Tradition. Some of these “Fathers” are known to you, others possibly not. From Origen to St. Augustine, from Thomas Aquinas to Cardinal John Henry Newman, from Jacques Maritain to

the current Pope.

A study of this Tradition reveals those personal spiritualities and moral theologies that were judged as orthodox and were passed down through the ages. Of great interest to me have been those within the Tradition whose personal theology and spirituality made them apostates, heretics, excommunicants and dissenters. By studying these outsiders, the predominant spirituality and emotions of the Tradition are plainly revealed. Truths of the faith (doctrines and dogmas) are clarified by denouncing what is “not true,” that is, what is heretical. In this Tradition, the solution called the “Just War Theory” clarified how I was to connect my personal spirituality to, and develop my moral conscience guided by, the orthodox theologians of the Tradition.

In the Catholic Tradition much thought has gone into dealing with the apparent conflict between the Biblical commandment against killing and the waging of war. This conflict is heightened by the New Testament’s emphasis on such themes and utterances as “God is Love” and “Love thy neighbor as thyself.” As well as, “This is my commandment, That ye love one another, as I have loved you. Greater love hath no man than this, that a man lay down his life for his friends.” (*Gospel of John*, Chapter 15) While the Jewish Torah and Christian Old Testament narrate instances of “the faithful” fighting “holy wars” as acts of devotion to their God, in the New Testament, there exists no notion nor call for such warring. However, my Tradition’s theory of the “Just War” enabled me to grow up and have no intellectual or emotional conflict between being a good Catholic and being a professional soldier.

When the Novice Master took me to register for the Selective Service System in August of 1962, I was observant and characteristically curious enough to read the Selective Service registration materials. It was the first time I had come across the mention of “Conscientious Objector” status. I asked the Master, “Aren’t we *Conscientious* Objectors to war?” I can still see his paternal and well-intentioned smile as he actually patted me on the head and said, “Later, Friar Otto. You’ll learn all about that, later.”

So, while I had an inkling that something was amiss, I never seriously thought about pacifism

until I met my college roommate, Jim. Even then I wasn't readily convinced. My dad had served in the Navy during World War II, my brother, George was considering signing up for a stint in the early Vietnam-era navy, and around my house, "Praise the Lord and pass the ammo!" drew a hearty laugh.

Simply put, I could see myself as a military chaplain, tending and anointing men on the battlefield. However, as with most Americans, I wasn't paying much attention to the escalating Vietnam War. My mind was immersed in philosophical meanderings and, now out of the monastery, on the young women at the all-female College of Saint Benedict.

### **The *Just War* theory**

During my college years, my intense thinking-feeling conflict centered on sexual morality, not the war. The "free love" movement and early *Feminine Mystique* feminism rocked my personal worldview and challenged my quite mainstream Catholic values. But I did learn about the Just War theory since I majored in philosophy. It is worth reviewing its principles.

### **Principles of the Just War**

1. A just war can only be waged as a last resort. All nonviolent options must be exhausted before the use of force can be justified.
2. A war is just only if it is waged by a legitimate authority. Even just causes cannot be served by actions taken by individuals or groups who do not constitute an authority sanctioned by whatever the society and outsiders to the society deem legitimate.
3. A just war can only be fought to redress a wrong suffered. For example, self-defense against an armed attack is always considered to be a just cause (although the justice of the cause is not sufficient--see point #4). Further, a just war can only be fought with "right" intentions: the only permissible objective of a just war is to redress the injury.
4. A war can only be just if it is fought with a reasonable chance of success. Deaths and injury incurred in a hopeless cause are not morally justifiable.
5. The ultimate goal of a just war is to re-establish peace. More specifically, the peace established after the war must be preferable to the peace that would have prevailed if the war had not been fought.

6. The violence used in the war must be proportional to the injury suffered. States are prohibited from using force not necessary to attain the limited objective of addressing the injury suffered.
7. The weapons used in war must discriminate between combatants and non-combatants. Civilians are never permissible targets of war, and every effort must be taken to avoid killing civilians. The deaths of civilians are justified only if they are unavoidable victims of a deliberate attack on a military target.

From, Vincent Ferraro at <http://www.justwartheory.com/>

Impressive, yes? All of this “Heavy, Man!” mentation to arrive at giving yourself comfort as you pull the trigger and thump the life out of another person. Well, this was the intellectual Tradition of my youth. It remains a core moral theology doctrine of the Roman Catholic Church and most Protestant denominations.

Jim was a nice guy, but I wasn’t overwhelmed by his undergraduate command of random Scriptural quotes, a sprinkle of the Hindu Mahatma Gandhi’s *satyagraha*, the contemporary call to nonviolence of Martin Luther King, and the anarchist Catholics who followed Dorothy Day and Thomas Merton, the Trappist monk. Merton and Day were part of the “Catholic Worker” movement that, since the 1950s, protested nuclear war, war taxes, and seemingly anything that they judged led to war. Yet, I clearly remember the queasy feeling in my gut as I was the one who was tasked to defend the *Just War* theory!

From Jim’s perspective, I was the one who needed conversion to Jesus’ true message. While his focus on the *Sermon on the Mount* and the fact that Jesus laid down his life for us snared my attention -- because I had always seen myself as a Good Guy, a future caring teacher and loving father -- I still vigorously resisted his arguments. After all, adopting a nonviolent spirituality would have implied that I was critical of my dad’s and brother’s service. Besides it called me to question my current understanding of patriotism, bravery and loyalty to Mother Church.

Back then, I was as fairly comfortable with the belief that the Just War theory settled the issue as



I was with the Catholic tenet that women were ontologically inferior to men. In brief, the intellectual tradition of Roman Catholicism and the Just War theory enabled me to squelch my gut instincts toward being a “peacemaker.” Moreover, it allowed me to develop a personal spirituality marked by the fact that I did not feel uncomfortable dressed up in an Army ROTC uniform and marching in formation to fulfill one of my collegiate requirements. Indicative of the times, taking ROTC and an anti-communism course were requirements at most Catholic colleges.

Up to this point in my life I had never been violent; never even had been in a serious fight. I was a tall, basketball-crazed guy, but I had never given into the temptation to abuse my strength or size. Yet saying aloud that I was nonviolent “felt” like saying I was unmanly, weak and fearful, even girlish. The word “nonviolent” conveyed a sense of cowardliness. For males of my generation, our hero was John Wayne: charming, taken with the ladies, brave to a fault and willing to blast the living hell out of any “enemy” who wandered into his numerous wartime flicks.

### **Vatican Council Two and “Total War”**

While I had a wavering admiration for Jim’s personal commitment to nonviolence, it didn’t fit into my Catholic imagination. That was soon to change, dramatically. During the Sixties, the religious imagination of Roman Catholicism was undergoing a historic and challenging revision. In 1962, Pope John XXIII convened the Second Vatican Council whose purpose was to present the Catholic Tradition in concepts and language that spoke to modern times and sought to engage major issues of the day. Significantly, its reach was intentionally ecumenical and globally cultural in that it intended to speak to those outside of the Church, not just to those inside it.

When the Council ended (in 1965 under Pope Paul VI), one its most startlingly statements was its condemnation of “Total War.”

Every act of war directed to the indiscriminate destruction of whole cities or vast areas with their inhabitants is a crime against God and humanity, which merits firm and unequivocal condemnation.

“Gaudium et Spes,” Section 1, “The Avoidance of War,” in the  
*Documents of Vatican Council II.*

This assertion was proclaimed to every nation. How was it heard by the nation that dropped the first and only Atomic Bomb? How did it begin to reformulate the thinking of those who, like me, clung to the Just War theory?

Further, a direct challenge was laid at the feet of every person of conscience by Pope John XXIII, who wrote in his papal letter *Pacem in Terris*:

Since the right to command is required by the moral order and has its source in God, it follows that, if civil authorities legislate for or allow anything that is contrary to the will of God, neither the laws made nor the authorizations granted can be binding on the consciences of the citizens, since *we must obey God rather than men*. Otherwise, authority breaks down completely and results in shameful abuse.

Pope John XXIII, *Pacem in Terris*, Part II, par. 51. My emphasis.

These were just two of many statements that caused numerous Catholics, like me, to begin to re-imagine the Catholic Tradition. It also made us feel confident that it was our moral right and duty to form compelling personal spiritual and moral stories. We strove to develop what Pope John XXIII called the “consciences of the citizens,” which I also reference as “citizens of conscience.” It was clear that this referred to me as both a citizen of Caesar and of God.

### **Changing Catholic emotions**

Although the Council was calling for a “modernization,” a re-imagining of the Catholic Tradition, its impact was more emotional than intellectual. Looking at the call metaphorically, the Council’s documents are beams in a soaring intellectual architecture, but their deeper emotional foundation is best assessed by evaluating the range of critical responses. It is not reaching for hyperbole to say that responses came from both the howling depths of fear and the ecstatic heights of joy.

How you imagined the Vietnam War, either as a “Just War” or a “Total War,” revealed your range of peaceful/warring emotions. Those who defended the Vietnam War as a Just War expressed a grounding in dreadful fear and terror. Those who opposed the war as a “Total War” - who imagined themselves and all other people, including the Vietnamese themselves, as “People of God” - expressed a grounding in peacefulness and justness. The former declined the call of Pope John to exercise their “consciences” as citizens obligated to create “Peace on Earth.” Rather, they preferred the Tradition to do the thinking for them, that is, they applied the principles of the *Just War* Theory.

While the Council did not change any doctrines or dogmas, it did call for faithful individuals to see themselves more as part of the “People of God” than as an institutional Church. This was a call beyond just being ecumenical, which would have embraced Protestants and Jews. Rather it was *a call to embrace all people and all cultures*. The Council offered up fresh and startling concepts and images for re-imagining the Catholic Tradition. It altered how I was to feel when I looked at an alien, a stranger and a foreign culture. I was to open myself to receive and accept.

St. Augustine said, “Outside the Church there is no Salvation.” The “citizens of conscience” were stepping away from Tradition’s narrow, exclusivistic definition of the Church and witnessing to the fuller embrace of all people as the “People of God.” In one sense, the Council caused certain Catholics to become refugees, a displaced people. Prior to the Council, these citizens of conscience accepted their role as “lay people,” who lived in an authoritarian, benign dictatorship, where paternalistic mind-control was soothingly effected through rote catechetical training and a highly ritualized world. If you are not familiar with Catholicism, it is difficult to grasp the veritable earthquake that the Council unleashed in the minds and hearts of its faithful.

What happened to me is that the Council changed my personal identity. The Catholic imagination was being re-cast, and led to a huge wave of individuals re-imagining their personal spirituality and sense of moral obligation. I, and others, expanded our personal spiritualities from 98% Tradition to 51%. We saw ourselves as fully responsible for the Church’s health as were the ordained priests. In my position at the Newman Center, I functioned as the priests did when I preached and taught. To the students and parishioners, I was a resource for Catholic morality and spirituality.

As with other Catholic Radicals – like the Berrigan Fathers and my friend Joe Mulligan, a Jesuit priest – I termed my civil disobedience an act of “Divine Disobedience.” I heard the Council proclaim that my personal identity included moral responsibility for developing my social identity, because my spiritual identity was changed to that of being one of the People of God. Personally, I was to be a citizen of conscience for whom social justice and social service were daily priorities. I heard them rephrase JFK and challenge me, “Ask not what the People of God can do for you. Ask what you can do for the People of God.” Obeying Mother Church, then, meant obeying *my* conscience, for my actions made the People of God present to all peoples of the world. I had no moral choice other than to move towards creating a life of peacefulness among peoples and throughout the earth.

### **Moving toward peacefulness**

This re-imagining of the Tradition was a historic event, but even more so was the call for the individual to form his own moral conscience. As stated by Pope John XXIII, the faithful individual was to envision himself as a citizen of conscience. It was his task to deal with the Big Questions. He was no longer simply to follow clerical advice, although, obviously, he was to seek its wisdom.

The point is that it is up to me to weigh the risks that accompany the emotional breakdown that might occur at this moment of transformative breakthrough. Instead of finding safety and security in a doctrinal and dogmatic Tradition, I was called - even obligated - to become, and form, the conscience of this living Tradition. It was up to me to express the Spirit of God. It was up to me to transform the world. *Whew!* Very heart-thumping stuff.

As you might anticipate, there are other theologians who look at Vatican Council II and don't see any special challenge to embrace transformative change. Rather, they assert that the faith remains the same throughout the ages. They grant that how it is *communicated*, through concepts, images and language, may change, nevertheless, doctrines and dogmas are infallible.

But – and this is the point I want you, as jurors, to continually remember and recall – a Tradition often has unintended consequences, that is, it produces orthodox Saints and heretical Sinners.

Often, however, the theological difference between the two is a matter of splitting hairs. To be fair, that is what my critics state. They see my reaction as “radical.” My views as seeds for heresy, and they want me suppressed.

I ask you to simply re-read the above statement from *Pacem in Terris*. How would you form, in obedience to the Council’s wisdom, your personal conscience based on the spiritual imagination that is behind this statement, namely, that “the right to command ... and the moral order has its source in God”? How would you see your obligation, then, to obey *all* the laws of your nation? How would you begin to feel what it is that you must do? How would you preach and teach about the “consciences of the citizens.”

### **Intermission**

We took a break. It think it was for lunch. There was an hour or more break between my testimony. I was becoming overwhelmed. As I spoke I kept feeling that I was losing their attention. I’ve given numerous classes, speeches and sermons, and I just knew that I was just speaking to the air! Friends and family tried to bolster my spirit. They told me that I was doing a great job. But, they had heard this story before. They believed what I believed. I just didn’t think that I was making a winning performance.

How was I to talk about Teilhard? I had to. His thought was pivotal. But how far could I get into talking about Evolution or use Teilhard’s phrases like Noosphere and Christophere, the Divine Milieu?

Sometimes in life you just don’t have any options. You just gotta walk the walk. With a lingering sense of “It’s almost over!” I returned to the witness chair.

### **Pierre Teilhard de Chardin’s vision**

#### **A personalizing universe**

I have to talk with you about a spiritual visionary who had a tremendous impact both on Vatican Council II and me. You really can’t understand why I did what I did, especially what I thought the draft raid would accomplish, unless you understand Teilhard.

Pierre Teilhard de Chardin was a Jesuit priest, paleontologist. He was a professor of geology at the Catholic Institute in Paris, director of the National Geologic Survey of China, and director of the National Research Center of France. What distinguishes him is that Teilhard interpreted evolution as a spiritual phenomenon. He forwarded a vision of what he termed a “Divine Milieu.” This is how he described life on Earth, that we live in a Divine Milieu where the divine is present through everything and everyone. All I can say is that Teilhard’s spiritual vision radically changed my life. When I look back, I realize that after reading him, it was inevitable that I’d end up raiding draft boards. But this is the story I have to tell you about.

Teilhard’s universe is driven by a personalizing energy or presence. This means that evolution has a psychic and spiritual aspect. Teilhard integrates the evolution chapter of modern science into his fundamental Christian story. Teilhard has great respect for the secular world of scientific knowledge and the truths of spiritual revelation. He does not deny either, nor have one absorbed or replaced the other. For him, secular space has a spiritual aspect. This reflects his, and my, understanding of sacraments. That is, that sacraments reveal the spiritual aspect of profane and secular moments and spaces. Again, Baptism reveals the spiritual character of the physical act of a mother’s birthing. Baptism honors and proclaims her as the way the Divine becomes flesh.

### **Teilhard de Chardin’s weaving**

Teilhard embraced science’s central belief in the evolutionary process. He also affirmed the secular humanist theme that the human mind should be unencumbered by dogmatic systems, such as religions, even his own beloved Catholicism. He saw all fields of knowledge as containing truths, and he saw them as converging to produce the grander story of the Divine Milieu.

What distinguishes Teilhard is that he placed religion, science and secularism in a human context. Though I am presenting his thought in my terms, what he caused me to see is that there is *only human knowing*. There is no way to get to an “objective” position that is devoid of subjective human emotion. More, he positioned every event and truth within a human relationship. Consequently, if you look at evolution, the physical evidence shows you where

humans came from, that is, their Alpha point, as he terms it. What about the emotional evidence? For that, Teilhard looked forward to what he called the Omega point.

What was Teilhard getting at? He actually went one step beyond both science and secularism in that he implied that “all you have” is you. You are human, and you know, feel, act, etc., as a human. So, why do you look to the past? Why do you concern yourself with evolution? Teilhard moved me to see that we look to the *past* to understand the *now* so that we can move into the *future*. What are we humans but *future people*? You are born “in the middle of things.” You are born from and into a relationship, and your life unfolds as you develop relationships. Being human, then, means being transformed through relationships.

### **Life as a relationship**

Teilhard’s vision moved me and others to ask ourselves, “What is life as a relationship?” One answer is that just as my personal story pivots on my recounting my life in terms of relationships with family, neighbors, society, church, etc. -- so the Big Story of Life is the story of my relationship to the universe. In this light, my family is my Alpha Point and the “Living Earth” is my Omega Point.

In Teilhard’s vision, there is no compelling reason not to think that everything is alive. But it is not a matter of thinking as it is a matter of feeling. You cannot think-a-relationship: It emerges from a feeling. Teilhard, in effect, asked me, *Can you feel not alive?* Is there any moment when I can say that I don’t feel alive? If not, then why conjecture that such moments exist? Isn’t it a tremendous fantasy to consider that any human experiences being not-alive? And if every human is alive as you are alive, then isn’t everything alive? This is so because you only *truly* know something through a relationship – intellectual or emotional – with another human being.

I was a philosophy student when I first encountered Teilhard’s thought. I had read about idealistic philosophies. I was steeped in the rationalistic tradition of Thomas Aquinas, and I was learning about the limits of human knowing as articulated by the then-popular school of Language Philosophy and the Philosophy of Science movement. So, I knew how others disdained Teilhard, and how foolish and naïve they felt his approach to be.

At a conference for student philosophers, my paper on Teilhard was considered amusing, and my interest in him deemed understandable given my “intellectually suspect” Catholic background. In fact, most modern philosophers feel that a believer of any sort is a subservient intellectual in theological disguise. For them, all theological thinking is guided by dogma and doctrine, which negates any claim to interpretive objectivity. Modern philosophers claim to investigate and interpret facts and truths from a point of rigorous “value-free objectivity.” For me, “objectivity” can only be defined as a degree of “subjectivity,” and vice versa. I found “modern” philosophers to be, in the main, philosophers of the non-human. Meaning, their analyses lead to paralysis; a paralysis of inaction. Despite the poetic vagueness of certain Teilhardian terms, when I finished reading him I was always intellectually on fire and inspired to get up and get out into the world – to act!

In my gut, I felt that Teilhard was onto something. Although his terms, Alpha and Omega, seemed almost academic, he sparkled with fire and passion as he wrote a “Hymn of the Universe” and celebrated a “Mass on the World.” He lived within a “Divine Milieu.” From the first I was charged up to reform Catholicism in Teilhard’s image. His impact on my personal story proved morally devastating.

If Teilhard was right, I observed, every human being manifests *my* person. I was in relationship with every single person even though I didn’t directly know him or her. Simply put, each of us was present to the other. Moreover, it was impossible for me as a person not to be in relationship with every other person on the earth. Humans are, in this light, one person, as we are all one biological unit or gene pool.

Visually, instead of imagining yourself as a circle with a single center, Teilhard’s thought leads to imagining yourself as an ellipse which is an oval with two centers or focal points. This reflects the fact that you were born within a relationship, namely that of your parents. Human development is an interaction between you and the not-you or the “other.” As an elliptical person, the “other” is always part of your presence. You cannot make yourself present unless you are engaged by this “other” focal point. You become more aware, more conscious and more human as you engage this other who is an integral part of your presence.



This elliptical character of your presence expands into the image of a web when you develop your social, cultural and spiritual identities. This is so because the “other” is also “other” to others besides you, as you are to still other others. The human web you create as your life unfolds is not simply one, two nor three dimensional, rather, it is multi-dimensional and has the characteristic of a spiral. You experience this spiraling sense of your presence during any given day as you engage others through your various group identities. For example, with your family you make certain aspects of your identity present. When you engage your corporate others or spiritual others quite distinct, varied and multi-dimensional aspects of your presence are manifested. In short, this elliptical, webbed and spiraling self throbs with living energy, that is, you are the heartbeat of life, itself.

### **Teilhard’s world-wide-web of the human heart**

Teilhard’s most revolutionary statement is that every action we take, everything we do and say, has an impact on the future. These effects may be positive or negative. While the actions may be small and judged insignificant, they have a way of being amplified over time. To me, this meant that every person was someone with whom I could be in relationship and, consequently, was vital to my discovery of who I am. Additionally, every personal act of mine and yours has some degree of impact on every other relationship in the cosmos. The impact can be at a personal level or an identity-group level. In essence, I couldn’t become me or reach my full human potential unless I nurtured my relationship with every other human. I had to find a way of inviting others to receive me, and for me to receive them. But wasn’t that *physically* impossible? Of course. But maybe not emotionally impossible.

I believe that you and I set the emotional tone for the whole Earth and every other human being. We do so directly when we are in a personal relationship. This can also be manifested by individual contact through the relationships developed by participating in shared group identities. Teilhard enabled me to feel worldwide, to feel myself as an earth person.

Teilhard is described as a “pan-en-theist,” which means he found the divine in everything and everyone. For him, while a physical and mental duality exists in the world, namely, I am me and you are you, there is no *emotional* nor *spiritual* duality. Physically, once born, I am a distinct and individual body. Mentally, I can think thoughts that you cannot hear or which I refuse to share

with you. However, emotionally and spiritually, I am you and you are me. Emotion and spirituality are, by definition, expressions of a relationship. They are coupled experiences. Each is an aspect of your intimacy.

Teilhard move me to understand that I am a heart on the worldwide web of the human heart. His “Divine Milieu” made me feel that as I walked through my physical day at my college in central Minnesota, I was simultaneously in communion with everyone in the global web of the Living Earth. Every thought I think is part of the Noosphere. Every thought you think influences me. Obviously, this is not a direct, A to B, connection. But how could it be otherwise? Do you really believe that what you think is not important? Not powerful? That you just are an isolated someone about whom others don’t care? Possibly only God cares? Not in Teilhard’s word. Not in mine. In the Divine Milieu you are as important and powerful as everyone else.

Teilhard’s vision led me to make deep contact with the emotion I’d always been connected but about which I had no concepts or imagination. I realized that I was the Living Earth. Just as I was called to be a “People of God,” so was I called, as all others are, as you are, to understand and deeply feel myself as Earth’s heartbeat and conscience. I came to imagine the everlasting Earth as forever hearth and home. That the Earth is us. That we humans are lively manifestations, presences of Earth. We are its consciousness, its imagining. We are Earth's passion. Earth is hearth, and we the flaming breath of fire. We humans are full-flesh in blood and gasp, birthed from the Earth: seed, flower, bloom and fade. I know: *Whoa!*

### **War as an act of killing yourself**

If you accept Teilhard’s worldwide web of the human heart as I did, how would you respond to a call to war? If you understand that every action you take – every thinking, feeling, kinesthetic, creative action – affects every other human, then what ill you feel when you slay another? Isn’t his or her bloodshed your blood? Isn’t war an act of killing yourself? Simply suicide? If you felt this way as, I did, how else could you respond but to conscientiously object?

To hammer this point home, imagine thinking about killing people, all day long. If you turn on the TV, you can follow one show after another, from movies to the news to Hollywood gossip, and be moved to think violent thoughts and steep yourself in violent images. You could think

that such violence was justified. That national defense requires that the enemy be slain. That violence is just the way it is in urban areas. That sexual violence and rape is the price sexy women pay in the world of glitz and glamour and free sex.

I know that I can think all this if I emotionally distance myself from what I see and hear. But if I let myself feel what I am seeing and hearing in terms of our relationship, that is, that it is you who is being harmed, since you are integral to my being me, then I can no longer tolerate all of this violence. If I see the enemy as family and seek to intimately embrace them as I would my brothers or sisters, then I experience war as a direct, personal attack on all I hold sweet and dear. It matters little which nation's soldiers are on the attack. Once I behold and revere everyone as a darling brother or sister within the "People of God," I can no longer imagine killing them, unless I am suicidal.

Remember Gordy Nielsen's testimony. He is the former Marine who had been on several "search and destroy" missions in Vietnam. Let me quote the key part of his battlefield conversion testimony.

In dealing with myself, coming back and thinking I was right. And thinking that the things I had done were right because it was what I had been taught in boot camp, and then viewing it from the other side, instead of a gook, it was a human being. Instead of a hootch, it was a home. That really socked it to my head. It really blew my mind. Because I have never thought of a hootch being a home, it was an old grass hootch. And they were peasants, they weren't people.

If you carefully read and then spend some reflective, even meditative, moments on Gordy's statement, then you'll know what the prime message of my life is.

"...instead of a gook, it was a human being."

"...instead of a hootch, it was a home."

Gordy was feeling the primal emotion that the *gook* was his own brother. He was feeling comfortably at home while standing inside the hootch. Gordy broke-down because, as a Marine, he was living within the Patriot's chapter of his American story, and he was supposed to be feeling as a soldier should, namely, as if he was the Enemy of those whom he was sent to kill. At that battlefield moment, Gordy lost his identity as a warrior.

In his own eyes, Gordy lost his right to call himself a Good Man; a loving spouse and father. He sat before me in my Newman Center office and told me that he woke up at night and in the midst of a crazed flashback beat his wife. His children were terrified. He was terrified – of himself. He had returned from Vietnam only to find the war waging in his bedroom. Neither he nor I, then, had the phrase that's now become popular: "post-traumatic stress syndrome." What we did have, however, were our own minds and hearts and a commitment to act.

After our meeting, Gordy went to Washington DC during a Moratorium march and threw his medals over the White House fence. I went on draft raids.

I accept that it is a leap for you, and many, to go from Teilhard's vision to enacting a ritual of peace in a draft board. But that is where Teilhard took me. As I joke, "Teilhard made me do it!" meaning raid draft boards.

### **Violent felon, nonviolent heart**

Eventually I came to realize that the government was less concerned about how I thought than how I felt. They feared my nonviolent heart. Here I was, a strapping 6'3", 225 pound athletic and articulate male, who was expressing tenderness, encouraging compassion, and telling others to "live as if you are no one's enemy." That's how I've come to understand Gordy's feeling. He felt that he wanted to live as if no one's enemy. But how to do that?

To connect with Gordy, to speak the word *Peace!* I raided a draft board.

It's true that I rejected the government's symbolic speech of firing a gun to speak *Peace!* But clearly, the government did not fear me as capable of doing physical harm to others. Yet they indict me on a felony crime of violence. Why? Yes, you could say that mine was a violence of heart. Will all my heart I consciously broke the law because I was at peace within myself and

willing to risk going to prison to save others from conscripted military service. I acted from my emotion of being at peace. My felony is a violence of a passionate heart.

Let me be clearer about the character of my *emotional criminality*. During 1968, I took part in a public discussion about my nonviolent beliefs during an adult education program after Sunday Mass. A middle-aged male rose and asked, fiercely and accusatorily, “Are you a fag?!” The other speakers on the panel quickly came to my defense. It wasn’t that they agreed with my nonviolence, just that the fellow had kicked the tripwire that set off the explosive relationship between Eros and Thanatos, between Lust and Murder. For him, a man’s penile rod was his gun.

Of course, I was “not the man” – the cold-blooded killer - the guy thought I should be. But for quite different reasons. Actually, I was *more* the man than he could possibly contemplate. This was the first time I came to realize that I was nonviolent because I had confronted and *accepted* my violence – the cold-blooded killer reconnoitering my soul. I was man enough to embrace the despised fag inside me. I wasn’t afraid to express a range of masculinity about which my accuser was ignorant. This was a key moment in my development as a violent felon. Namely, my nonviolent manliness became grounded in my acceptance of my darker side, that is, of myself as killer. It was the day I fully realized that when *you* go to war, that it is *I* who pulls the trigger. That day I became a man – I consciously and publicly accepted my violent self.

When I first presented my case for claiming Conscientious Objector status, one member of the draft board – without taking his eyes off of the paperwork he was stamping and processing – said, “I’m a Catholic. I fought in the war. The clear sub-text was, “Hey, we Catholics kill people. Been doing so for centuries.” Again, I confronted and accepted my violence. I told these draft board officials not to send me to Vietnam because I knew what I would do. I knew that if I was immersed in my fallen, depraved side – as a brother to *Genesis’* Cain – that I would become a killing machine. I simply didn’t want to be in a situation where I would be so demonically tempted to express my violence.

One of the reasons I came to this insight stems from my practice of the Examination of Conscience. While fulfilling my military obligation as a Conscientious Objector – as staff at the

Newman Center on the University of Minnesota campus - after I counseled young draft-age men, many went over to serve in Vietnam. Though they went into armed conflict, I had no personal nor spiritual disconnect from them. Simply, I was them. They were me. We were brothers; family. It became clear to me. I had to be nonviolent here at home because they were expressing *my* violence over there in Vietnam.

### **Nonviolent Jesus**

In general, most Christians can intellectually accept the “nonviolent Jesus.” Jesus as a peacemaker, who welcomed sinners and preached the values of the Sermon on the Mount. But something keeps them from tapping into the his peacemaking and acts of social justice. While we share the claim that we are all “Christians” – and that “They will know we are Christians by our love, by our love!” - it is forcefully clear that what defines and limits the acts of acceptable moral witness are sourced in dramatically different emotions. Ironically, and as counterintuitive as it sounds, those who I counseled and went off to war did so because they *thought* they were violent warriors but *felt* themselves to be nonviolent Christians. Meaning, “I’m going to Vietnam to bring Peace to America.” “Kill a Cong for Christ!” Also, witness the slogan of SAC, the Strategic Air Command, “Peace is our profession.” SAC is the branch of the United States Air Force in charge of America's bomber-based and ballistic missile-based strategic nuclear arsenal.

With a similar ironic twist, I’m called violent because I think of myself as nonviolent. I’m calling people to live comfortably at home here on Earth. To feel good about one another. To enjoy living in peace and harmony. To express their violence in nonviolent ways.

In a secular society given over to sensate gratification my witness to nonviolence bummed people out. Without having the words, I was asking them to feel nonviolently. This meant to open themselves to others. To surrender their egos and consider the least among them. But who would disagree with these requests? Who does not see themselves as nonviolent? As stated, the soldier sees his violence as a way to peace, which is defined as the cessation of violence. However, I preached that unless you own your own violence you would never be nonviolent. Now I had to act.

### **Socio-political sacramental acts**

For me, America was in an extreme circumstance because of the illegality and immorality of its undeclared war in Vietnam. However, such were debatable issues. For me, doing the draft raid to effect my religious truth was not. I knew what I had experienced. Moreover, with Teilhardian eyes, I knew that all that counted was how I impacted the Noosphere. When I read one of my father's letters to the jury, I had stressed the point that the violence had to stop with me. Regardless of my personal failings – my sins – the ritual was effective. As with all sacramental acts, the moral and spiritual state of the agent is not significant. This is so because a sacramental act is a way that the peacemaking presence of God is made manifest.

I knew that would sound a bit circular or obtuse, if a juror still could not understand how the Selective Service System was a social sacramental system. I persisted in using the word "sacramental" because sacramental act bestows identity, heals and makes whole, either an individual or a community. I explained how the Church has a sacramental system, that focuses on personal salvation. And, how America has a sacramental system, that focuses on communal salvation (or security). Can I remove from just one juror the all doubt that the SSS was a sacrament of warring? That it was the initiating ritual a young man goes through on his journey to realizing his identity as a warrior, as a killer? Could I remove all doubt that America, as a warrior people, held that the central act that preserved its fundamental values, was the act of war? Could I move just one to grasp that the 1-A draft files were as significant as the sacred breads of religious ceremony?

*Note:* This section is an excerpt from my appellate brief. Here was the basis of my argument.

**1. Jesus is the sacrament of God. The Church is the People of God, the Body of Christ, a sacrament. The individual is a full person insofar as he is an intimate member of the Body of Christ, i.e., a truly sacramental person.**

Within the Roman Catholic theological tradition there is a development of what is called Sacramental Theology. Jesus Christ is defined as the sacrament of God. The Church herself also defines herself as a kind of sacrament. The principle underlying these assertions is that there are "things and acts" which when properly used, i.e., used symbolically within the believing community, "effect what they signify." This means that these "things and acts" signify God's

presence with His people and the acts effect His presence. By Her relationship with Christ, the Church in the Second Vatican Council described herself as "a kind of sacrament or sign of intimate union with God, and of *the unity of mankind.*" (Emphasis added) (Defendants' Exhibit 6, "The Dogmatic Constitution of the Church," Chapter I, Paragraph 1, p. 15) The different offices within the Church—for example, teaching, preaching, administration—are understood to be one, this oneness achieved only through the actions of Jesus Christ, which actions are understood (theologically, in terms of the presence of the Holy Spirit) to be still happening insofar as the People of God act. This centers tremendous dignity and value upon the individual's actions, for this act is not only personal but sacramental. That is, his actions in union with the actions of the Church, and therefore with Jesus, effect God's Truth and loving peaceful presence.

## **2. Truth is a sacramental experience, i.e., a human reality effected through moral action.**

For the Catholic, truth is not something reached just through rational analysis, but truth is an experience of a person acting through the Body of Christ within a loving relationship with God. This means that truth is primarily an act of witness, as Jesus is called "the Way, the Truth and the Life" because he does publicly the will of the Father. Jesus is the "Son of God" because he loves the Father; he is our Savior because he loves us. Christians are those, then, who are assured that they will find personal fulfillment, maturity and truth only if they act, and ground that act against the truth of Jesus now present in the life of his People of God. Catholics thus believe through their historical experience as Church that, after years of worship, reflection and understood responsibility, they could clarify and make explicit for all mankind what were the intentions and truths of Jesus' Gospel. The truths deposited by this activity are called doctrines and form what is called the Tradition. The Second Vatican Council was the latest depositing of the Christian truths in language and concepts appropriate to the modern world. Catholics, as distinguished from other Christians, value the Tradition as equal in truth and authority with Scripture. So, in its truth-rendering activity, the Second Vatican Council has articulated for the Catholic the proper and right meanings and ways of expressing the eternal truths of Jesus' Gospel. For the Catholic it is true that the Holy Spirit who inspired the Apostles is at work in the Church, and the Church is the place where Christ manifests his presence.



Theologians have the task of attempting to articulate the spirit of the times and to open new vistas of insight into the truths of Scripture and Tradition through speculation and experimentation. More so than other offices does that of theologian entail venturing out into experimentation. The draft raid action of defendant Kroncke is understood as such an experiment in truth. To-the evil of the Indochina war is spoken the truth of the basic goodness of life and the brotherhood of all mankind. This truth is the explicit meaning of the theological reality of the Body of Christ. To further understand defendant Kroncke's act some understanding of sacraments as means of sanctifying and reconciling human relationships is necessary.

### **3. Sacramental actions effect the sanctification and reconciliation of the personal and of the world.**

The symbols and rituals which enter into Catholic religious acts are taken from the cultures in which Catholics find themselves living. As when the Second Vatican Council addressed itself to all of mankind, so when the Church develops new understandings and new symbolic rituals she intends that they serve all of mankind. Sacramental acts, then, are inclusive actions, not exclusive. The more familiar Catholic sacramental acts-for example, Baptism, Eucharist and Marriage-were intended to convey the sanctification and reconcilability of everyday life with the life of God. Through their symbols each sacramental sanctified, and reconciled with God, aspects of personal growth. That is, Baptism through a water ritual sanctified the birth process; the Eucharist through bread and wine sanctified and reconciled everyday living; marriage through the public witnessing to a bond of love sanctified sexuality. Through these specific sacraments, Catholics have shown Jesus' sanctification and reconciling of the whole realm of personal growth and maturation with God's intention in creating life. These specific personal sacraments have always been understood as sanctifying the personal in a further definition of the term-for example, any structures, institutions, and laws which have the effect of preventing personal growth can be sanctified and reconciled through sacramental actions.. In the Roman Empire, infanticide and the exposure of infants was only too common; and the Christian practice of baptizing infants affirmed and secured protection for infants and children, who, after Baptism, belonged not only to their parents but also to Christ and his Church. From this historical fact, then, one sees the socio-political nature of all sacramental acts. Sacramental acts inevitably appropriate "Things and Acts" particular to the socio-political realm, and either uses them as

symbols to communicate values and truths; or as objectives to be sanctified and reconciled. As with the relationship of infanticide to Baptism, in all its sacramental acts the Catholic People expect their sacraments to have personal and socio-political effects.

The waging of the Indochina war points up the presence of evil within the family of man. The reality of an undeclared war as the policy of the United States' government points to a compound evil present within America. Using American symbols (namely, the files of the Selective Service System) in public acts of witness to point out and attempt to remove, and avoid, this evil, then, is a proper task of a Catholic person, especially a Catholic theologian. As with non-violence the sacramental draft raids strive to speak out to the evil at hand and to open means of reconciliation to the parties involved.

The draft raid action of defendant Kroncke was a proper, reasoned and measured response to the immorality of the Indochina war and to the moral imperatives and guidelines of the Second Vatican Council. The act through its symbolism and non-violence posed a moral question to the American public, Catholic and non-Catholic, and offered a positive answer to this problem by calling upon the values and truths of the Roman Catholic moral and theological traditions.

### **The Catholic Radicals' Analysis of the Indochina War and Their Response, in Particular, in Draft Raid Actions.**

To some American Catholics the time had come in 1967, when the political system, for all practical purposes, had indicated its acceptance of moral indecision, to respond with the values and truths of their Scripture and Tradition in an appeal to the higher ethical values of the American people.

#### **1. America's loss of self-identity indicated by the moral vertigo surrounding the undeclared Indochina war and the constitutionally unjustifiable Selective Service System.**

At the present time during this undeclared war many Americans have raised legal and political questions as to the constitutionality and propriety of many of the military's interests and operations. Most specifically, they center on the worth and morality of the Selective Service System. Many despaired after years of dissent that these contradictions of an undeclared war and an involuntary draft would die from moral indifference and indecision on the part of the elected

government. This is indeed the sad and dishonorable state of our present political situation. Turning into the second decade of the Indochina war, no decisions have been made yet whether such a war legally can exist. In the third decade of the involuntary Selective Service System no direct testing of its constitutionality has yet been allowed nor decided. The undeclared war and the involuntary draft stand glaringly as signs that America, as a nation, staggers, groping for her self-identity. This is a period of moral vertigo. This moral dizziness has its effects on thousands who have died in the war while elected and appointed men of power remain lawless and immoral. It seems that life is expendable at the whim and fancy of the government's political expediency. The government speaks directly in violation not only of its own most hallowed ethical ideals, but directly to the primary value of the Christian Scripture and Tradition, that of the sanctity of human life. When the political system fails to balance itself, then the overriding balancing power must be that of morality.

## **2. The Selective Service System is an immoral and evil system which voids human choice and destroys human life.**

Today, the American government has created an immoral and evil system, that is, the involuntary military system. Several bleak realities point to the sober truth of this statement. By law, every alive American male, regardless of his mental, physical or spiritual condition, when he turns eighteen, must sign up with the Selective Service System and carry his little card. Under questioning, Colonel Robert P. Knight, State Director of the Selective Service for Minnesota, testified that it is absolutely impossible for an American male, regardless of his physical or mental condition, to avoid signing up with the draft.

This System is, next to the Post Office System (which, since the trial, has become a private concern), the most widely dispersed arm of the government. The System is involuntary, and the records kept are not the private property of the registrant. The “freedom of choice” that the young man is guaranteed is either to so register or else leave the country or take up residence in a federal jail. It is not a play for colorful rhetoric to say that a young man's “choice” is either cultural life or cultural death. There is no other such involuntary and all pervasive system in America; not even the taxation system nor the public education system is that involuntary and inescapable. Obviously, the Selective Service System is of bedrock importance to the recent governments’ idea of self-development and to their ideal of what should be the American

experience. However, this is a recent tradition in American government policy, stemming from 1940. Understood in this manner, the Selective Service is a “very peculiar system,” which can be judged as immoral and evil because it both denies free choice in reference to the ultimate human and religious questions of the value of life; and because it is the main bloodline for continuing the morally abominable war in Indochina.

### **3. The character and meaning of draft raid acts as sacramental.**

From their moral and sacramental traditions, Catholic Radicals like the Fathers Berrigan of the “Catonsville Nine” and Father Al Janicke of the “Milwaukee 14,” understood it as their task to seek socio-political acts that, they hoped in faith, would begin the removal of the evils present in America, and allow God’s sanctifying and reconciling presence to be felt and discerned. They were not self-righteous, egotistical men seeking fame or profit. Indeed, most of the Catholic Radical draft raiders were over thirty and into some standard profession. They were people who believed that the meaning of their Catholic sacramental system extended through and beyond intra-personal acts into social acts. They believed that God’s loving peace will infallibly be present through prophetic moral acts of sacramental willfulness. They believed that sacramental actions, for example, the Eucharist which effects the religious solidarity of, what is called theologically, the “Body of Christ,” carries over concretely into and through the State’s socio-political body.

In a liturgical way, these Catholics removed the evil property (the 1-A files) and destroyed it. This destruction is both a negative and a positive act. Negative, in terms of sacramental exorcism, where the 1-A files are discerned as the demonic elements, and so must be destroyed. The destruction and disruption of the money-lenders in the Temple, both symbolically and actually, by Jesus, is precedent. Destruction is positive, that is, in reality non-violent, when understood as sacramentally symbolic. That is, Catholic theology holds that Jesus accepted the death on the Cross to give witness to the style of the Christian life; and to effect the new truth of God’s presence with his people in Jesus as his Son. In Catholic theology, the belief in the Resurrection of Jesus from the dead stands as the affirmation of these truths about life and living for which Jesus himself lived and died. In its attempt to join religious methods with political methods the symbolic destruction of the 1-A files proclaims, and forces the American people to

hear, the main tenets of the government's demonic principle, namely, that property is more important than people. This demonic principle has worked itself into the fiber of the government's life-style; this is no more vividly portrayed than in the acceptance of an undeclared war, the perpetuation of an involuntary draft system, and the continuing Orwellian slogan of double-think which has become the new Great Seal of America: "War is Peace."

The draft raid action is a response to the Second Vatican Council's statement that Jesus' being in the world makes it a Catholic's primary religious obligation to care for "and to build up the world and fulfill its purpose." (I held up a copy of the Documents of Vatican Council II, and then entered it as Defendants' Exhibit 6, "The Pastoral Constitution of the Church in the Modern World," "Conclusion," Paragraph 93, p. 301)

**4. The draft raid act is first, as to origin and goal, a sacramental act; second, as to means, a political act.**

The draft raid act can be described and defined on several levels of awareness and responsibility. For some, the draft raid can be a violent, illegal and primarily political act; for others, a non-violent, highly moral, sacramental and reconciling act. For the former there is no justification for this act because it is not of an immediate necessity, while for others it is justified as a social and religious necessity, the perennial necessity being to preserve life and develop a justly ordered society. This latter necessity has been the thrust and highest goal of every society ever founded.

Americans exist at a time when thoughtful and sincere people see the nation establishing herself as Caesar without God. This is a deviation both from the ethical and humanistic values of the Constitution and from the moral guidelines of the Second Vatican Council. By its actions, the government has negated the rights of religious peoples to live according to the highest and central values of their beliefs, namely, the dignity of human life. The government has set up an evil Selective Service System by which it forces, by threat of life or death consequences, young men to kill in a war she refuses to declare. The abomination is that the government declares:

"Peace, Peace, when there is no peace. Were they ashamed when they committed abomination? No, they were not at all ashamed; they did not know how to blush. Therefore, they shall fall

among those who fall; at the time that I punish them, they shall be overthrown,” says the Lord. (Jeremiah 6:14-15)

### **Closing Statement**

That ended my personal testimony. I stepped down from the witness stand; walked over and sat down at the defense table. Neville was jotting down some notes. The prosecutor looked like he just woke up from a long nap. I glanced over at the jurors. “Well, what do you think?” I wanted to say, “I’ll take questions, now.” But it doesn’t go that way. For better or worse, I had explained my life. Christ, I didn’t even understand myself, now could I really expect them to? This draft raid stuff was all about spiritual rapture and the discovery of a God of Peace ... I slunk back into my chair, fiercely depressed.

Thor Anderson, DA in his Closing Statement

...accused Kroncke of trying to “weasel his way out” of his crime with a theological paper. (“Jury convicts two more of Minnesota raiders,” Mary Papa, National Catholic Reporter, January 1971)

Next day we would make our Closing Statement. As with any good preacher who feels that he went over the heads of his congregants, I was going to dig deeper and let it all out. *Jesus*, can I do this? Talk about Joey without crying and breaking down?

### **My brother Joseph and one mosquito**

I’ve waited until the Closing Statement to relate Joey’s story because it is about intimacy. I wasn’t sure if I was up to this much self-disclosure. Exposing this much vulnerability. Yet, during the night, I had prayed ... but I just didn’t like the answer. “Joey” was the answer.

To talk about Joey meant dragging the whole family through a traumatic memory that affected everyone quite profoundly. But that night, he came to me. Sure, you think I’m going to say that? I didn’t get into the room filling up with blood or mention spiritual rapture, so what do you think would have happened if I said, “Last night, my little brother Joey came to me”?

I stood before the jury and told them about my brother. “Joseph William, ninth child, fourth son, with four immediately older sisters. Died, August 5, 1967, a day before my twenty-third birthday. He would have turned eleven on August 23<sup>rd</sup>.” Naturally, he was the apple of everyone’s eye. I was thirteen when he was born, and he was as much my child as my brother. Only I knew that telling the jury about my relationship with Joey was really all I had to say; wanted to say; needed to say. I was there to witness to my little brother’s message about intimacy. *Intimacy*, I could hardly speak the word without sobbing.

When we lived in New Jersey, we spent two weeks each summer in south Jersey “at the shore.” This was a compact summer cottage in Forked River that we shared with my Uncle Gene’s family. They came in July. We came in August. The best part of summer was swimming in a nearby lake where I and my sibs learned to swim to the raft as a rite of passage. The area was often beset by heavy rains and armies of mosquitoes. This story, however, is about just one mosquito.

I was sitting on the couch in the family room, reading a book, when Joey, just two years old, ambled up the stairs. We all knew that he had had a restless night. He had kept most of us floating in and out of sleep crying throughout the whole night. Once up the stairs, he walked over and laid down next to me. Within minutes he raised his head, slightly turning upwards to look at me, and then he began to spew and spit foam. His eyes rolled wildly and I jumped up yelling, “Mom. Dad. Something’s wrong with Joey!”

“If you cannot give life, then don’t take it away!”

I said to the jurors. Did I “say” it? Or did the words fly like spears to pierce their souls?

*“If you cannot give life ...”*

Joey went rigid and into a relentless fit. Mom and Dad rushed him to the local bar, seeking help. The nearest hospital was more than forty miles away. Someone doused him with booze since his head was simply ablaze. Of course, we kids didn’t know what was happening. My parents lived

out that nightmare of nightmares as they found themselves powerless to help their sweet child. Joey lived in a vegetative state for nine years. He died shortly before my dad. The mosquito had killed twice.

One mosquito bites a bird and becomes a carrier of encephalitis. All of us, brothers and sisters, have said, repeatedly, that it was unfortunate Joey did not die right away. While we took him home to live with us, he required twenty-four hour a day attention, and was totally non-communicative. At the same time my father's company was bought by 3M. Dad was from the generation where you worked for one company all your life, as did his brother, my Uncle Gene. The stress of all this only weakened a constitution with inherited heart problems. Dad's mom had died while he was at Notre Dame. Catastrophically, dad had a heart-attack. His job prospects went from difficult to impossible. Thanks to the generosity of 3M, my dad was offered the position he had at first refused, that is, moving to Minnesota.

We traveled to Minnesota on a long, sinuous, sluggish train. We arrived in a world as surreal to us as Mars. Hastings, Minnesota in 1960 had a population reaching towards five thousand. We were an urban family, and both my mom and dad were born in New York City. Down the street from our new home, miles of cornfields unfolded beyond eyesight. Only now do I appreciate all they faced and overcame. In time, Joey had to be placed in a nursing home run by Catholic nuns. At the same time, my four younger sisters were consigned to a residential high school also run by nuns. I chose not to spend my junior year at the local high school. So, that's when I left for the seminary, back East on Staten Island. Only my older sister and her husband remained in the same town with my parents.

Joey's death simply undid my father. I remember watching him weep over my brother's coffin and whisper, "It won't be too long, Joey, and I'll be with you." A bit over a year later, dad died of heart failure. On my father's gravestone is written, "They Will Be Done." I've always hoped that he found the courage in his last moments to utter that phrase. This was Christmas, 1968.

Joey's story was reawakened when Gordy Nielsen came into my office and told about his Search and Destroy missions. As Gordy testified that day in my office and here as a witness, "Instead of



a hootch, it was a home. ... instead of a gook, it was a human being.” Joey and Gordy conspired to whisper into my distraught ears, “Intimacy.”

What happens when intimacy is dishonored or destroyed? Simply, humans cannot be human. Though he was present in body, Joey could not share intimately with me. I often held him in my arms and felt the beating of his heart, the moistness of his breath, but we could not be intimate. Yes, he was present to me, and I to him. But by intimacy I mean the ability to establish a relationship wherein we mutually become present each to the other as Beloved. Oh, I think you can sense how much I loved my brother. It is not a matter of love, rather, it is a matter of how we humans grow as humans. We do so by sharing each other’s intimate space.

You can call the body a machine, that is, a version of “hootch.” You can name the other as Intimate Enemy, that is, call him “gook.” You can do so but only at your own peril. For you jeopardize your ability to grow as a human. When you dishonor or destroy another’s intimacy, you are acting homicidally and suicidally.

Eyes locked on eyes. Hearts locked on hearts. I said what I came to say to these other humans, my jurors; to my judge; to any and everyone who would listen.

*I couldn't give life to Joey.  
I will not take life from you,  
You are not a gook, you are a human being.*

No matter what, I will always find my brother Joey present through your presence of you and you and you.

I had performed my ritual of peace. It was time to go off to prison. I already knew my sentence.

### **A trial or a forum?**

To you, my juror: Here is my Summary Close:

Neville says,

It has been my policy, whether it is right or wrong, when somebody wishes to present a theory or advance a claim or set forth a reason that I generally, if I can accommodate them, let them do so on the theory that I am not the last word and that there are those above me and that if I were to cut them off without any chance to be heard on what they claim is a defense, then maybe I am not being fair to them and so forth.

And to the jurors.

Lastly, I want to talk with you about ... the testimony about the Vietnam War and the Selective Service System. In that connection I advise you that you have a **VERY LIMITED RESPONSIBILITY IN THIS CASE**. It is solely to make a determination under these standards of Law which I have stated to you as to whether these defendants are guilty or not guilty. And **THAT IS ALL**. You have no philosophical, or religious, or theological responsibility at all! ...*Well, I advise you that you have no such responsibility. If the Vietnam war is wrong. If the Selective Service is unfair, and if other things are wrong in this country, the remedy lies in the Halls of Congress or in the Executive Branch of the Government. In our tripartite system of government it is the responsibility of Congress to enact the laws, even bad laws if they have a mind to and some of them may be very bad or very good. It is the responsibility of the Executive Department to enforce those laws and our responsibility, the Judicial Branch of the Government to interpret them and to apply them to particular fact situations, as we are doing here today.* (Emphases added.)

Finally,

Religious doctrine or belief of a person cannot be recognized or accepted as an Excuse or justification for his committing an act which is a criminal offense against the law of the land. ...Further, it is the law that no one has the right to determine on a personal basis which laws will be obeyed and which will not, because of alleged evils.

Then my response,

“Well, Mr. Kroncke I guess that I don't have to defend myself but I took an Oath to enforce the law when I was made a judge.”

“And I was baptized before God to live a free life!”

“I can't ... maybe it would have been better to have rules right away and had none of the evidence.”

“It might have been.”

“But I didn't think that was fair to you and I didn't think that was right, and *if* the purpose in your mind is to *focus attention* on the evils, we have been here eight days doing it, or six days, and maybe there is some advantage to that, but the law as I see it is what I read, and I'm sorry but that's the way ... “

And,

This is a difficult for me to say because, in a sense, I realize that I am naming you, in my understanding, as an immoral and evil person to people. But somewhere the problems of society go on, and somewhere people have responsibility, and you are the type of man

who has had many people come before you with problems, especially with reference to the War, and you have, seemingly consistently -- as have all the judges in this District Court -- handled them in the same way, saying: "Well, the responsibility lies somewhere *up there*." -- with some unknown God called the State.

Neville and Devitt in a nutshell:

I don't need to argue whether this is an act of violence or not, but it is an act of *destruction of property*. If everyone in this country who didn't like the law took it unto himself to say, 'I don't like the law, automobiles are killing too many people in this country, and therefore, I am going to break-in and destroy the plans for next years automobile - and they kill more people than the Vietnam war has killed every year, pretty near - if you take the law into your own hands because you don't like the result that you see, then we have no government and no laws at all. We just then have anarchy and the Court cannot countenance the proposition, despite the sincerity and the eloquence of your arguments, that because you are motivated by religious principles, or otherwise to do what you consider to be a moral duty, that you therefore have the right to say, "The law doesn't count. I believe it is wrong and therefore, I am going to do my best to impede it." That is just so contrary to our System, that it has consequences far reaching. (Neville)

The criminal acts for which the defendants have been found guilty were not just impulsive, minor transgressions, expressive of youthful nonconformity, but rather were part of a planned and organized, illegal effort by violence to cripple the operation of the United States Government in carrying out its Constitutional duty to provide for the national defense. Ripping off a draft office, as it was

characterized by one of the defendants, is not a prank but a crime and a serious one. Criminal acts must be treated as such. These defendants would discuss their conduct on the basis of a sincerely held desire to show opposition to the Selective Service Law and to the Vietnam War. But the law is, and common sense dictates, that good motive, regardless of how deeply felt, does not justify or excuse the commission of a crime. If it did each of us would be exempt from responsibility for violating laws with which we do not agree.

A basic obligation of American citizenship is *to obey all laws*, those with which we agree and those with which we disagree. *How could it be otherwise in an organized society?* While these defendants are not criminals, in the sense that robbers for instance are, whose crime is that they take money or property from others, they are criminals in an equally, if not more serious sense, because their criminal conduct strikes not just at the pocketbook of others but at the very foundation of government and therefore at the security and well being of all.

To condone their conduct or to dismiss it with a slap on the wrist would be to invite continued lawlessness and to approve violence as an agent for change. Change may well be needed in America but charge without order results only in chaos. *Those who act out of allegiance to a higher law than the law of the land are making jungle law.*

Freedom cannot exist in a society which permits violence. These *misguided* men are wrongly manifesting their opposition to the present state of affairs through recourse not to the law but to rebellion against the law and that is wrong, that is a crime

sanctionable, as are all crimes, by conviction and punishment.  
(Devitt)

One of the *Minnesota 8*'s parent laments,

Mr. Turchick shakes his head. His eyes are red and watery, "I don't know," he says, "I don't know. For a goddamn 10 minutes in a building." Later he sits on a couch. He talks in short angry bursts, "I tell you: ask any of these boys what they accomplished. I'll tell you. Nothing ... nothing. Now they go to jail and who knows what happens to them. Ha. Take a look around. Ask any 60 people here: "Would you do the same thing? No, they wouldn't." ( Jose Barreiro, "Five years in prison for ten minutes in an office," *Minnesota Daily*, November 30, 1971.) Note: Chuck Turchick's dad.

Another questions,

Look my Peter is just an average kid who realized an obvious thing -- that he can't kill. He isn't a kook or a weirdo -- he's *my* son. Can't you people look into your hearts and realize that when kids like my Peter do things like this that something is seriously wrong with the country? (Mary Simmons, mother.)

Then, the parents of Brad Beneke. Arnold and Millie are stalwart Republicans. Their other son, Bruce, was an Army captain who served in Vietnam. Bruce also served on the Judge Advocate General's staff (JAG). Arnold was a lawyer in private practice, and assisted Ken during the Devitt trials. As Bruce testified about his dad,

My father is an attorney. He has been an attorney since World War II. He was an attorney in the United States Army in World War II

as well as a tanker in Germany for four and a half years; and also a Major in the Reserves of the United States Army. He was County Attorney for the County of McLeod for a period of twelve years, and he is now actively employed in private practice in Hutchinson, Minnesota and Glencoe, Minnesota. He also serves as the Appeals Agent for the United States Selective Service System of McLeod county.

Arnold stated in his plea for leniency,

When I went into the service in '42, in January, I was at the age then, as many of the young men, the agents, the Marshall are, 26, and so that the men that were with me were young, 19 years old, 20 years old, and I worked with them many years and many different men -- and I can state because of the act of a young man -- I can only say that he was killed when he took my place in the tanks when I was ordered up to Division Headquarters -- a very young lieutenant, and he moved my tanks out - and there but for the grace of God would have been I in that tank instead of him.

There are many accusations, of course, by people saying what kind of parent are you that you raised young men like this and I say to you, Your Honor, I am proud of both my boys and I am proud of these other young men, from knowing them, and I say to their parents you should be proud of them too.

The mother, "presently District Chairwoman for the Republican Party of Minnesota in the State of Minnesota," circulates a poem,

THE TRIAL OF THE MINNESOTA 8

I watched a public hanging  
It was called a trial.  
Freedom was hanged.  
And I watched Faith slain.  
Truth was assaulted  
And the rope around Hope's neck  
Grew tightly taut  
As God's name was fouled  
In a lethal complaint.

Youth was on trial.  
Allegiance to a higher Being  
Avowed.  
Youth ... versus the Sage  
Callous Age.

Tyranny sat behind closed eyes and ears  
And urged Justice  
Black-robed and blind  
To try Youth for a double crime  
Yours ...and mine ...

But this is why I really cried  
Deception masked by Patriotism  
Was the Advocate  
On Age's side ...

*Millie Stong Beneke*

Again, from a juror,



Mrs. Dorothy Rush said afterwards that “We did a very difficult job. It's no fun sending two young men to prison. But we had to follow the judge's instructions.” If the instructions had been different, she said “Some jurors had their feelings and I had mine, but I'd rather not say what they were.” ... “We felt we had no alternative since all their evidence was stricken, said Edward Oswald.” (Quotes: “Draft Raid Defendants Convicted,” Bob Lundegaard, 19 January, 1971 *Minneapolis Tribune*.)

The media opines,

### **Where in history for Minnesota 8?**

Opinion is sharply divided over the Minnesota Eight and their acts of defiance. To some, they are radical revolutionaries who got what they deserved for breaking the law and attempting to destroy property. To others, they are true patriots who acted out of conscience to protest an immoral, insane war. To still others, they used the wrong methods to make the right point.

History may treat the Minnesota Eight more approvingly than do their contemporaries, if the war in retrospect comes to be viewed even more negatively, and if such protest comes to be seen as courageous acts of conscience. Opinion surveys that show overwhelming aversion to the war already vindicate the purpose of their protest, even though not their methods. Whatever is thought of the illegal acts of the Minnesota Eight, and such methods must be condemned as long as there are legal alternatives, the Eight can be admired for their deeply felt convictions against war and for the willingness of five of them

this week to enter prison as a demonstration of the sincerity of their convictions, rather than go underground or flee to Canada.

“We didn’t act out of foolishness. We acted out of frustration and emotion. But we acted for a cause.” (Excerpt, Editorial, *Minneapolis Tribune*, December 2, 1971)

Bill Tilton, in his Closing Argument,

We want to make this into a society where not only the Vietnam War will stop, but hopefully all wars will stop.

Pete Simmons, “If nobody goes to war, then nobody goes to war.”

Mike Therriault, at sentencing,

As American society is constructed today, it forces all responsible Americans to be criminals; you are either a peace criminal or a war criminal. Mr. Neville the choice is yours. That is all I have to say. My brother and sister, the choice is yours. What else can I say?

Don Olson, “We cannot allow ourselves to be lied to by our leaders.”

Bill Tilton to Colonel Robert P. Knight, Director of the Selective Service, State of Minnesota:

“Colonel Knight, do you at all care about the people you send to die in Vietnam?”

Final verdict from two Vietnam veterans,

We know who the real criminals are and I think the people know

who they are.

John Sherman, written by him with  
help of Chuck Logan

...the freedom of one man to kill another is *not* a basic freedom. And for us to impose ourselves between the killer and killed is *not* to violate the person of the killer in a fundamental fashion, or those who recruit people to kill. I feel that the death of any person is a tragedy.

Mike Therriault, “Minnesota 8”

## Chapter 5: After the trial

The time after the trial was a cross between feeling I survived a massive traffic accident or that I had just given birth. My life as I knew it was over. Francis X. Kroncke, “Catholic boy,” blah, blah, blah. I was as totally not me as the babe must feel as he tries to focus on this place that is not the womb, anymore. A big, *What happened?!*

Or, in my case, what didn’t happen; *voiceless*. Peacefully terrified. Back to that phrase. Man, I was about as at peace with myself as I could ever imagine. Peaceful: *I did it!* But then, terror: *Fool! You did it*. It was unbelievable: I was actually going off to prison. *Convict. Outlaw*. But I didn’t want to think about that for awhile. I had to prepare for my appeal.

Family and friends, court personnel and anti-war activists all simply went back to their normal, everyday lives. Not me. I had no life. I was under a sentence. I belonged to the State. Like the newborn babe, I wondered, What’s this life going to be like?

### Appellate Court

As stated, my anti-war and nonviolent commitment slowly deepened over time. Starting with the fall of 1969, it accelerated so rapidly into acts of protests and draft raids that I hardly had time to breathe, not just think. “Analysis leads to paralysis” is a jibe at egghead academics. My egghead, however, splattered and got fried as my daily life became all about planning and acts of resistance. After the trial, I had to hit the brakes, kick-back into analysis and interpretation. Though I felt absolutely hopeless as to the outcome of the appeal, I was going to give it my best shot. They were letting me up to the plate one more time, and I was going down swinging for the fences.

Under the direction of Charles Bisanz, an experienced appellate lawyer, I put together the five points in my challenge. On the morning of October 18, 1971, I am in St. Louis, Missouri at the US Court of Appeals, Eighth Circuit. There are three judges. They keep time with two lights: 15 minutes for my last shot! Ken Tilsen and I must split the thirty-minutes of appellate argument. “When the White light blinks, you have 5 minutes to go. If you want to have time for questions and answers, you should stop then. When the Red light blinks, you are finished.” I am amused;

already “serving time”! Me: baggy pants, long hair, straggly during these days, Hippie-flowered sash instead of a belt, and feeling as if it was Final Judgment Day.

Again, the core of my appeal was,

I challenge the court to articulate guidelines to determine *in what extreme circumstances* people who *act in a measured way for reason of conscience*, and for the purpose of *effecting their religious truths*, may *resist the immoral acts of their government*.  
(Emphases added.)

Six months latter, the appellate decision affirmed my condemnation to voicelessness.

We need not decide here in what extreme circumstance, if any, governmental acts may be legally resisted. We confine ourselves to this case....

As I read the appellate decision, I recalled that after my presentation, three French-cuffed, diamond tie-studded and impeccably dressed “hired guns” from a world I knew absolutely nothing about, Corporate America, congratulated me on my performance. It was the final absurdity: *You speak so well! O, Voiceless One.*

### **Conflicting standards**

I took on the United States of America and was beaten down. The appellate court affirmed my criminality and anointed me “a slave of penal servitude to the State...for the time being, the slave of the State.” (Ruffin v. Commonwealth (62 VA 790, 1870) It fêted me as outlaw, and punched my final ticket for passage into the caged world of American justice. I was pummeled into submission and irrelevancy. My master held me to be less than a man. He felt no qualms about not respecting me. He heard my words, but they were pure garble, impotent sounds. He did not listen to my voice. I was, in his eyes, a barbarian; one outside the law. I struck at the foundation of his government, and he cast me out.

I described myself in these terms because a) this is how criminals are defined by the State, and b) I was totally baffled. “What did I do that they were so afraid of?” I knew that the few draft boards we destroyed in Minnesota hadn’t crippled the Selective Service System. Yet, I was being handled as if I had set off an atom bomb and laid waste a country. Maybe I had? At least, in its psyche and soul.

Many a sleepless night the phrase “American justice” taunted me. Had I been justly treated? *Face it, you weren’t judged, you were ignored.* Damn it! I couldn’t deal with being so trivialized. It grated on me that Fred Hampton was so right. I, now, was where his people lived. In that caged world bounded by ghetto and prison. What a joke: my reputation was now “blackened.” I hoped that Fred was smiling from on high at the irony of it all.

I re-read all the trial transcription, several times. I collected everything I could: newspaper clippings, Berryman’s poem, our mothers’ interview: anything about the trial. I was in a place where dope and booze, sex and basketball no longer helped me through hard times. I was angry, sad, perplexed, excited, amazed – in short, really screwed up! Nothing made any sense. So, I started writing the memoir, “Patriotism means Resistance.” I did it partly as therapy, partly because I thought the government might simply destroy every vestige of our existence. America had witnessed the McCarthy era’s purges, and the Nixon Era felt much like that.

Nevertheless, I was still Charlie’s son. I wasn’t going to give up; surrender. If I was going to prison, I would ensure that the *Minnesota 8* story wouldn’t be lost. Personally, I no longer cared whether or not others felt that I was a good man. In my heart, I knew that dad and I had struggled for the same goal: peace. It broke my heart to feel our shared powerlessness to end war in our generations. Often, I knelt and spiritually joined him in an early morning plea, “They will be done!”

### **The judicial worldview**

I knew the world of vision and values that had led me to Resistance. But it could only be fully understood if others clearly grasped the judicial worldview. Maybe it was the teacher in me, but I plowed through the materials to find an accurate quote. The appellate justices quoted at length

from a Fourth Circuit decision in the trial of Fathers Daniel and Philip Berrigan. *United States v. Moylan*, 417 F.2d 1002 (4th Cir. 1969), cert. denied, 397 U.S. 910, 90 S. Ct. 908, 25 L.Ed.2d 91 (1970).

From the earliest times when man chose to guide his relations with fellow men by allegiance to the rule of law rather than force, he has been faced with the problem how best to deal with the individual in society who through moral conviction concluded that a law with which he was confronted was unjust and therefore must not be followed. Faced with the stark reality of injustice, men of sensitive conscience and great intellect have sometimes found only one morally justified path, and that path led them inevitably into conflict with established authority and its laws. Among philosophers and religionists throughout the ages there has been an incessant stream of discussion as to when, if at all, civil disobedience, whether by passive refusal to obey a law or by its active breach, is morally justified. However, they have been in general agreement that while in restricted circumstances a morally motivated act contrary to law may be ethically justified, the action must be non-violent and the actor must accept the penalty for his action. In other words, it is commonly conceded that the exercise of a moral judgment based upon individual standards does not carry with it legal justification or immunity from punishment for breach of the law. .... It follows that the defendants' motivation in this case cannot be accepted as a legal defense or justification. We do not question their sincerity, but we also recognize that society cannot tolerate the means they chose to register their opposition to the war.

Then, they added their own judgment.

We need not decide here in what extreme circumstance, if any, governmental acts may be legally resisted. We confine ourselves to



this case and hold only that the law does not permit an attempt to seize and destroy Selective Service records even if this is done as an act of conscience. We make no moral judgment on the defendants' acts. We counsel only that the fabric of our democratic society is fragile, that there are broad opportunities for peaceful and legal dissent, and that the power of the ballot, if used, is great. Peaceful and constant progress under the Constitution remains, in our view, the best hope for a just society.

I fully understood their reasoning. But what I did not and could not understand was their cowardice. Why they had refused to enter the fray? Why they had evaded the battlefield. Why they acted as if I had all the power and they none. After all, these were federal judges. They had risen to a most prestigious and powerful position in American society. Why, then, didn't they let The System work? That is, allow the jurors – representatives of the People – to hear me? Why didn't they rise to the occasion and exercise their balancing power? Was the depth of their collective wisdom tapped by the dismissive “irrelevant and immaterial”?

Again and again I wondered, Why did they fear my story? What were they so afraid that the People would do if they heard my story? In the final analysis, I represented something quite powerful. Something even more powerful than I, myself, was aware. They feared me!

As so often happened, a stranger sounded the voice of the People.

**Conflicting standards.** The actions of the “Minnesota 8” illustrate again the agonies which confront our nation and particularly our young. While deploring their methods I thank God for their courage. Authority will never be respected and obeyed until it is accompanied by equal responsibility and justice.

We attempt to instill in our children a moral if not religious conscience. We teach them to do what is right regardless of what others may do. That is, until the question of military service arises

when we say, “Forget about your conscience! Be quiet and do what you’re told.”

The single most overwhelming problem facing our country today is the growing skepticism, cynicism and mistrust of authority which says one thing and does another – which holds one standard for itself and another for others. (Mrs. Elizabeth P. Franzen, Minneapolis, Letter to Editor, *Minneapolis Tribune*, January 6, 1871).

“Authority will never be respected and obeyed until it is accompanied by equal responsibility and justice.” Mrs. Franzen hit the nail on the head. She knew that it was the justices, not me, who were “striking at the foundation of government, itself.” They did so by shirking their duty to listen to the People. I truly felt that I was the patriot and each justice an outlaw.

### **Sentencing**

What lay ahead? How was my family taking all this?

Mrs. Charles Kroncke, mother of Francis Kroncke, spoke for most of the parents when she gave her view of her son’s impending imprisonment.

“I am sorry to see him go to prison, but I am very proud to see my young man stand up for his convictions and take the aftermath,” the Hastings woman said. “It will be a great loss to us all, but somehow I don’t feel their actions will have been in vain. Their views will effect society and my son will emerge from prison as fine a person as he is today. I am very proud of him.” (“Winners prepare for jail with party,” Peter Vaughan, *Minneapolis Star*, November 1971)

I asked Neville:

What do you think putting me in jail is going to do? Am I

going to be rehabilitated? How am I going to serve my community by being in jail? Now I am willing to undergo the experience, obviously, or I wouldn't be here today. But I would like to know from the depths of your person: you give out sentences to people, like five years of a person's life or one year of a person's life. Do you understand what happens to people? What is going to happen when I am in prison?

You are a man who sends people to prison. I am a man who, I guess, tries to make people think. That was my job. Or I send them to God, whatever you want. I sort of have a vague idea from talking to people what prison is like. But have you experienced jail? Will you come to see me in jail? Will we share that in any way, or will I be out of your life for good? I know that what I have said is probably not as eloquent as what others might, but I guess this is not the time for eloquence, but really for honest truth.

I don't understand -- and I would like you to explain to me -- I don't understand what putting us in jail is going to do. I would like to understand your position. I would like to understand how you think. I would like to understand the System that you claim allegiance to. I want to understand this country. I want to understand its people or I wouldn't have acted, and I think you owe it to me in honesty and to the people here as you sentence us to tell us.

My mother:

This is the first interview for me. I am proud of my son. Growing up, we were not so politically involved. The reason I'm proud

stems from our tradition. His father was the idealistic one. I was the practical one. All he ever wanted was education for his children. I was Mrs. Practical America. ... The trial is an experience I would never have missed. It was a beautiful thing. I was never so proud of anyone in my life. He talked about how he felt for peace and for persons.

Here's a boy who could have had everything, become a college professor. But he got so involved with other people. He tried to talk, write, petition. Bring this Monstrous Thing, the Vietnam War to people's attention. His idea was meant to serve a good purpose. I'm proud of him for that, standing up for what he thinks the world is all about.

Frank's religious defense and trial started off beautifully. We weren't really hassled. Not like the things I heard about the other (Devitt) trials. Neville appeared to be really something good, but then the courtroom got very tense. It was very moving. I could tell that he was coming across. That he was reaching the people (the jurors). I almost expected a Not Guilty verdict

My boy admits what he did, how he did it, what he would have done with the files. It took the jury two hours to bring in a verdict. That's enough to show the sincerity of these boys. But then Neville had to give re-instructions. The jury asked if Frank's defense could he admitted. They found his beliefs convincing. But the judge says "Throw it out...!"

The jury had tears in their eyes. I was so completely shattered that that could be done in America. That you have freedom of speech but then the judge says, Forget it!

I can't seem to worry. You cannot make me believe that good cannot come from trying to do good. Truthfully that is how I feel and my family feels. We are at peace. I'm sure that a lot of people must think that that's crazy. That probably we all need psychiatrists.

I'll be 55 in May. Five years of my life means a lot to me right now. But somebody somewhere, somehow understands what he did. My son's an Instrument of Peace to the World. ("Three *Minnesota Eight* mothers talk about their sons and prisons," from "Dialogue" a program of KDWB, St. Paul, produced by Connie Goldman and emceed by Earl Craig.)

## **Afterword**

The gist and grit of my appellate discussion was primarily with Judge Gerald W. Heaney. Heaney was a Roman Catholic from Duluth, Minnesota and a liberal's liberal Democrat. He stated,

Well, we can't have one jury in this part of the country freeing draft raiders, and one jury in another sending them to jail, can we? We cannot let juries pass on the morality of the Government's foreign policy.

I shot back,

I always thought that the fragility of the democratic process was just that - that the people rule and therefore things don't happen always according to a logical and predictable order. Isn't that true? The people may do contrary things, but isn't that the right of the people? Don't the people in a democracy have the power? Who else is to rule on the morality of foreign policy, but the people?

Heaney's simple answer was a self-conscious musing.

"That is the question at hand, isn't it, Mr. Kroncke?"

Yes, I contend that it remains the question at hand.

### **The challenge revisited**

Almost forty years later, I maintain that my five-pointed challenge remains sound and cogent. It was a challenge that tapped into an issue the judges didn't want to and didn't face. It is a challenge contemporary justices continue to sidestep. The challenge struck at the foundation of their worldview. In that worldview, the laws of government precede the power of "We, the People." Is that correct? On any terms: historically, politically, philosophically, theologically or practically?

How do you feel when you read Devitt's words?

A basic obligation of American citizenship is to obey all laws, those with which we agree and those with which we disagree. How could it be otherwise in an organized society?

How do you feel when you hear Pope John XXIII's words?

Human law has the true nature of law only insofar as it corresponds to right reason, and therefore is derived from the eternal law. Insofar as it falls short of right reason, a law is said to be a wicked law; and so, lacking the true nature of law it is rather a kind of violence.

Devitt appears to demand the "blind obedience" that many use to mock the Roman Catholic claim of papal infallibility. Is there an undercurrent of infallibility assigned to judges in Devitt's remark? The papal remark, in stark contrast, asserts that there can be "wicked law" that is "a kind of violence."

Although my view and position on this challenge should be clear by now, let me just leave these questions for your own reflection and judgment.

### **Is America in the 2000s, America in the 1970s?**

Let's review the five points of my challenge. How would you answer them, today?

#### **Extreme Circumstances**

The extreme circumstances I articulated were caused by 1) the illegality of an undeclared war and 2) the Military Selective Service Act's direct violation of the 13th Amendment's constitutional protection against involuntary servitude.

Is there a draft, right now? Although current military recruitment is based upon volunteer

enlistment, isn't the draft as alive as ever? In Minnesota, for example, a young man automatically registers for the Selective Service System (SSS) when he requests a driver's license. In some instances, to obtain federal loans college students must be registered.

The jurors in my trial heard me speak for seven days. Then, the judge listened to the government's voice - its Standing Objection - and told the jurors, in effect, *You didn't really hear anything Kroncke said. He's voiceless.* Do draft age males now stand as I did? The SSS, as a voice of the government, says, "You're drafted, but then you're not." In actuality, aren't all draft age males registered in a "virtual draft"? Aren't they part of SSS' database? Isn't each one just a mouse-click away from being text-messaged, "Greetings!"?

*Involuntary servitude:* In this Digital Age, if you are a registered male you carry a virtual draft card. Is that true? Doesn't each and every draft age male exist in this extreme circumstance? If so, do you choose to remain voiceless? If not, how are you going to call for the end to the Selective Service System? If you remain voiceless, aren't you, through your legal compliance with the SSS, obeying a "wicked law" and so exercising a "kind of violence"?

As to the illegality of war. Was the preemptive strike against Iraq an illegal act? Even if you considered it a moral act, was it an exercise of illegitimate authority? Is America at war, or is the country in some other phase of reality, something akin to the Digital Age's virtual draft? Is the war a "virtual war"? Will anyone stand up and say, "The violence stops with me!"?

Has post-9/11 America witnessed the escalation of a constitutional crisis that is rooted in the Vietnam War era? Namely, a crisis within the balance-of-power relationship of America's tripartite governmental structure. Since the infamous "Bay of Tonkin incident" that President Johnson used to justify entry into the Vietnam War, no president has gone to Congress to declare a war. Like the non-existence of WMDs in Iraq, the Bay of Tonkin incident has been authoritatively proven not to have occurred. Is it correct to conclude that there has been an usurpation by the executive branch of Congress' legislative duty to declare war?

Although it may be argued that Congress has been derelict in defending its duty, isn't it fact that



the executive branch has moved, since the Vietnam War and aggressively post 9/11, towards a position of justifying an accumulation of powers traditionally held by Congress? Has the executive shrewdly accomplished this takeaway – this “balancing of powers” act - by interpreting, as broadly as possible, the scope of its war powers? Is it correct to conclude that America’s original and unique concept of the balance-of-powers is permanently damaged? History shows clearly that once power and authority are taken, they are rarely returned.

Although the Vietnam War saw charges of violations of international law and various other war time conventions laid against the American government and the military concerning genocide, mass murder, massacres, systematic assassinations and like charges, these allegations were examined and exposed. Some were even prosecuted; a few tried and convicted. Is this where the present parts from the past? Has the unprecedented executive authorization of a secret prison system devoted to human torture abrogated irreparably violated judicial powers and war time precedents? Will it prove true that the judiciary will be unable to regain or maintain jurisdiction over the legally questionable war time actions of the executive? That is, over secret compacts with other governments made for the explicit purpose of escaping American judicial oversight and authority? Will the Executive’s style remain “Shoot first, let them ask questions later” – with the *them* being the Supreme Court justices?

### **Immoral acts**

Today’s draft age males can read the *Pentagon Papers*. That resource, alone, established the endemic, addictive problem of governmental lying. Have the three branches of government changed their ways? Has there been a national commitment to be a truly Open Society? Ken Tilsen read from the New York times that then Attorney General John Mitchell

has asserted in court cases that he has legal authority to eavesdrop without court authority on both types of groups (that is, radical groups and foreign spies) when he considers the National Security to be threatened. This type of surveillance has not been ruled upon by the Supreme Court, and the Government has not disclosed how much of it is going on. (*NY Times*, Tuesday

October 6, 1970.)

Mitchell made this speech in Atlantic City to a national meeting of Police Chiefs, and his words were public document. Ken felt that Mitchell's words should give Neville pause to consider that the FBI had spied on us without court orders. Neville remained silent. Is this a root for the post 9/11 mind-set and actions of the present Attorney General Alberto Gonzales? Mitchell was the first Attorney General ever convicted and sent to prison.

(Of note is that I entered prison on June 1, 1972 and the Watergate burglary occurred on June 17, 1972. The Watergate hearings began May 17, 1973. I watched Watergate unfold with convict eyes. Also, Attorney General Mitchell was indicted during May, 1973. I was paroled on July 23, 1973.)

In Devitt's courtroom, Don Olson read excerpts from a newspaper article, "Fifteen Years' Selection from Vietnam Quotations." Don commented that the government consistently lied about how long the war would be. He started with a January 1954 statement from

General Navarre, then French Commander-in-Chief who said, "I fully expect (only) six more months of hard fighting." In November 1967, General Westmoreland said, "... we have reached an important point when The End begins to come into view ... the enemy has many problems: he is losing control of the scattered population under his influence ... he sees the strength of his forces steadily declining ... his monsoon offenses have been failures. He was dealt a mortal blow by the installation of freely elected representative government ... the enemy's hopes are bankrupt." (Philip Geyelin of the *Washington Post* reprinted in the *Minneapolis Tribune* on August 3, 1969.)

Americans learned through the *Pentagon Papers* that such governmental lying was willfully done and consciously deployed. Don's quotes also included:

“Ambassador Lodge, on January 9, 1967, “I expect the war to achieve very sensational results in 1967.” President Johnson on October 21, 1964, “... we are not about to send American boys nine or ten thousand miles from home to do what Asian boys ought to be doing for themselves.” (Note: in early 1965 the major escalation of the war involving U.S. troops began.) Johnson made this statement two weeks before the elections, and described himself as a *Peace Candidate*. Finally, from the White House in 1963, “Secretary McNamara and General (Maxwell) Taylor reported their judgment that the major part of the United State military task can be completed by the end of 1965 ...” (Geyelin, *ibid.*)

Has history shown that such governmental lying is not an aberration but the rule? Are citizens faced with a governmental culture that believes it cannot speak openly and honestly to the people?

### **Measured ways**

While there is sufficient reason to be highly alarmed by the current crisis in the balance-of-powers situation, did my trial expose a more troubling crisis? Namely, the ominous loss of the voice of the citizenry. Then, the jurors’ voice; here, your voice.

Over the last few years, an expanding plurality of citizens voiced their ardent disapproval of the current war, secret prisons and the use of torture through numerous public opinion polls. They voiced an historically unprecedented lack of trust in the honesty and credibility of the executive branch. Likewise, voters across the country registered their disapprovals through electoral ballot. The traditional methods of public nonviolent protests, that is, marches, demonstrations and petitions also proved fruitless. Repetitively, the president acknowledged these disapprovals while, simultaneously, ignoring or trivializing both electoral and popular dissent. Is it timely to ask, “Has there ever been an period in American history where the citizenry has felt so ignored?” In short, been rendered voiceless, as I was?

When the executive does not listen – and the legislative and judicial branches cower - how should a citizen act?

### **Resist!**

The past is both prologue to the present and often predictive of the future. During the formative stages of the American Revolution such a pervasive sense of voicelessness plagued and aggravated the citizenry. Colonial Americans felt ignored and abused by a kingly executive. In their own way, they asked themselves the question I posed to the courts,

...in what extreme circumstances {can} people who act in a measured way for reason of conscience, and for the purpose of effecting their religious truths ...resist the immoral acts of their government?

These Colonists sent petitions to the king. They engaged in endless debate and argument. They wrote numerous articles, posted tracts and distributed leaflets. Then, some even participated in nonviolent symbolic civil disobedience, for example, they threw tea into Boston Harbor. When these measured acts proved to be ineffective, Thomas Jefferson voiced the basis for resistance to illegitimate authority. He proclaimed, “Rebellion to tyrants is obedience to God.” On behalf of a rebellious people, Jefferson asserted the primacy of moral conscience over blind obedience to governmental authority, even one that claimed, as did the king, to be divinely appointed.

Shouldn't this Founder's quote, in every age, inspire all American citizens to resist their government's illegal and immoral actions? (This quote also stands as a summary of my Resistance and as a theme of my trial.)

Mike articulated why raiding draft boards were, for us, a measured way to act in response to our conscientious rejection of the undeclared and illegitimate war.

I don't think we were vandals who went into the Draft Board for kicks. We weren't merely concerned about protecting ourselves

from committing an illegal or immoral act connected with the war. We were in effect concerned about bringing such acts to an end.

... certain freedoms are basic freedoms while others are not. The freedom of one man to kill another is not a basic freedom. For us to impose ourselves between the killer and killed is not to violate the person of the killer in a fundamental fashion, or those who recruit people to kill.

While we didn't have the final numbers, since the war was still being waged, all Americans knew that both sides were paying a steep price in pain and suffering. At that time, Bill Tilton accurately stated,

There are only 17 million people in that country (Vietnam), and 1 million of them are casualties. That's the entire Twin Cities Metropolitan area.

Every night we saw body bags of American boys: brothers, nephews, cousins, friends being heaved and slung on-board cargo planes. Even if we had heard the final tally: American wounded at 300,00 and 58,209 dead, it still wouldn't have mattered. We would have raided, because, true to Mike's words, "I feel that the death of any person is a tragedy." Is this a truth you affirm? Is it a truth worth putting your life in harm's way?

### **Effecting Religious truths**

Post 9/11 America is more aware of "religious truths" than ever. "Kill a Cong for Christ!" referred to the Vietcong. That the tragedy of 9/11 was the effecting of religious truths for Al Queida baffled and outraged many. Am I inferring that my raid was an act of terror? Certainly, I don't see it that way. But the honesty of my accounting of my trials and times is that others did see me in that light. Judge Devitt did: "you strike at the foundation of government, itself ..." Neville did: "if you take the law into your own hands because you don't like the result that you

see, then we have no government and no laws at all. We just then have anarchy ...” To them, I was a religious fanatic, destroying the foundation of secular and sacred government, itself.

Let me turn around some of Neville’s word and use them for my purposes.

Religious doctrine or belief of a person cannot be recognized or accepted as an excuse or justification for ... committing an act which is a criminal offense against the law of the land. Further, it is the law that no one has the right to determine on a personal basis which laws will be obeyed and which will not, because of alleged evils.

Religious truths are never to be used as an excuse. That was why I opened the trial stating, “We did it. I want to tell you why.” I wasn’t seeking to be pardoned. I wasn’t seeking legal justification. That the jurors might have found us Not Guilty was never on my mind. I was not guilty before and felt fully justified in God’s eyes; that’s all that counted. What I was seeking was to represent Pope John’s insight that there can be “wicked laws” and that legal acts can be “a kind of violence.”

I pressed my Defense of Necessity because someone had to stand up and say, “Stop the violence! It stops with me!” Stop both the legal and illegal violence. In fact, Neville, Devitt and all the justices were acting violently, though legally. They refused to see that. To admit it. Apparently, they had no way within their judicial worldview to critically discern their violence. No, let me be more blunt. They had to have seen their violence. They made a moral choice. They refused to use their voice. They chose to remain voiceless, and so let “wicked acts” prevail.

Isn’t this the situation in America, today? That violence is voiceless? That no one in the governmental, from any branch, will honor the People by standing up and saying, “We are at war!” Rather, they pretend we are at peace. It has long been a delusion of warriors that Peace is War. Here, they can quote Aristotle, “We make war that we may live in peace.” Against them I lay the various quotes of Pope John and his quest for “Peace on Earth.”

As I've noted, all the cited judicial statements could have been used to try and convict the rebellious citizens who founded and formed America. In this light, the Berryman poem rightly alluded to my and the *Minnesota 8*'s affinity with the colonial rebels. "O the Signers broke the law, and deserved hanging ... These bear their rare mark." But it is also rightly observed that the colonist's took up arms. That America was birthed by a violent revolution.

Certain colonists, such as the Quakers, practiced nonviolent resistance. While there is this historical root, my interest is in today's global situation. A glance around the globe shows that wars and violence simply don't work. They don't bring Peace or Order. Never have; never will. War and violence are bankrupt ideas. Worse, they are hopelessly impractical. If there is one historical truth, isn't it that war sows the seed of its own failure? That violence only breeds violence? How else to grasp why 9/11 occurred?

I struggled with these issues during the Vietnam war era and discerned that draft raids were my rituals of peace-making. Clearly, I cannot claim that the raids created peace on a broad scale. At trial's end, I noted the depressing fact that the war went on. That it continued while I was in prison. But my claim remains true: the raids made present peace in the hearts of others.

Three times I've received testimony that my rituals made present the God of peace. Recently, a man and his wife approached me after a public reading of the script for the play being presently written about the *Minnesota 8*. He handed me an envelope. I took out the letter. It was dated 1971. It was a general letter to all draft age men in a certain Minnesota county. It said that all the draft files had been destroyed. It asked them to come in and re-register. His blank paper told me about his choice. That same night, another salt-and-pepper beard said, "I realized one day why I was never drafted. You guys raided the draft board in my county." He also did not re-register. Then, in 1975, my wife told me that the FBI had come by, and would call later. They were tracking down a noted anti-war activist who was still living underground. They knew – how I don't know – that he had one of the draft cards I stole from Colonel Knight's office and took to Toronto. At least one exile returned home. Small signs, I grant you. But as I said to Gordy, "Burn this, instead." It worked!

## **Power of The People**

For me, Berryman's poem cleared away the clutter. We were like the Signers. I had not made that allusion in court. Before the trial I would have thought it preposterous and ego-maniacal. But after I had taken my last "measured act," namely, surrendered myself and submitted to trial, I realized that the American government feared me as King George had feared the rebellious colonists. He refused to listen to them. He wanted them rendered voiceless. But they rejected his judgment. They resisted his illegitimate authority. They spoke, "We, the People ..." This was their last measured act of symbolic resistance: a Declaration of Independence. But to the King all this was simply irrelevant and immaterial. God had anointed him! How could this rabble refuse to obey him? Did he wonder, *Who is this "People"?* Is this the question still asked by the executive, legislative and judicial branches of American government? Is it the question they fear to even consider, nonetheless answer?

American history records that the People refused to accept that they were voiceless. So they launched a revolution. The simple lesson is that the form of American government arose from the fiery words and bold, heartfelt moral convictions and conscientious actions of a People. The People, once they arose from the chaos of a revolutionary war, formed a government; the government did not form the People. America's tripartite form of government was and is an ongoing grand experiment. It established three branches: executive, legislative and judiciary as innovative ways to express the People's voice and power.

The voices and powers of each branch seek balance so that they can express the singular voice of the People. The Founders were quite aware that they were trying something new. That they were balancing a Republican form of government with the People power of a Democracy. In a courtroom, the judge represents the Republican form of government and the jurors the People's Democratic voice. Only after the trial did the inherent conflict between "government" and "voice" become clear to me. It actually explained why I was baffled. Clearly, in my gut, I had intuitively grasped that Neville was doing something wrong. It wasn't me he rendered voiceless. It was me and the jurors as we expressed the voice of the People.

Let me say: I am no longer baffled. I have a voice. If you are no longer baffled, then raise your



voice with me. Make heard the People's voice: *Resist!*