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# "For the fracture of good order," The Catonsville Nine protest and legacy

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“For the Fracture of Good Order,” The Catonsville Nine Protest and Legacy

Timothy J. Stefonowich

A thesis submitted to the Graduate Faculty of

JAMES MADISON UNIVERSITY

In

Partial Fulfillment of the Requirements

for the degree of

Master of Arts

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May 2011

## Dedication

This thesis is dedicated to my family. My parents, Joseph and Susie, thank you for all of the help, encouragement, advice, and love throughout this process. My sisters, Mariana and Colleen, you both have provided me more inspiration than you will ever know.

## Acknowledgements

This project would not have been possible without a great amount of assistance and encouragement from numerous different people. I would like to thank first, my thesis committee. Dr. Steven Guerrier directed this project and provided valuable insights along the way. Dr. H. Michael Gelfand provided excellent critiques and advice on research. Dr. Michael J. Galgano helped to point out the deficiencies in previous drafts and forced me to think about my writing and evidence more carefully. Without your help I would never have completed this project.

I would also like to thank my family, my dad, mom and my sisters Colleen and Mariana. You gave me love and encouragement along the way, and always pushed me to try my hardest.

Last but certainly not least, my beautiful and loving girlfriend Kelly B. Weber. Thank you for quite literally smacking me in the head at times when I made careless and silly errors. You have read more drafts of this thesis than anybody else. You have provided endless thoughtful critique, always finding a hole to try to make it better. You have been vitally important to the completion of this project. I only hope that as you go through the process of your Ph.D. dissertation that I will be as beneficial to your scholarship as you have been to mine.

Thank you all.

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## Abstract

1968 was a tumultuous year in American history. The United States government was in the middle of the Cold War and their involvement in Vietnam reached its highest level to date. Meanwhile, on the domestic front, the country was erupting in turmoil. Many American citizens engaged in protest against the government's overseas efforts, and took to great lengths to resist the war effort. These protestors encompassed people from all walks of life, students, clergy, professors, lawyers, and politicians. One of the strongest groups of this anti-war movement was religious. By May of 1968 one group of Catholics were so fed up with their lack of success in peaceful protests against the war, they decided to engage in an act of disobedience. May 17, 1968 nine Catholics walked into a Catonsville Selective Service office stole as many files as they could carry and burned them with homemade napalm. The public knew them as the Catonsville Nine.

What ensued was more protest, a very public trial, much media attention, and a lasting legacy. The Catonsville Nine's trial was five months later and produced a large amount of protests. Their criminal proceedings were very different from most, as the nine defendants attempted to appeal to consciousness. The action received plenty of media attention and became infested in the public mind with a theatrical play and motion picture. This action was a moral demonstration rooted in a Catholic pacifist rationale and their trial and media attention provided the vehicles they needed to spread the word of the failures of the American governmental policies.

## Introduction

In the spring of 1968 a group of nine Catholics, seven of whom were either currently or formerly associated with Catholic religious orders, disturbed the small Baltimore suburb of Catonsville, Maryland. In protest of America's involvement in the Vietnam War, Fathers Daniel and Philip Berrigan led these nine Catholics into the Selective Service Office, Local board 33, stole approximately 300 draft files, destroyed them with homemade napalm, and recited the *Our Father* prayer as they waited for their arrest. The group became known as the Catonsville Nine. The Nine released a statement on the day of their arrest that described their reasons for destroying these files. In this statement, they explained that they took this action because all of their previous efforts at peaceful protest had failed. The Nine reiterated their main point at their trial; they burned the files in an effort to save lives, as this was one of the most important ideas they could defend as Christians. The theological underpinning that these nine Catholics subscribed to was one of peace and non-violence, a Catholic tradition established in the early part of the twentieth century.

Why did these nine Catholics walk into a draft office, steal files, and burn them with napalm? What was the reasoning for their drastic action? What was their ultimate goal? Did they achieve their goal? How did their previous life experience influence their choice in choosing to participate in this action? What were some of the effects of this action? How did the media portray this action? How was it perceived in the general public? All of these questions guide this study into the action of the Catonsville Nine.

It becomes clear through an examination of trial transcripts, autobiographies, newspaper clippings, prepared statements, and other sources that the Catonsville Nine

action had a specific goal in mind, the promotion of a specific directive. This message was one imbedded with Christian morality, American patriotism, and an agenda of peace. They promoted this message at first with a prepared statement that they distributed to the media to help begin the process of getting their message across to America. The next step took place at the trial. To the members of the Catonsville Nine, the trial was anything but a typical criminal proceeding. It was a public forum for them to promote their message and attempt to try the American government for the problems of war and poverty. The Nine did not concern themselves with “the rule of law” in the proceedings, but concerned themselves with morality and conscience.

As the Nine had hoped, the media covered their action and trial heavily. However, the Nine’s belief that the media portrayed them in a negative light pushed them to find other ways to promote their message. Daniel Berrigan wrote a play, which was performed on Broadway and off. Shortly after the play made its debut, actor Gregory Peck helped turn the play into a motion picture. Although the play and movie were not well known to the general American public, they survived among liberal activists groups for the next forty years. In the twenty-first century the singer and songwriter Dar Williams wrote a song, “I Had No Right,” which details the events of the Catonsville action in 1968 and hits the major points of the message of the Nine. The song successfully rekindled the Nine’s message. Then eight years after the release of the song Hollywood actor and liberal activist, Tim Robbins, rekindled the play and took it on a short tour around the country. It would appear then that the message of the Nine resonated with select groups of people, mainly liberal activists and peace advocates.



Historians have only given cursory attention to the Catonsville Nine. The most specific studies of the Catonsville Nine appear as chapters in edited volumes. The action appeared as a chapter in the book *Popular Trials: Rhetoric, Mass Media and the Law*. The author of the chapter, J. Justin Gaustainis, is a professor of communications who concentrates on political rhetoric. In his contributing chapter, Gaustainis argued that the Catonsville Nine's action and trial is one of rhetoric and propaganda. In addition, he argued that success or failure of the Catonsville Nine's protests depends on how one defines their goals, arguing that while they were able to galvanize support for the movement, they failed to reach their main audience, the Catholic Church. This view is problematic; while it is true that the Catonsville action and trial were about rhetoric and propaganda, this only tells a small portion of the story. A deeper meaning is imbedded in the rhetoric of the Catonsville Nine than Gaustainis shows. The sentiment of the Nine shows a deep faith in their religious beliefs. In addition, his notion that their ultimate audience was the Catholic Church is incorrect; their audience was much broader than that. Their intended audience was not only the members of the Catholic Church, but believers of all Christianity, the United States government, and the general American public. Furthermore, the author's argument and analysis hinges completely on rhetorical analysis, which provides little help to the historian.<sup>1</sup>

Patricia McNeal, formerly a professor of history at Indiana University at South Bend, was the first historian to place the Catonsville Nine's action in the larger context of Catholic Pacifism in her monograph *Harder Than War: Catholic Peacemaking in*

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<sup>1</sup> J. Justin Gaustainis, *Crime as Rhetoric: The Trial of the Catonsville Nine*, in Robert Hariman, ed., *Popular Trials: Rhetoric, Mass Media, and the Law*, (Tuscaloosa: University of Alabama Press, 1990), 164-178.

*Twentieth-Century America*. She places the action as the high point of radical Catholic pacifism. After the protest at Catonsville, McNeal argues that Daniel and Philip Berrigan “emerged as the architects of a new political and theological movement.” However, her discussion focuses more on how the Berrigan brothers became leaders in the new “ultra resistance” movement, and their affect on the movement. McNeal does give consideration to the Catonsville trial and the message promoted by the Nine. Nevertheless, just like most studies before *Harder Than War*, only a few pages are dedicated to a discussion of the Catonsville Nine.<sup>2</sup>

Sara Fahy wrote the only full length study of the Catonsville Nine in her 1975 Ph.D. dissertation. The author examines the action, the trial, and then places the event within the broader Catholic Church. Fahy argues that the action at Catonsville was an “expression of the emergence of the new consciousness in United States Catholicism in regard to the relationship between Christian Faith and the political order... It required a new articulation of the public role of Christians and pointed to a new understanding of the role of religion within American society.”<sup>3</sup> Her analysis of the action and trial helps to inform this paper. However, the historiography of the antiwar movement of the 1960s has largely only given cursory attention to the action of the Catonsville Nine.

There are three main interpretations within the scholarship of the antiwar movement. The first comes from the work of Charles DeBenedetti in *An American Ordeal: The Antiwar Movement of the Vietnam Era*. The author shows that the “anti-

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<sup>2</sup> Patricia McNeal, *Harder Than War: Catholic Peacemaking in Twentieth-Century America*, (New Brunswick: Rutgers University Press, 1992), 173-210.

<sup>3</sup> Sara A. Fahy, *The Catonsville Nine Action, A Study of an American Catholic Resistance Position*, Ph.D. Diss., Temple University, 1975.

Vietnam war” movement grew out of a smaller American peace movement from the 1950s which focused on the danger of nuclear war. DeBenedetti argues that even as the movement gained more support it was continually fractured because of its follower’s distinct differences in politics, ideas, and tactics. The movement was also unable to solicit the majority of anti-war sentiment. The peace demonstrators consisted largely of middle class and educated citizens, but failed to gain the support of the lower-middle class and minority groups who opposed the war and the counterculture movement. The author further argues that while the movement was unable to stop the war, it did have a large political impact because it continually challenged government policies and exposed its many weaknesses to the public view. DeBenedetti concludes that the anti-war movement between “1955 and 1975 was the largest domestic opposition to a warring government in the history of any modern industrial society.” Despite this fact, the majority of the people who participated in the movement grew more disenchanted. DeBenedetti argues that the Vietnam War devastated American society, especially those who thought of themselves as adamantly against the war. *An American Ordeal* mentions the Catonsville action on no more than five different pages, and the author does not elaborate on the specifics of the protest. However, he does link the Catonsville Nine to the broader anti-war movement by discussing its role as part of the “ultra pacifist” movement.<sup>4</sup>

Melvin Small presents another interpretation in his monograph *Johnson, Nixon and the Doves*. Small argues that the antiwar movement had a direct effect on the de-escalation policies of the war. Furthermore, he states that the antiwar movement directly influenced Lyndon Johnson’s decision not to seek reelection, as well as Richard Nixon’s

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<sup>4</sup> Charles DeBenedetti, *An American Ordeal: The Antiwar Movement of the Vietnam Era*, (Syracuse: Syracuse University Press, 1990), 219, 231.

resignation after the Watergate scandal. Small furthers his argument by citing two key dates, October 1967 and October 1969, in which mass demonstrations directly affected American foreign policy. He argues, “archival and published records reveal that external events worried them enough to be taken into account as they decided what and when to bomb in Vietnam, how many soldiers to call up or send home, and what sorts of diplomatic initiatives to undertake.”<sup>5</sup>

Adam Garfinkel’s *Telltale Hearts: the Origins and Impact of the Vietnam Antiwar Movement* takes the exact opposite approach from DeBenedetti and Small, arguing that the anti-war movement not only prolonged the war, but was also the major contributing factor to the United States losing it. Furthermore, he views the anti-war movement as extremely counterproductive in limiting American military activities in Vietnam. The war in Vietnam was not the primary impetus for what he calls “1960’s radicalism,” because “the real cause lay in the generic difficulties of coping with the revolutionary social life of post- World War II America.... and the result was to produce a religious movement among youth.” Garfinkel’s final argument is that the main impact of the anti-war movement was felt in the United States, and the impact of the movement has had a drastic effect on American culture. However, when discussing the Catonsville Nine this work does little more than explain the events of the day and echoes the theme of “ultra pacifist” that DeBenedetti first pointed out.<sup>6</sup>

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<sup>5</sup> Melvin Small, *Johnson, Nixon and the Doves*, (New Brunswick: Rutgers University Press), 1988.

<sup>6</sup> Tom Wells, *The War Within: America’s Battle Over Vietnam*, (Los Angeles: University of California Press, 1994), 263-264; Adam Garfinkel, *Telltale Hearts: The Origins and Impact of the Vietnam Antiwar Movement*, (New York St. Martin’s Press, 1995), 184.

The only comprehensive examination of the antiwar movement of the 1960s which discussed the Catonsville Nine in more detail was Nancy Zaroulis and Gerald Sullivan's *Who Spoke Up?* The book discusses the lives of the Berrigan brothers in full detail, including their issues with the Catholic Church's hierarchy, Daniel's expulsion by Cardinal Spellman, and their experiences within the United States and abroad. Zaroulis and Sullivan also briefly discuss the other members of the Catonsville Nine, the trial and the subsequent reaction to it. The authors argue that the reaction to the Nine's raid was mixed and eventually states that the Catholic Left, specifically people such as the Berrigans, worked their way from the center of the antiwar movement to the radical fringes. While Zaroulis and Sullivan make some interesting arguments about the Catonsville action, they devote only about seven pages to the Catonsville Nine. Furthermore, the authors do not provide a single citation throughout the book, which makes their findings even more difficult to accept.<sup>7</sup>

My intention is not to argue with the majority of the historiography, as I accept the premise of most of the arguments presented. Rather, this work builds on the content of the message of the Catonsville Nine and their self-promotion, and whether or not historians should consider their efforts a success or failure. Furthermore, I seek to insert the Catonsville Nine directly into the historiography of the antiwar movement. In this fashion I view the Nine as falling in place with the argument of Charles DeBenedetti. While their direct goal of ending the war did not come to fruition, they were successful in many other ways, including pointing out to the public the weaknesses and failures of governmental policies and further galvanizing overall support for the antiwar movement.

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<sup>7</sup> Nancy Zaroulis and Gerald Sullivan, *Who Spoke Up? American Protest Against the War in Vietnam, 1963-1975*, (Garden City, New York: Doubleday & Company, Inc.), 229-237.

A note on organization is important. In order to understand not only the historical relevance but the message of the Catonsville Nine one needs to first understand the tradition of peace within the Catholic Church that emerged in the early twentieth century. Thus, chapter one discusses the history of the Catholic Church and the emerging peace organizations of which most of the Nine subscribed to. Chapter two discusses the raid itself, the trial, and the protests in the streets of Baltimore. Chapter three sheds light on a particular deficiency in the historiography by discussing the manner in which the media portrayed the Nine. The fourth and final chapter discusses the longevity of the message of the Nine through the use of multimedia sources, including a theatrical performance, motion picture, and songs.

## Chapter 1

. The predominantly Protestant United States viewed Catholics as foreigners and members of an immigrant church. Periodic waves of immigration, in which nearly 9,350,000 Catholic immigrants arrived in America between 1790 and 1920, strengthened the American repugnance for Catholicism. In an effort to fight against the view that they were outsiders, American Catholics tended to enthusiastically support the nation's wars. From the Catholics point of view, this was the best way to reinforce their patriotism and their loyalty to American principles. The Catholic doctrine of just war justified their support of American wars.<sup>1</sup>

For most of Catholic history, dating back to Constantine, the just war doctrine dominated the theology of the Church. The idea of just war held that a war or conflict could be religiously justifiable if it met certain conditions. The first of these conditions was that a competent authority must declare war. Second, there must be a just cause for going to war, such as correcting an injustice or defending a right. Third, the predicted beneficial results of the war had to outweigh the presumed evil that the war would bring. Fourth, a nation could only wage war after all peaceful means of resolving the conflict had been exhausted. Finally, war must be waged with the "right intention;" war could only be just if its purpose was to achieve a righteous end. Furthermore, there were two criteria for waging war under the just war doctrine. First, the means used needed to be proportional to the likelihood of achieving a just end. Second, the measures taken to wage

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<sup>1</sup> Patricia F. McNeal, *Harder Than War: Catholic Peacemaking in Twentieth Century*, (New Jersey: Rutgers University Press, 1992), 1; John Higham, *Strangers in the Land: Patterns of American Nativism: 1860-1925*, (New Jersey, Rutgers University Press, 1955), 218.

war could not be immoral, no matter how effective they might be. For centuries, this theological basis guided Catholicism in terms of international affairs. However, by the twentieth centuries various new movements began to change this tradition.<sup>2</sup>

The influx of Catholic immigrants in the late nineteenth and early twentieth centuries forced the American Church hierarchy to respond to the many needs of their laity. Therefore, they became much more concerned with domestic rather than international issues. Church leaders began to pay more attention to building up their schools, churches, and other organizations that focused on fostering the spirituality of the people. In 1891, Pope Leo XIII placed greater emphasis on the social gospel when he wrote the encyclical, *Rerum Novarum*, or “On the Condition of the Working Man.” This document discussed the role of government in society and the economy, the principle of a just wage, the right of laborers to organize, and it provided a Christian critique of both capitalism and socialism. This emphasis on social justice greatly influenced the next generation of American Catholics. The encyclical by Leo XIII also expressed a new attitude toward peace. The central idea was for a new international order in which peace was based on justice and love instead of on military defense. In addition, he called for a reevaluation of the justice of defensive wars. However, it would not be until after World War I that American Catholic reformers became more involved in international issues and began to take on the message of peace.<sup>3</sup>

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<sup>2</sup> Ronald E. Powaski, *Thomas Merton on Nuclear Weapons*, (Chicago: Loyola University Press, 1988), 8.

<sup>3</sup> Ronald G. Musto, *The Catholic Peace Tradition*, (Maryknoll, New York: Orbis Books, 1986), 169; McNeal, 1-2.



The outbreak of World War I allowed the American Catholic hierarchy to demonstrate their patriotism. In support of the American government, the Catholic hierarchy formed the National Catholic War Council in August 1917. This organization functioned as a medium for Catholic participation in the war effort. It provided material assistance to chaplains in combat zones and acted as an agency to promote war-loan drives. In the aftermath of the war, the American Church began looking towards the reconstruction of American society. The success of the National Catholic War Council as a coordinating agency persuaded its supporters to continue its operation after the war, although the group changed its name to the National Catholic Welfare Council (NCWC) to reflect the post-war atmosphere. This organization became the primary medium to coordinate and promote Catholic interests at a national level. The council originally had five departments; education, lay activities, press, missions, and social. The last department, the Social Action Department, was the most prevalent on the national level. Social reform in the United States was the main concern of this department, and in 1920, the Church hierarchy selected Father John A. Ryan to direct it.<sup>4</sup>

The two major influences on Ryan during his tenure as director of the Social Action Department were Popes Leo XIII and Benedict XV. Ryan fused the currents of progressive reforms in America with Catholic social thought. He took the natural law tradition, which was the foundation of Catholic social ethics in Pope Leo XIII's encyclical, and applied it to the American industrial and economic systems. The amalgamation of these two concepts established Ryan's emphasis on the need of the state

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<sup>4</sup> John Tracy Ellis, *American Catholicism*, 2nd ed., (Chicago: University of Chicago Press, 1969), 141-144.

to affect change in the social order, and the importance of labor unions and a living wage. However, in seeking social reform, Ryan and the NCWC did not challenge the place of the United States in the international community. While they often looked to the government for help, they made sure not to criticize it. At the end of World War I, however, Pope Benedict XV (also known as the Pontiff of Peace) greatly influenced Ryan. The aftermath of World War I forced Benedict XV to deal with the destruction and hatred left in the wake of the war. Benedict opposed war in all forms and argued that the doctrine of just war was antiquated and inadequate as a theology.<sup>5</sup>

The notions of social ethics and the invalidity of the just war as espoused by Leo XV and Benedict XIII, respectively motivated Ryan to form a Catholic peace organization in America. They also influenced Ryan in his worldview. He became the foremost Catholic advocate in the United States of the League of Nations and the Treaty of Versailles. While travelling in England, Ryan met Joseph Keating, S.J., who enlightened him to England's Catholic Council for International Peace. Upon his return to America, Ryan began to discuss with colleagues the idea of starting a similar organization in the United States, which was met with a great deal of support. One of Ryan's colleagues, Joseph Burke, C.S.P., pushed him to organize a meeting to discuss the possibility of forming a Catholic peace organization. This meeting adopted a constitution, elected officers and chose a name, establishing the Catholic Association for International Peace (CAIP). This new organization commissioned studies by experts on the principles of peace and their application to current issues. Ryan also promoted annual conferences,

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<sup>5</sup> Joseph M. McShane, S.J., *Sufficiently Radical: Catholicism, Progressivism, and the Bishops' Program of 1919*, (Washington, D.C.: Catholic University of America Press, 1986), 29; Jay P. Dolan, *The American Catholic Experience: A History from Colonial Times to the Present*, (Garden City, New York: Doubleday & Company, Inc., 1985), 343.

lectures, and study circles on subjects in relation to international morality and peace. CAIP was the first Catholic peace organization in American history; however, it still endorsed the Church's theological justification of war.<sup>6</sup>

Soon after the establishment of CAIP, two Catholic laymen, Dorothy Day and Peter Maurin, founded another Catholic peace organization, the Catholic Worker movement. Day and Maurin founded this lay organization in 1933 in New York City. Maurin was a French peasant who became active in the French Catholic group Le Sillon.<sup>7</sup> He became disillusioned with the movement and emigrated to Canada in 1909 to escape the military draft. These experiences helped Maurin develop his philosophy of Christian Personalism.<sup>8</sup> Armed with this message, Maurin became an itinerant teacher and made his way to the United States. By contrast, Dorothy Day was a journalist who had dropped out of college for financial reasons, and at a young age began participating in radical movements such as the Industrial Workers of the World, communism, and feminism. Day heard Maurin speak and promptly quit her job as a journalist and began to help Maurin establish the Catholic Worker movement.<sup>9</sup>

The people who joined the Catholic Worker movement were scholars and reformers who identified themselves with the disinherited and embraced a life of

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<sup>6</sup> McNeal, 7-11.

<sup>7</sup> Le Sillon was a French lay movement whose goal was to Christianize modern democracy. David J. O'Brien, *American Catholics and Social Reform: The New Deal Years*, (New York: Oxford University Press, 1968), 195

<sup>8</sup> In this view of Christian Personalism, Maurin believed that at the core of Christianity was personal responsibility that the chaotic conditions of modern society destroyed. Each person could affirm their personal responsibility by integrating the spiritual and material aspects of life through active participation in the political economic and social concerns of the world. If each individual Christian pursued this course of action, a restoration of unity in the Christian world would result. O'Brien, 195.

<sup>9</sup> Mel Piehl, *Breaking Bread: The Catholic Worker and the Origin of Catholic Radicalism in America*, (Philadelphia, Temple University Press, 1982), 8-16; McNeal, 21-22.

voluntary poverty. They focused their attentions on economic and social changes that were consistent with the goals of Christian Personalism. At the movement's outset, it focused most of its energy on the relief of human suffering and the remedy of injustices in American society. They predicated their theological worldview on Pope Leo XIII's injunction in *Rerum Novarum*, and took an interest in the poorest of the poor. The movement based its core beliefs on the Gospel, carried out corporal and spiritual works of mercy, called for a new social order, and favored direct action aimed at countering the evils of industrial society through a non-violent revolution. The Catholic Worker movement was explicitly pacifist in its actions and rationale. The purely pacifist tradition that emerged out of the Catholic Worker movement began to influence Catholic priests, brothers, nuns, and lay people as they began to embrace the theology of the movement. It influenced members of the Catholic Church in their opposition to World War II and the Korean War, and caused them to resist involvement in these wars as conscientious objectors. Although they became more widely accepted, they were still a minority in the Catholic Church.<sup>10</sup>

In 1962, Pope John XXIII called the Second Vatican Council to order. At that meeting the Catholic hierarchy placed a larger emphasis on the social gospel, announcing that the modern Church would no longer ignore the "worldly struggles of ordinary people." The Second Vatican Council officially sanctioned conscientious objectors in the Catholic Church and gave legitimacy to the protest measures that many Catholics were already participating in. The pacifist movement within the Catholic Church, which evolved from the 1920s through Vatican II, played a significant role in the anti-war

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<sup>10</sup> Charles Chatfield, *For Peace and Justice: Pacifism in America, 1914-1941*, (Knoxville: University of Tennessee Press, 1971), 134; McNeal, 22-23.

movement of the 1960s. It is important to understand how the United States became involved in Vietnam before understanding the role of religion and Catholicism in the anti-war movement.<sup>11</sup>

America's involvement in Vietnam was the product of a complicated sequence of events. The story of the United States and Vietnam began with French colonialism in the late nineteenth and early twentieth centuries. Historians consider French imperialism in Vietnam as extremely harsh in its attempt to destroy national unity amongst the Vietnamese by partitioning the country. However, the French were unable to succeed in this goal. The Vietnamese seized their opportunity to rise against their colonial masters with the Japanese invasion of Southeast Asia in mid-1942, which inadvertently inspired local independence movements. In an effort to retain Vietnam as a colony, the French began an eight-year long war against the Vietminh, also known as the First Indochina War.<sup>12</sup>

The United States took a keen interest in the outcome of the Franco-Vietminh War and supported the French because they feared the spread of communism. America viewed Western Europe as the front-line of defense within the policy of containment, thus unity among France, Britain, and the United States seemed to be of great importance. The Truman administration gave diplomatic recognition to the French-controlled State of Vietnam in February 1950, and by May committed \$10 million in military assistance to support of the French. When Dwight D. Eisenhower took office in

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<sup>11</sup> Maurice Isserman and Michael Kazin, *America Divided: The Civil War of the 1960s*, (Oxford: Oxford University Press, 2008), 258; Sarah Fahy, "The Catonsville Nine Action: A Study of an American Catholic Resistance Position," (PhD diss., Temple University, 1975), 54-80.

<sup>12</sup> David L. Anderson, *Columbia Guide to the Vietnam War*, (New York: Columbia University Press, 2002), 10, 24-27.

1953, his administration accepted the principles of Indochina policy espoused by his predecessor. The Eisenhower administration committed America to Vietnam so greatly that between 1955 and 1961 the U.S. gave more than \$1 billion in economic and military assistance to the government of South Vietnam. For John F. Kennedy, who became president in 1961, the defeat of American-supported Saigon held global consequences that were especially dangerous to American interests. Kennedy was the first president to place American military forces in Vietnam. After Kennedy's assassination in 1963, Lyndon B. Johnson continued to escalate America's military involvement. By the mid-1960s, with 500,000 U.S. troops in Vietnam, Americans realized that there was no end in sight for the United States' involvement in Vietnam.<sup>13</sup>

As the Vietnam War became a more prevalent issue in American foreign policy, the anti-war movement began to develop as early as 1955. The opposition to the Vietnam War in the United States evolved out of an aversion to perceived Cold War threats. Peace advocates seized the opportunity to advocate alternatives to Cold War disputes with the threat of nuclear testing. A coalition of radical pacifists and liberal internationalists developed new organizations and tactics to protest against the perceived threats of the Cold War. With the government's consistent escalation of military involvement in Vietnam, this coalition eventually evolved into an antiwar movement. By 1965, Johnson's increased commitment to war in Vietnam caused an escalation in the anti war movement and forced the war issue into the public arena. It generated organized resistance to America's intervention in Indochina, and pressed the administration to make ever-larger claims to justify the war. The antiwar movement took shape in the first half of the sixties,

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<sup>13</sup>George C. Herring, *America's Longest War: The United States and Vietnam, 1950-1975*, (New York: McGraw-Hill, Inc, 1996), 38-45, 48-52, 62; Anderson, 37.

and by the second half of the decade attempted to affect change in governmental policies. One of the most influential forces in attempting to persuade governmental policies was religion.<sup>14</sup>

Following World War II, two trends contributed to the incorporation of the religious community in the opposition to the Vietnam War. The first evolved from the civil rights movement by developing a stronger commitment to social involvement. The other was an ecumenical movement that established the World Council of Churches in 1948, and later founded the Nation Council of Churches (NCC).<sup>15</sup>

The political activism of Jewish, Protestant, and Catholic clergy developed despite the social constraints placed upon them. Americans tended to view the Cold War in terms of good and evil, thus this conflict became a moral crusade in many people's eyes. Therefore, churches often began to preach a more nationalistic religion in an effort to prove one's loyalty. The slightest objection to American efforts to fight the Communists had the potential to bring suspicion of disloyalty to both church and state. In general, a substantial number of America's church and synagogue leadership tended to avoid extensive political participation. Most denominations were reluctant to advocate any position on controversial issues that could prove to be divisive. These views were especially strong among Protestant churches where the control of the ministerial selection

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<sup>14</sup>Charles DeBenedetti, *An American Ordeal: The Antiwar Movement of the Vietnam Era*, (Syracuse: Syracuse University Press, 1990), 2-3. For other secondary literature which gives full consideration to the antiwar movement of the Vietnam era see: Melvin Small, *Johnson, Nixon, and the Doves*, (New Brunswick: Rutgers University Press, 1988); Tom Wells, *The War Within: America's Battle of Vietnam*, (Berkeley: University of California Press, 1994); Terry H. Anderson, *The Movement in the Sixties: Protest in America from Greensboro to Wounded Knee*, (New York: Oxford University Press, 1995); Adam Garfinkle, *Telltale Hearts: The Origins and Impact of the Vietnam Antiwar Movement*, (New York: St. Martin's Press, 1995).

<sup>15</sup>Mitchell K. Hall, *Because of Their Faith: CALCAV and Religious Opposition to the Vietnam War*, (New York: Columbia University Press, 1990), 5.

lay with the congregation. However, the civil rights movement began to change social constraints placed on clergy. Most laity and clergy alike viewed the legislation that forced blacks into an inferior social status as so immoral that their own consciences forced them to oppose those measures. The understanding that political issues often carried moral implications allowed clergy to search for ways in which to express these beliefs publicly.<sup>16</sup>

Two ways in which clergy expressed their convictions were in the rise of ecumenical and denominational bureaucracies and the religious press. The rise of these bureaucracies freed church officials of direct accountability to local matters, which allowed the clergy to comment publicly without the fear of backlashes against them. In addition, clergy began to venture outside of their own churches and joined *ad hoc* ecumenical groups because they were less vulnerable to reprisal there. The second avenue which clerics made use of to express their beliefs was the religious press. Denominational periodicals generally had large circulations, however, they rarely appealed to people outside of their subscribers and generally maintained a narrow focus. Small, independent journals were the most instrumental. *Christian Century* and *Christianity and Crisis* were the most influential and politically active Protestant journals. *America* and *Commonweal* dominated the Catholic press, and the best known politically active Jewish publication was *Commentary*.<sup>17</sup>

As the war escalated, Dr. John C. Bennett, President of the Union Theological Seminary in New York, became one of the first clerics to challenge the U.S. government's role in Vietnam. He wrote a scathing review of America's entanglement in

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<sup>16</sup> Hall, 6-7

<sup>17</sup> Hall, 7.



Indochina in July 1964. Bennett criticized those who only saw solutions in military terms, and prophetically stated that if the United States did not change its current policy that it would lead to further escalation of the war. Bennett's public opposition was a precursor to future clerical defiance of governmental actions in Vietnam.<sup>18</sup>

By 1965, the military initiated sustained bombing campaigns and landed combat troops in Vietnam, which signified that the United States began a more direct approach in Indochina. Consequently, religious opposition to American military action ignited. The Fellowship of Reconciliation (FOR) wrote a letter to the White House pleading for a cease-fire, withdrawal of American combat troops, and a peace conference. The FOR's Clergymen's Committee for Vietnam reiterated these themes with a one-page ad in the *New York Times* on 4 April 1965, which contained the signatures of 2,500 ministers, priests, and rabbis.<sup>19</sup> On 11-12 May 1965, the Interreligious Committee on Vietnam invited anyone who was concerned about the war from a religious standpoint to attend a vigil at the Pentagon. The purpose of this vigil was to show their concern for the escalation of the Vietnam War, and express their desire for a peaceful settlement. The following month, June 1965, the editorial board of *Christianity and Crisis* came out against the war. By the end of that same year the National Council of Churches, Catholic Peace Fellowship, Fellowship of Reconciliation, and the Union of American Hebrew Congregations all passed resolutions critical of American policies in Vietnam.<sup>20</sup>

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<sup>18</sup> Hall, 8.

<sup>19</sup> "2500 Ministers, Priests, and Rabbis Say: Mr. President, In the Name of God, Stop It!," *New York Times*, April 4, 1965.

<sup>20</sup> Hall, 9-10.

One of the more famous clergymen to protest the Vietnam War was Reverend Martin Luther King Jr., who emerged as a prominent anti-war figure in the winter of 1967 when he gave a speech entitled “Causalities of War.” In this speech, King called upon the dissenters to combine “the fervor” of the civil rights movement and the peace movement. In March of that same year, King led a group of 8,500 people on a procession to the Chicago Coliseum where he condemned the war again. However, it was not until early spring that he delivered perhaps his most memorable anti-war speech. On 4 April 1967, King spoke evocatively against the war at a Clergy and Laity Concerned (CALC) sponsored meeting in New York. He heavily criticized American policy in Indochina and characterized the war as a “fictitious cause.” This propelled King to the forefront of the religious antiwar movement, and he became a cochairman of CALC.<sup>21</sup>

Dissent grew amongst clergy members, building on the fear of further escalation of the war and an earlier record of interfaith cooperation throughout the civil rights movement. By the end of October 1965 Jesuit priest Daniel Berrigan and other religious leaders in New York formed an *ad hoc* group called Clergy Concerned About Vietnam. On 11 January 1966, the leaders of the group formed the National Emergency Committee of Clergy Concerned About Vietnam. This group was predominantly Protestant but did have a small Jewish and Catholic presence, represented by Rabbi Abraham Herschel and Father Daniel Berrigan. In less than a month, the Committee established a national network of local groups that began their own antiwar actions. The Committee emphasized pragmatism and issued a moral critique of the war. Soon after its creation,

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<sup>21</sup> DeBenedetti, 172-173.

the group opened itself up to lay people and changed its name to Clergy and Laymen Concerned about Vietnam (CALCAV).<sup>22</sup>

It was through this organization that many clerics found a vehicle to voice their opposition to the war. CALCAV sponsored numerous protests, vigils, and other demonstrations. However, the members of the organization and the participants in their actions grew frustrated as their efforts appeared to fall upon deaf ears. Even with the rampant protests, the government ignored their calls for peace and policy changes. As their frustration grew, their tactics began to change, and many turned to civil disobedience in an effort to garner more attention. Daniel and Philip Berrigan in particular became known for their acts of civil disobedience.

Daniel and Philip Berrigan were born to a working class, Catholic family in Minnesota in 1921 and 1923 respectively and they grew up in Syracuse, New York. Daniel, joined the Jesuits in 1939, and was ordained in 1952. French priest Pierre François Cahrnot taught Daniel biblical and scriptural knowledge and the theology of Dorothy Day, Thomas Merton, and the Catholic Worker movement heavily influenced him. Daniel became an outspoken activist for peace in the early 1960s and wrote numerous books. Eventually, with the help of his brother Philip, he made national headlines with his participation in the protest at Catonsville. Philip served in World War II and after his discharge from the service he joined the Josephite order. He became heavily involved in the civil rights movement, both Berrigan brothers marched at Selma, and became an “expert” on race relations and the problems of the impoverished. Philip began to speak out against the arms race and militarism in the 1960s and was a peace advocate for most of the 1960s. Both Daniel and Philip were constantly at odds with the

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<sup>22</sup> DeBenedetti, 142-146; Garfinkle, 79.

Catholic hierarchy over their peace activities, and this eventually characterized their life's work. The Berrigans were the most outspoken and politically active priests against the war in Vietnam, and helped to establish peace advocacy groups. Motivated by their faith and the government's continuation of the war, these two Catholic priests committed perhaps one of the more infamous religious acts of civil disobedience in Catonsville, Maryland, in the spring of 1968.

## Chapter 2

By the mid 1960s a growing number of people in the religious community, clergy and laity alike, began to raise issues of morality related to the war based on their religious beliefs. Two of the most influential people involved with the religious aspect of the antiwar movement were Daniel and Philip Berrigan. Frustration began to grow among the dissenters as their previous efforts of marching, picketing, letter writing, and campus lectures failed to slow the war.<sup>1</sup> They viewed their undertakings of writing to Congress and attempting to talk to the Pentagon as futile. As their efforts continually fell upon deaf ears, some decided that the best course of action was that of civil disobedience. Philip Berrigan wrote, “[we] had come to the conclusion that anything short of direct action was unavailing, untruthful, and unjust.”<sup>2</sup>

One of the earliest acts of civil disobedience happened on 17 October 1967 when Philip Berrigan, Tom Lewis, poet Dave Eberhardt and Minister James Mengel entered the Baltimore Selective Service Office at the United States Customs House in downtown Baltimore. Once inside they poured bottles of their own blood on the draft records, and the police promptly arrested them. The four participants originally planned to refuse bail, immediately go to jail, and fast for a week while incarcerated. However, upon arrest, Mengel and Eberhardt changed their minds and signed out of jail on personal recognizance. After a week in prison and fasting, Berrigan and Lewis accepted bail and the government released the two men. The four went to trial and were convicted. In early

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<sup>1</sup> Philip Berrigan to Walt Whitman Rostow, April 1967, Cornell University Library, Ithaca, New York; Berrigan Philip to Robert McNamara, 1967, Cornell University Library, Ithaca, New York.

<sup>2</sup> Philip Berrigan, *Fighting the Lamb's War: Skirmishes with the American Empire*, (Monroe, ME: Common Courage Press, 1996), 87. Here after cited as *Fighting the Lamb's War*.

spring 1968, while Berrigan and Lewis were out on bail awaiting sentencing, they decided to plan another draft board raid.<sup>3</sup>

Philip Berrigan discussed with his brother Daniel the possibility of repeating a similar raid to that on the Customs House. At first hesitant and slightly fearful of the possible unknown consequences, Daniel decided to join his brother and seven other co-conspirators on another draft house raid. They picked Catonsville, Maryland, a small suburb of Baltimore. However, this time the destruction of files would not be with the biblical symbol of blood. The group of Nine chose to use napalm for this next action, symbolically using the government's own weapon against them. The napalm, which they made themselves, was a concoction of gasoline and ivory flakes from a recipe out of a Green Beret's handbook reprinted from *Ramparts*.<sup>4</sup>

The Nine participants were Daniel Berrigan, Philip Berrigan, David Darst, John Hogan, Tom Lewis, Marjorie Bradford-Melville, Thomas Melville, George Mische, and Mary Moylan. Darst was born James McGinnis Darst in 1941 and became a Christian Brother at 18 years-old. After joining the Christian Brotherhood he became a teacher, peace activist, and writer who dealt with social justice issues. He became active in the draft resistance movements of the 1960s, and sent back his own draft card in 1967. As a result, he lost his clerical deferment and the government drafted him; however, he refused induction. Lewis was born in 1940 and worked as an artist and teacher in the 1960s, in addition to being an active peace advocate. Lewis was very active in the civil rights

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<sup>3</sup> *Fighting the Lamb's War*, 88-89.

<sup>4</sup> Daniel Berrigan, *To Dwell in Peace*, (San Francisco: Harpers & Row, 1987), 217, here after cited as *To Dwell in Peace*; Lynne Sachs, *Investigation of a Flame: A Documentary Portrait of the Catonsville Nine*, DVD, First Run Icarus Films (Sundance Channel, 2003), Here after cited as *Investigation of a Flame*.

movement and became a founding member of the Baltimore Interfaith Peace Mission.<sup>5</sup> He was a member of the original “Baltimore Four” raid in October 1967.<sup>6</sup>

There were also three former members of the Maryknoll Order in the Catonsville raid, John Hogan, Thomas Melville, and Marjorie Bradford-Melville. Hogan was born in 1935 and became a Maryknoll Brother in 1953. The Order assigned him to Guatemala where he served as a mission business manager. However, by 1968, the Order recalled him from Guatemala because of his support for the Christian Guerilla Movement. Later that same he resigned from the order because of disagreements with the leadership. Thomas Melville was born in 1929, ordained as a priest by the Maryknoll Order in 1957, and was also subsequently sent to Guatemala. There he worked on economic development and land distribution programs. The Guatemalan government exiled him because of his work in organizing peasants in opposition to it. Marjorie Bradford Melville was born in Mexico in 1930 to American parents and entered the Maryknoll Order in 1949. The Order assigned her to Guatemala in 1954 as a teacher. She worked with university students on labor and literacy issues and the Guatemalan government expelled her in 1967 for her involvement in politics of the country. She left the Maryknoll Order, and married Thomas Melville in 1968.<sup>7</sup>

U. S. Army veteran George Mische was born in 1938, and became a peace movement organizer after his military service. He worked with youth offenders and in

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<sup>5</sup> The Baltimore Interfaith Peace Mission a religious organization based in Baltimore that opposed war and selective service systems.

<sup>6</sup> Enoch Pratt Free Library, “Fire and Faith: The Catonsville Nine File,” <http://c9.mdch.org/index.cfm> (accessed January 25, 2011).

<sup>7</sup> Enoch Pratt Free Library, “Fire and Faith: The Catonsville Nine File,” <http://c9.mdch.org/index.cfm> (accessed January 25, 2011).

1961 with Maryknoll missionaries in Mexico. He attended the U.S. State Department's Foreign Service school and participated in the Alliance for Progress.<sup>8</sup> However he returned to the United States in 1964 because he disagreed with the policies towards Latin America. Mary Moylan was born in 1936, and for most of her life was a registered nurse-midwife. She spent several years working in Uganda and upon her return was active in civil rights and peace groups.<sup>9</sup>

On Friday 17 May 1968, the nine Catholics entered local board number 33, Catonsville, Maryland around 11:45 in the morning. They ran up to the second floor of the draft office and announced that "they were clergy and laymen concerned about the war." According to Moylan, the office clerks did not look up at them, and just continued doing their work. Lewis had prepared a speech to read to the clerks to reassure them that they "would not wipe them out." However, their failure to acknowledge the protester's presence forced the Nine to continue with "their scene," and Lewis did not read his speech prepared speech to the employees.<sup>10</sup> The workers finally acknowledged the group of protestors and attempted to interfere with their efforts when the Nine began to seize the draft files. Marjorie Melville blocked a clerk from getting out of her desk. Phyllis Morsberger, a clerk at the office the day of the raid, attempted to secure the telephone to call for help. However, Moylan reached the phone before Morsberger and threw it out the window. Lewis went back outside the building as a lookout, and was the only one of the

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<sup>8</sup> The Alliance for Progress was an initiative started by John F. Kennedy in 1961 which attempted to establish economic cooperation between North and South America.

<sup>9</sup> Enoch Pratt Free Library, "Fire and Faith: The Catonsville Nine File," <http://c9.mdch.org/index.cfm> (accessed January 25, 2011).

<sup>10</sup> Mary Moylan, *Underground Woman* in Baxandall, Rosalyn, and Linda Gordon, eds. "Dear Sisters: Dispatches from the Women's Liberation Movement." New York City: Basic Books, 2000, 42-43.



Nine who was not physically inside of the draft house once the actual raid began. Philip Berrigan brought up the wire trash basket as the others went for the files. The demonstrators grabbed as many files as they could and stuffed them in the wire basket before making their way out of the office and into the parking lot. The Nine set the files ablaze with their homemade napalm, stood in a circle around the burning files and recited the *Our Father*, then waited for the police to arrive and arrest them. The entire action was over in about fifteen minutes. Nevertheless, these nine Catholics sparked a storm of media and protests.<sup>11</sup>

The Nine released a statement to the media defining many of the reasons for which they decided to partake in the Catonsville action. Daniel Berrigan wrote, “our apologies good friends for the fracture of good order, the burning of paper instead of children... we could not, so help us God do otherwise.” This statement, or manifesto of the Nine, was almost two pages in length and attempted to explain the ideology behind the decision to steal and burn the draft files. It discussed their extreme hatred of America’s involvement in the Vietnam War, and how it was their duty to speak out and fight against what they saw as an evil in which their government was promoting. They likened themselves to the participants in the Boston Tea Party, arguing that that action set an American precedent for civil disobedience. Their statement also argued that killing is disorder; that they only recognized life, gentleness, community, and unselfishness as

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<sup>11</sup> “9 Seize and Burn 600 Draft Files,” *New York Times*, May 18, 1968; William R. MacKaye, “Draft Records Napalmed by 9,” *Washington Post*, May 18, 1968; Enoch Pratt Free Library, “Fire and Faith: The Catonsville Nine File,” <http://c9.mdch.org/page.cfm?ID=15> (accessed January 27, 2010).

order and their action was for the sake of that order.<sup>12</sup> They carried these ideas and more into the trial. The trial would be their ultimate stage to promote these ideas.

The trial began on 5 October 1968 and ignited a firestorm of protests at the Baltimore courthouse. Supporters of the Nine distributed leaflets calling for demonstrators in support of the defendants during the week of the trial, made use of the local media, and were able to branch out even further calling for support. The demonstrators arrived in droves as they came from all over the country and included clergy, members of Students for a Democratic Society (SDS), students from Cornell, where Daniel Berrigan had been a chaplain, and a delegation from the Baltimore Welfare Workers Union.<sup>13</sup>

The Baltimore Defense Committee filed for a permit to protest and march peacefully from Wyman Park to the War Memorial Plaza in support of the Catonsville Nine. The Defense Committee printed leaflets inviting support of their protest, which exaggerated the number of draft files burned, claiming nearly 800, attempting to aggrandize the Nine's action.<sup>14</sup> They received permission to march in the streets "in spite of Spiro Agnew," who was Governor of Maryland at this time and almost universally hated by war protesters. The Defense Committee prepared another leaflet that attempted

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<sup>12</sup> Catonsville Nine Defense Committee, *The Catonsville Nine: An Act of Conscience*, 1968.

<sup>13</sup> J. Justin Gustainis, *Crime as Rhetoric: The Trial of the Catonsville Nine*, In Robert Harimann, ed., *Popular Trials: Rhetoric, Mass Media, and the Law*, (Tuscaloosa: The University of Alabama Press, 1990), 164 – 178.

<sup>14</sup> The leaflet prepared by the defense committee claimed they had burned upwards of 800 draft files. However, most accounts claim between 370 and 600 files, more than likely being on the lower end of that estimate.

to spread news about the Nine participants. It included the statement released by the Nine on the day in question and a section identifying who the Catonsville Nine were by listing their names, ages, and backgrounds. That same leaflet included a section written by Daniel Berrigan, in which he admitted to burning the draft files but defended the action on moral, religious, and political grounds. Finally, they released a schedule of events for the week of the trial. These events included canvassing local churches, rallies, marches, dinners and “resistance raps.”<sup>15</sup>

Along with everything else, the Baltimore Defense Committee released a national call to free the Catonsville Nine. This leaflet glorified the action by explaining what the Nine did, saying that they attempted to escape, and that their action “may have already saved lives.” The rest of the leaflet invited supporters to “Agnew Country” to join the general festivities surrounding the trial and support of the Nine. The leaflet invited the participants to a funeral march to celebrate the death of “Selective Slavery,” hear defendants speak, visits to local draft board members, a daily press forum, and a “resistance supper.”<sup>16</sup>

However, the Baltimore Defense Committee was not the only organization helping to promote protest efforts outside of the trial. The local underground press also lent their help in support of the Nine. An October issue of the *Baltimore Free Press* ran a two-page spread calling for activists to march in support of the Nine during the week of

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<sup>15</sup> Baltimore Defense Committee Press Release, 1 October 1968, (<http://c9.mdch.org/artifact.cfm?ID=DPCN002>); Baltimore Defense Committee, *Catonsville Nine: An Act of Conscience*, October 1968, (<http://c9.mdch.org/artifact.cfm?ID=DPCN003>); Baltimore Defense Committee, *Schedule of Activities During Catonsville 9 Trial Week*, October 1968, (<http://c9.mdch.org/artifact.cfm?ID=CLCN029>).

<sup>16</sup> “A National Call,” Baltimore Defense Committee, October, 1968, (<http://c9.mdch.org/artifact.cfm?ID=CUCN025>).

the trial. The poster read, “A rule of thumb of revolutionary politics is that no matter how oppressive the ruling class may be, no matter how impossible the task of making REVOLUTION may seem, the means of making that REVOLUTION are always near at hand.” It continued to call for supporters to come to “Agnew country and Free the Catonsville Nine. Injustice is the great catalyst of revolution.” Thus, it played on the general dislike of Spiro Agnew by war protestors and re-iterated a general point that the Catonsville Nine often advocated nonviolent revolution. Finally, in the page after the call for support, it reprinted the schedule of events for protest activities printed by the Baltimore Defense Committee.<sup>17</sup>

The organizational efforts of the Baltimore Defense Committee achieved their goals and protesters gathered in support of the nine Catholic activists. Approximately 1,500 to 2,000 people arrived, linked arms and marched in the streets showing their support of the draft raiders. They chanted slogans of peace and draft resistance, exclaiming “Free the Nine” and “No More Draft Files.” “Free the 9” buttons were handed out and protesters carried signs while police and riot control forces lined the streets hoping to keep the crowd under control. Counter-demonstrators met the peace activists with their own protest against the Nine defendants. The counter-demonstrators heckled the Catonsville supporters with chants of “Peace Creeps Go Home,” “Kill the Viet Cong,” and “Step up the Bombing.” A few minor confrontations ensued, such as when Joseph Carroll, a local official of the National States Rights Party, grabbed a red flag

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<sup>17</sup> “Free the Catonsville Nine,” *Baltimore Free Press*, October 1968.

from the peace demonstrators and attempted to burn it, however nothing escalated into a major confrontation and the police did not make any arrests.<sup>18</sup>

Despite these obstacles, the support for the Catholic protestors was strong. According to Daniel Berrigan, officials allowed students at Cornell University to miss class without academic penalty if they were traveling to Baltimore and because of this hundreds attended the trial. Philip Berrigan recalled that support seemed to grow for the defendants every day. A local pastor opened his church to the Nine, and every night their supporters gathered there to discuss the trial, exchange ideas, sing, pray, and rejoice together.<sup>19</sup>

The Nine viewed the trial as a way to publicize their message as they attempted to do what no other person or group had done before: to try the government for its own actions. Within the courtroom proceedings, there were two trials occurring simultaneously. The first was conventional. The prosecution tried the Catonsville Nine for raiding the draft office, stealing files, and destroying those files. In this respect, the trial was an open and shut case; the Nine did not deny that they had in fact done what they were accused of. The second trial was the one that the Catonsville Nine and their defense attorneys attempted to conduct. The Nine sought to try the American government not only for the atrocity of the Vietnam War, but American social ills as well. For them, the act of burning the draft files was explicitly a demonstration against the war. However, the war was representative of other American social ills, namely the willful ignoring of

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<sup>18</sup> Bart Barnes, "2000 Protest Draft File Trial," *Washington Post*, October 8, 1968; Deirdre Carmody, "9 War Foes Begin Baltimore Trial," *New York Times*, October 8, 1968.

<sup>19</sup> *To Dwell in Peace*, 229; *Fighting the Lambs War*, 97.

the poor and general American foreign policy, of which the conflict in Vietnam was only one example.

While the Nine admitted their guilt in the actual destruction of the draft files, they pled not guilty at the trial. They participated in this action because of a common experience of working with the poor, a belief that their action of civil disobedience was in accordance with the history of American patriotism, and finally because of their belief that the war in Vietnam was immoral and incongruent with their Christian convictions. They sought to persuade the jury that although they were guilty of the crime, their actions were in fact morally correct and exonerated their act. If what they had done was morally correct, then the government actions that they protested against in Catonsville were immoral. In the opinion of the Nine, then, the court was prosecuting the wrong party.

At the onset of the trial, the defense took some unorthodox approaches in the proceedings. The Nine individually pleaded not guilty to the charges against them even though they admitted throughout the trial that they were indeed the group of people who stole draft files from the Catonsville draft office and publicly burned them on 17 May 1968. Also, the defense refused to participate in the jury selection process. As a consequence of this action the government picked the jurors of their liking with no interference from the defense. The defendants released a statement that discussed their lack of faith in the judicial process. Even more than this lack of faith, the Nine held that their major concern was the continuation of the war in Vietnam and that they did not recognize the court as a forum that could resolve the matter at hand. Seven women and five men comprised the jury, and the presiding judge was Rozel C. Thomsen. The attorneys for the government were Stephen Sachs (lead), Arthur Murphy, and Barnet

Skolnik. The defense attorneys were William Kunstler (lead), Harol Buchman, Harrop Freeman, and William Cunningham.<sup>20</sup>

The prosecution's case shows the drastic differences in how the government and the defense viewed events. From the beginning, the prosecution argued that the trial was one of mere fact. The major question the prosecution asked the jury to determine was were the Nine individuals on trial those who raided the draft board office in Catonsville? If so, then the jury must find them guilty. In the opening statements, Sachs made it clear that they were not trying the defendants for protesting the Vietnam War, nor were their social, political, religious, or moral views on trial. The only obligation of the prosecution was to prove that Nine defendants had committed the file burning. The prosecution entered burnt draft files, diagrams of the building, the cans in which the napalm was stored, and a video a local news station shot as evidence. They also supplied still pictures specifically implicating Mische, Philip Berrigan, Darst, and Daniel Berrigan.<sup>21</sup>

Along with the physical evidence, the prosecution produced four witnesses who placed various defendants at the draft office on the day of the raid. The first witness to testify was Patrick McGrath, a TV reporter. He testified that he received an anonymous phone call to be at the draft office around one in the afternoon because a "spectacular action would take place." McGrath was able to identify a few members of the Nine. Next, the prosecution called James E. Anderson, an FBI agent, to testify. Anderson testified to show exactly what the burned content was. He identified them as draft files from

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<sup>20</sup> Deirdre Carmody, "9 War Foes Begin Baltimore Trial," *New York Times*, October 8, 1968.

<sup>21</sup> United States of America v. Phillip Berrigan, Daniel Berrigan, Thomas Lewis, James Darst, John Hogan, Marjorie Melville, Thomas Melville, George Mische, and Mary Moylan, V. 1, 217-223, 236-332.

Catonsville and the prosecution entered them into evidence just prior to showing the video of the action.<sup>22</sup>

The next witnesses were two employees of the Catonsville draft office, both of whom were working on the date in question. The first was the chief clerk at Catonsville, Mary Murphy. Murphy identified Philip Berrigan and Mische, and testified to the events of the day. The prosecution used her testimony to show the “chaos” the Nine defendants caused. She discussed how scared the intruders made her and described an injury that she received when she tried to wrestle away the files from the intruders. The prosecution made a point of discussing how long it took her to reconstruct the draft files that the Nine destroyed, which were still not finished as of the trial date, just over four months later. Also, of her own volition, she exclaimed that she has never been treated with such terrible manners. Upon cross-examination, the defense only had two questions for Murphy. The first question asked the witness if the defendants said anything when they entered the draft office. The goal of this question was to get Murphy to admit that the intruders told her numerous times that they meant her no harm. The second question asked was if she had received an apology and flowers from the Nine for her injury. Because of the scuffle that occurred between Murphy and the Nine, they sent her a bouquet of flowers and an apology note. The defense asked her about this situation in the cross-examination. The prosecution objected and she did not answer in court.<sup>23</sup>

The final witness, Phyllis Morsberger, was a part-time worker at the draft office. Once again, the prosecution questioned her so that she would identify members of the

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<sup>22</sup> United States v. Berrigan et. al, 236-270; Sachs, *Investigation of a Flame*.

<sup>23</sup> United States v. Berrigan et. al, 292-332.



Nine. She not only claimed that a member of the Nine pushed her in a scuffle for the phone, but that she also saw Marjorie Melville holding a 76-year-old draft office worker down to her desk. Upon cross-examination, the defense had one point to make. That point was that the Nine did not harm her or threaten to harm her in anyway. The defense asked her if the intruders had said anything to her when they entered the draft office and Morsberger explained that the only thing she said was that they “would do her no harm.” Through its witnesses and other evidence, the prosecution showed that the nine defendants were in fact the same individuals who raided the draft board on 17 May 1968. In addition, they attempted to show the defendants in a poor light by highlighting the scuffle with the two females: Murphy and Morsberger. The prosecution viewed the case as open and shut. It was clear and evident that the nine defendants on trial were the same people who raided the draft office on the date in question. They proved their case in open court. However, it was now the defense’s turn to produce their evidence, and they had a different view of what the case was about.<sup>24</sup>

From the beginning of the trial, the defense took a drastically different approach. To the defense, the trial was not about whether or not the nine defendants were the ones who committed the action. They had already conceded that they were. The important question to the defense was one of intent. William M. Kunstler, one of the four attorneys for the defense, argued in his opening statement that because the intent was not criminal, what the nine defendants did was not criminal. He compared the Catonsville Nine trial to the trial of Jesus Christ, arguing that on the facts alone the defendants were guilty, but

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<sup>24</sup> United States v. Berrigan et. al, 332-370.

that the jury had the power to decide the case based on the principal issues involved.<sup>25</sup> The defense continuously attempted to shift the focus of the trial. They made the point that the case was not as simple as the government presented it to be. Once again, the defense compared the trial to Christ's trial, referencing both their Christian morality as well as the historical importance of the case. The defense also brought a human element to the trial, attempting to show the personal side of the nine defendants. They did this by naming each of the defendants, describing sympathetic personal lives, and speaking of experiences abroad or within the impoverished communities in America. The defense began its case by calling all nine defendants to testify.<sup>26</sup>

Through the testimony of the nine defendants, it became apparent that one of the major influences on their actions was their work with the poor. All had worked with the impoverished in various ways and at different times, although only a few members had actually worked domestically. Philip Berrigan explained that his military training in the Deep South first introduced him to dire poverty in America. Once he joined the society of St. Joseph, a mission society of the Catholic Church, they placed him in New Orleans and he began to teach in a black high school. Berrigan stated that he began work in the civil rights struggle, attempting to "attack racism at its roots." He did a lot of voter registration work, and attempted to lessen the gap between white and black communities. Darst also had experience in working with poor black communities domestically, as he was a teacher at a black high school in St. Louis. One of the clear concerns for the Nine

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<sup>25</sup> Throughout the trial proceedings this issue of intent was raised numerous times. The prosecution argued multiple times that the jury needed to be instructed on the meaning of intent based on the law, while the defense made an argument that they should be informed the word intent was ambiguous, and should be free to decide themselves. Ultimately, the judge instructed the jury that intent was to be based purely on the law.

<sup>26</sup> United States v. Berrigan et. al, 224-234.

between the war and poor Americans was the government's willingness to ignore its downtrodden people. Darst echoed this sentiment by stating, "It is a very moving thing... That our country cannot find enough energy and desire to give bread and milk, and other important life elements, to its young people, while it can rain down fire and death on the young people 10,000 miles away."<sup>27</sup> This is also an indirect critique on how the draft system tended to disproportional affect the poor.

The majority of the group had experiences abroad, which also influenced their decision to take action at Catonsville. Moylan and Daniel Berrigan had experiences in Africa. Moylan was a registered nurse and with five other women founded the Women Volunteers Association and served a stint with the organization in Uganda.<sup>28</sup> She testified that her interest in foreign policy began when in 1965 American planes piloted by Cubans bombed Uganda by accident. It was at this point that she began investigating foreign policy and came to the opinion that America was operating as an imperialist empire in many parts of the world.<sup>29</sup> Three of the defendants, Hogan, and Tom and Marjorie Melville, had all shared experiences in Guatemala. At different points in time the three defendants had joined the Maryknoll Order and had done missionary work in Guatemala. Thomas Melville observed that the people lived in complete misery, and along with his wife Marjorie and later Hogan, began to attempt to improve the quality of life for the people. They established cooperatives, introduced fertilizers and better seeds to attempt to stimulate agriculture, and formed credit unions in an attempt to help the

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<sup>27</sup> United States v. Berrigan et. al, 386-476.

<sup>28</sup> The Women Volunteers Association was a Catholic lay group for the recruitment, training, and placement of professionally qualified women for service in Africa.

<sup>29</sup> United States v. Berrigan et. al, 542-557.

poor with their finances. However, they soon joined the Guatemalan revolutionary movement when the democratically elected President was overthrown. According to their testimony, they learned that the American government was behind the overthrow, and claimed that the United States government had people executed in the name of big business in Guatemala. All three's superiors in the Maryknoll order asked them to return to the States. For the Melvilles and Hogan, at least one aspect of Catonsville was an indictment of the American military intervention, not just in Vietnam, but also across the world.<sup>30</sup>

Daniel Berrigan had the most experience abroad among the nine defendants. His first experience abroad came in 1953, one year after he was ordained, when he went to France for further study in Burgundy. There, according to his testimony, he witnessed the difficulties and effects that the French colonial war in Southeast Asia had on French society. Stating that the society's political and social structures nearly collapsed, Berrigan recalled that a priest told him "that because of that war, it was quite possible that French culture would die."<sup>31</sup> Then in 1964, he visited South Africa, where he witnessed the intense apartheid and segregationist police state. Later that same year he traveled around Eastern Europe meeting Christians in Czechoslovakia, Hungary, and Russia. Berrigan's most influential trip abroad came in January of 1968, just four months before the Catonsville raid. The government of Hanoi invited a couple of members from the peace movement in the United States to go to Hanoi and bring back three captured airmen. Along with Howard Zinn, Berrigan went to Hanoi and received the three pilots. Berrigan said that seeing the amount of killing and destruction that the United States' saturation

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<sup>30</sup> United States v. Berrigan et. al, 564-636.

<sup>31</sup> United States v. Berrigan et. al, 640.

bombing caused reinforced the idea of the immorality of war and the use of a weapon like napalm. He described a grotesque scene of “parts of human bodies, preserved in alcohol, the bodies of children, the hearts and organs and limbs of women, teachers, workers, and peasants...which were destroyed by our saturation bombing.” For Berrigan, his experience in Hanoi led him on a direct path to action in Catonsville.<sup>32</sup>

However, even though the various members of the Nine had different personal experiences that led each one to burn draft files, they all embraced the concept of civil disobedience.<sup>33</sup> The main reason that the Nine decided to take their protest to the level of civil disobedience was that they believed that all other lawful protests failed and they wanted to gain attention for the antiwar movement. Darst, the youngest of the group and the only one who was eligible for the draft, turned his draft card back in and testified to his frustration that not only did that not do anything of great importance, but “it failed to make the local papers.” Both Philip Berrigan and Mische reiterated this fact in their own testimonies. Mische testified that he had been picketing and writing letters to his Congressman for years to no avail. Philip Berrigan discussed taking part in protests at General Earle Wheeler’s house and the police forced them to leave three different times. He also had had contact with Senator J. William Fulbright, a Democrat from Arkansas who was adamantly antiwar, as well as Dean Rusk, who was Secretary of State. Lewis also took part in the protests at Rusk and Secretary of Defense Robert McNamara’s

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<sup>32</sup> United States v. Berrigan et. al, 637-695.

<sup>33</sup> This study will use the definition of civil disobedience as “a public, non-violent, submissive violation of law as a form of protest,” Fahy, 4.

houses, as well as numerous other marches and vigils. All of these efforts went unnoticed by not only government officials but the general public as well.<sup>34</sup>

The intention of this act of civil disobedience was not only to raise awareness about what they saw as the ills of the American government, but also to do what they could to halt the war effort. Darst explained that with the action he took at Catonsville, he wanted to cause a public outcry, particularly over the war. The Melvilles and Hogan wanted to bring awareness to the issues in Guatemala. They were trying to make the public aware of what was going on as well as showing the government their dissatisfaction with their global involvement. The other main intention of the Nine was to attempt to slow the government's overseas efforts. Darst testified that one of his main intentions at the Catonsville draft board office was to hinder the war effort in a physical and literal way. He compared his action to a person in Czechoslovakia who would throw a brick into the wheels of a Russian tank, and sometimes that small effort was able to stop a tank. Hogan recalled, "I was trying to put a log in the path of the government. Trying to stop it...to make them stop and reconsider... 'what's going on here?'"<sup>35</sup>

While the purpose of civil disobedience was to raise awareness, the Nine justified it through their Christianity and patriotism. Lewis understood civil disobedience to be a legitimate form of protest in not only an American tradition, but a Christian one as well. He argued that the apostles of Christ were also civilly disobedient. He argued that one could and should totally disregard the law when that law tampers with a man's rights. Lewis cited the apostles walking through the grain field on the Sabbath, and taking food that people offered them and instead giving it to the poor. Philip Berrigan explained in his

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<sup>34</sup> United States v. Berrigan et. al, 425 -510, 564-595.

<sup>35</sup> United States v. Berrigan et. al, 386-412; Sachs, *Investigation of a Flame*.

testimony that he thought that by choosing civil disobedience, he was congruent with the American democratic tradition and was doing his patriotic duty.<sup>36</sup>

There have been times in our history where in order to get redress, as they say, or in order to get a voice, *vox populi*, arising from the grass roots, and from the people, people have had to indulge in civil disobedience. From the Boston Tea Party on, through the abolitionist and anarchist movements, and through World War I, where we had sizable numbers of conscientious objectors, through World War II, and right on through the civil rights movement, we have, perhaps, the most rich tradition in the country of civil disobedience.<sup>37</sup>

Here, Berrigan not only attempted to show the tradition of civil disobedience in America, but subtly alluded to the fact that the defendants had only fulfilled their patriotic duty. By linking civil disobedience with an American tradition, it not only justified their action within an American spirit, but attempted to show their action as distinctly American. Berrigan related the Catonsville action with an iconic event in American history, the Boston Tea Party, and in doing so attempted to strengthen the group's American identity when their action may have appeared as anti-American.

The nine defendants also justified their action from a religious moral ideology. One of their biggest moral objections was the use of napalm. The Nine used napalm to burn the draft files in a symbolic fire, except, according to the statement they released, they were only burning paper with this weapon, whereas the American government was burning children and innocent civilians with it. Hogan stated in his testimony that they used napalm to show what it could do to the files, and they wanted to let people know what napalm could do to human flesh. Lewis stated in his deposition that the weapons, namely napalm, which the American government was using to wage war, were illegal. He

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<sup>36</sup> United States v. Berrigan et. al, 586-588.

<sup>37</sup> United States v. Berrigan et. al, 456.

argued that as a Christian, a weapon like napalm was immoral, and should have no place being used. Marjorie Melville testified that she had seen the effect of napalm on a peasant village where it burned two shepherds and an entire flock of sheep. To the nine defendants, napalm was an atrocious substance that, as a moral society, Americans could not allow to be continually used on other people without objecting.<sup>38</sup>

The largest and most important issue to the nine defendants was the issue of life. From a Christian perspective, they argued the war was immoral, and that napalm was immoral because it destroyed lives. Darst argued that the United States was desecrating something extremely sacred: life. Mische made a point of saying that his intent was not to follow man's law. As Christians, the nine believed that they were called to follow a much higher law, which in their eyes was a much more important law. God's law commanded them to save lives. Moylan again reinforced the idea that all life was sacred, and that property does not have a right to exist if it infringes on life. When the defense attorney asked Moylan to sum up the intent of her actions in Catonsville, she responded with two words, "Celebrate life." On the stand, Daniel Berrigan made a humanistic plea for life to the jury. Using both the objection to napalm and the idea that life was sacred, he told the jury of his main intent: "I did not want the children or the grandchildren of the jury to be burned with napalm and I was trying to save their lives."<sup>39</sup> The Christian identity of the nine defendants forced the largest issue, the sacredness of a human life. The defendants believed that, as Christians, they had to object and stand in the way when something sacred was being desecrated.

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<sup>38</sup> Unites States v. Berrigan et. al, 575, 604, 634.

<sup>39</sup> United States v. Berrigan et. al, 409-410, 509,557, 631.



After the Nine took the stand and presented their case to the court, both sides began their closing arguments. Arthur Murphy delivered the final summation for the government and, as expected, did nothing more than restate the literal facts of the case. The prosecution reiterated their main point that the defendants were only on trial for the actual burning and destruction of draft files, and not for their political, religious, or moral beliefs. However, just like the rest of the trial, the defense took a completely different approach. As with the rest of the trial, the defense did not deny that the nine defendants were in fact the same people who broke into the selective service office in Catonsville, Maryland, took files and subsequently burned them in the parking lot. They also appealed to the jury's sense of morality. Kunstler argued that the Nine "were trying to make an outcry, an anguished outcry, to reach the American community before it was too late to reach anyone anymore." Juxtaposing their outcry to the lack of one in Nazi Germany in 1930s, arguing that it was an outcry that was needed and could have been made in Germany, "if there were someone to listen and act on it." The defense also appealed to the case of Peter Zenger in 1734. Zenger was a printer accused of seditious libel in New York. The jury acquitted him, even though he was technically guilty of the crime. Kunstler quoted from Zenger's lawyer at the trial, Andrew Hamilton, in which Hamilton called for the jury "to make use of their consciences." The closing arguments of the trial, highlight the differences in the two approaches and ideologies between the defense and the prosecution.<sup>40</sup>

The trial ended the way it began, in a very unusual manner. After the defense and prosecution finished their final summations, the Nine requested permission to address the Judge personally. The court dismissed the jury and allowed the Nine to speak about the

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<sup>40</sup> The United States v. Berrigan et. al, 749-783.

proceedings. All Nine spoke directly to the Judge, and discussed issues they thought had been obscured during the trial. Specifically, the Nine questioned the Judge's prohibition of the jury deciding the case on their conscience. Thomas Melville stated that, "the overriding issues has been obscured in the sense that they [the jury] are going in there now to judge whether we committed the acts that we said right from the very beginning that we committed." The judge responded that he understands their argument but that he has a "responsibility of deciding what the law is." Each of the Nine repeated the same basic arguments; that the court obscured the true point of the trial, they were appealing to the jury and the courts as Americans, and that the issue of the Vietnam War was not adequately addressed. The judge responded on each account that he was bound by the law, and the constitution. According to Thomsen, the law did not allow him to make a judgment on the legality of the Vietnam War, and forced him to only try the issue of whether or not the Nine were guilty of burning draft files. However, Judge Thomsen said as a man and as a judge he responds in two different ways. As a judge he must uphold the law, but as a man he "would be a very funny sort if I had not been moved by your sincerity on the stand by your views." This exchange between the Nine and the judge ended with Daniel Berrigan thanking the court for affording them time to speak but declaring that they do not agree. Then the entire court joined in a recitation of the *Our Father* before the trial was concluded.<sup>41</sup>

After only two hours of deliberation, the jury returned with a verdict of guilty on all counts. There was a loud outcry in the courtroom when the jury read the verdict. Arthur Melville, a brother of one of the defendants, screamed out that the jury had just convicted Jesus Christ, while other people in the courtroom rose in approval of the

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<sup>41</sup> United States v. Berrigan et. al, 1101-1035.

verdict; the judge had the courtroom cleared. Upon sentencing, Philip Berrigan and Lewis received three-and-a-half year terms, which would run concurrently with the sentence from the previous draft house raid conviction. Daniel Berrigan, Mische, and Tom Melville received three-year sentences. Moylan, Marjorie Melville, Darst and Hogan received two-year sentences because the court did not consider them leaders in the action. However, of the nine only the Melvilles and Hogan served their sentences willingly. Moylan, Mische, Lewis, and the Berrigans refused to serve their sentence and went “underground.” Philip turned himself in April of 1969. The FBI captured Mische in Chicago in May 1969, and then Daniel in August 1969. Moylan, became the last member of the Catonsville Nine to serve jail time when she turned herself in, in 1978. Darst died in a car accident before he was able to either serve his sentence or go underground.<sup>42</sup>

The trial of the Catonsville Nine was a lively event. From the first day of the trial, it ignited protests. The streets were lined with 1,500 -2,000 protesters supporting the nine defendants, while a number of protesters came to show their disdain and demonstrate against the nine’s action. Spectators filled the court every day of the trial. However, in the end, the support was not enough, as the prosecution, the judge, and the jury decided that the only issue that mattered was breaking the law, and the Catonsville Nine were guilty on all accounts.

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<sup>42</sup> Deirdre Carmody, “Nine Found Guilty In Draft File Case,” *New York Times*, October 11, 1968; Bart Barnes, “9 Convicted of Burning Draft Files,” *Washington Post*, October 11, 1968; Enoch Pratt Free Library, “Fire and Faith: The Catonsville Nine File,” <http://c9.mdch.org/page.cfm?ID=15> (accessed January 27, 2010).

The trial was a tale of two divergent proceedings. The government only considered it to be about the literal breaking of the law, regardless of whether or not that law may have been immoral. While the government was trying the nine Catholics for breaking the law, the nine attempted to try the government for not only an immoral law but also what they saw as the greater American ills. It was clear that that the government's ignorance of the domestic poor bothered all nine defendants, despite having different experiences. They could not understand why the government ignored their own citizens while they continued to spend millions of dollars in another country. They were also upset about what they considered America's imperialistic nature. The Nine viewed the war in Vietnam in this light, but the nine defendants were also concerned about America's involvement in South America, Africa, and various other places around the world.

The Nine were concerned about these issues, however they became frustrated because it seemed as though nobody cared, especially the American government. When it seemed that all else had failed, they decided to take their opposition to the level of civil disobedience. The act of civil disobedience was out of frustration, and the participants believed that it was justified through an American and a Christian tradition. They linked themselves to many movements or acts of civil disobedience in American history, specifically citing the Boston Tea Party. Within a Christian tradition they argued that not only were the apostles of Jesus civilly disobedient, but Jesus himself was as well. Therefore, at least to the Nine, civil disobedience was not only their patriotic duty as Americans but their religious and moral duty as Christians.

They also discussed the action from a religious moral point of view. Their first moral objection was the legality and morality of the use of napalm. The napalm was significant in their action not only as symbolism, but also to show the power of that weapon. The defendants also wanted to turn the government's immoral weapons against them; they objected to the use of napalm as it killed many innocent people. One of their major religious issues was that of the sacredness of life. As Christians, there was nothing more important than human life. They thought this was a terrible atrocity, and wanted to show their outrage over the American government committing such acts in their name. When asked, all nine defendants said that they ultimately participated in the action in order to save lives and preserve the sacredness of life. In the end the Catonsville action was about attempting to physically stop the American government from continuing what they saw as immoral activities domestically and at home. Despite the verdict against them, the message of governmental injustice was not quieted.

### Chapter 3

As soon as the action at Catonsville occurred, news outlets and media sources began reporting on it. The mainstream media took a neutral view towards the action. The *New York Times*, *Chicago Tribune*, and *Los Angeles Times* reported the events in the same way, with similar headlines and they rarely placed the events on the front page. The one real exception to this was the *Washington Post*, which initially took a neutral approach in reporting the action. By the start of the trial, however, the *Post* shifted to an obviously sympathetic tone. Liberal publications, specifically the Catholic periodical *Commonweal*, tended to celebrate the action and commend the rationale, as well as provided a forum for the Nine to speak on their own terms. Meanwhile, conservative publications like the *National Review* generally condemned the action and denounce the participants as un-American.

Historiography on the topic of media and the anti-war movement of the 1960s is sparse. The only study to cover the media portrayal of the anti-war movement is the monograph *Covering Dissent: The Media and the Anti-Vietnam War Movement* by historian Melvin Small. In it, Small asserts that the media portrayed the movement in negative terms. He argues that the people who reported on anti-war demonstrations concentrated on the violent and radical behavior on the fringes of the activity, undercounted the crowds, and ignored political arguments the protesters leadership presented. In addition, Small states that because of a misapplication of the fairness doctrine, especially on television, journalists went out of their way to present the views and activities of the counterdemonstrators and arguably ignored any positive aspects of

the antiwar movement.<sup>1</sup> Furthermore, Small argues that left-wing media analyses of antiwar activities were more objective, detailed, and accurate than that of the mainstream media sources. While Small looks at “major,” demonstrations his findings do not hold true when looking at the Catonsville case.<sup>2</sup>

The majority of the mainstream media had a fairly neutral view of the Catonsville action. The *New York Times* and the *Chicago Tribune* ran the same basic article right after the event. The headline of the *New York Times* story read “9 Seize And Burn 600 Draft Files,” in *The New York Times*, and the *Chicago Tribune*’s headline read “9 Seize and Burn Draft Papers to Slow War.” Both articles discussed the protest at Catonsville, the arrest, a brief quotation from the statement that the Nine released, and the plans for Baltimore officials to charge the nine participants. Neither paper ran it as a front page story and *The New York Times* relegated the story to page thirty-six. Continuing coverage between the *Times* and the *Tribune* mirrored each other in this fashion. Neither seemed to promote one side over the other, or cast the Nine in a favorable or negative light. The *New York Times* only ran two front page articles through the whole course of the action and trial, both having to do with the courts rendering a verdict of guilty or arrests of the participants.<sup>3</sup> The *LA Times* also echoed the coverage of the *New York Times* and the *Tribune*. The *LA Times* ran limited stories in connection with the Catonsville Nine, none

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<sup>1</sup> The fairness doctrine was a policy of the Federal Communications Commission that required holders of broadcast licenses to present both sides of controversial issues considered of public importance.

<sup>2</sup> Melvin Small, *Covering Dissent: The Media and the Anti-War Movement*, (Brunswick: Rutgers University Press, 1994).

<sup>3</sup> “9 Seize And Burn 600 Draft Files: 2 Priests Among War Foes Arrested Near Baltimore,” *New York Times*, May 18, 1968; “9 Seize, Burn Draft Papers To Slow War: All Are Arrested,” *Chicago Tribune*, May 18, 1968.

of which made front page news.<sup>4</sup> In addition, the *Boston Globe* reported on the action even less than its counterparts. It did not run a story immediately after the action, gave cursory coverage to the trial, and barely reported on the final verdict.<sup>5</sup>

In contrast to the other mainstream news outlets, the *Washington Post* held sympathetic views toward the Nine and the protests in the street. The article that discussed the Nine immediately after the action seemed to echo that of the *New York Times*. It took a neutral tack on the story. It reported on the facts, events, charges, and future plans of the Baltimore courts, and little else. It did not run a front-page article, but did take significant block of the third page. The headline also echoed that of the other newspapers, “Draft Records Napalmed by 9,” without much demonizing or aggrandizing.<sup>6</sup> Despite this original unbiased approach to the story, the *Washington Post* covered the Berrigans and their counterparts more extensively than any other news outlet; including four front page articles, three of which were about the arrests and sentencing, and one on the protests surrounding the trial.

The first of these front page articles covered how a Federal Judge Edward S. Northrop, convicted Philip Berrigan and Tom Lewis for their pouring of blood incident in October 1967 and sentenced them to six years. The judge, according to the article, handed down such a stiff sentence because the week before they had been involved in the Catonsville action and in the judge’s mind they had “transcended the tolerable limits of civil disobedience.”<sup>7</sup> The article gave more space to Lewis’ and Berrigan’s response than

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<sup>4</sup> “Nine Burn Draft Files; Arrested, Held by FBI,” *Los Angeles Times*, May 18, 1968.

<sup>6</sup> William R. MacKaye, “Draft Records Napalmed By 9,” *Washington Post*, May 18, 1968.

<sup>7</sup> Bart Barnes, “Priest Given 6 Years For War Protest,” *Washington Post*, May 25, 1968.



discussing the decision made. While it does not display direct sympathies towards the two, it subtly ally's itself with Berrigan and Lewis.

The second front page article on the Catonsville Nine the story was more openly sympathetic to the protesters. The article headline read, "2000 Protest Draft File Trial," and detailed the events of the protests surrounding the trial of the Nine. However, one of the glaring differences between the *Washington Post* article and others in the mainstream press was that the author made sure to characterize the protesters as peaceful, and non-violent. The article commented on the composition of the protestors by stating, "The spectators also included several mothers with infants in their arms and at one point during the proceedings a nearby press room was temporarily converted into a nursery."<sup>8</sup> This quote is a clear attempt to characterize the crowd as caring and peaceful, and not a single other newspaper included this characterization of the protests.

The last two front-page articles reported on the conviction and jailing of the Nine. The first article, explains their conviction, and takes time to highlight the judge's sympathies to the draft resisters. The judge explained they had broken the law, which required their conviction. However, after that statement, the article quotes the judge as saying, "I would be a very funny sort of man if I hadn't been moved by your enthusiasm."<sup>9</sup> While the rest of the article explains the end of the trial, the conviction, and future sentencing, it did highlight the sympathies for the Nine. The final front page article in the *Post* discussed the sentencing of the Nine. Not only does this article highlight the

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<sup>8</sup> Bart Barnes, "2000 Protest Draft File Trial: 2000 Protest in Support of Nine Draft File Defendants," *Washington Post*, October 8, 1968.

<sup>9</sup> Bart Barnes, "9 Convicted of Burning Draft Files," *Washington Post*, October 11, 1968.

Nine and their responses, but it made sure to quote a sarcastic remark from the prosecuting attorney. A press aide to the Nine had distributed copies of the Nine's arguments, and the *Post's* article reported, "U.S. Attorney Stephen H. Sachs stood by commenting facetiously, 'Has everyone got a copy of the defendant's press release?'" Later in the article it quoted the judge by saying he "emphasized his respect for the 'sincerity of the defendant's motives,'" and later quoting him as saying "You [the Berrigan brothers] are leaders of men. I hope that you will come out of this with a realization of how much can be done for prisoners..."<sup>10</sup> Again, this shows how the *Washington Post* continually tended to highlight the ideas and motives of the Nine and promote sympathizers.

The *National Review*, a right-wing periodical, demonized the Nine and the Berrigan's in many ways. Their assault on the "Catholic Left," began in 1966, two years prior to the action at Catonsville. The publication contained a section titled "Report on the Left," which published the article, "The Catholic Peaceniks." The author of the article, Anthony Bouscaren, who was a professor at University of South Florida and Marquette, directly linked Daniel Berrigan to Communism in the article. Bouscaren argues that "Father Berrigan declared that Marxism was the wave of the future." This accusation not only linked him to the Marxist ideology but also insinuated that he believed that Communism was best for Americans in the coming days. He also chastised the Catholic tradition, which Berrigan subscribed to, and he linked Dorothy Day to Castro. The article argued that Day cooperated with Communists in the 1957 venture,

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<sup>10</sup> Bart Barnes, "Nine Jailed For Burning Draft Files: Catonsville Nine Get Terms for Burning Draft Records," *Washington Post*, November 9, 1968.

which called for the American Forum for Socialist Education. In addition, “she went to Castro’s Cuba. She came back to say, ‘Thank God for Castro.’”<sup>11</sup> As early as 1966 the *National Review* not only demonized Berrigan for his belief, but the entire Catholic tradition of which he subscribed by linking Day with Castro and Communism.

After the action itself, the *National Review* began to make a more direct discussion on the Catonsville Nine. The first, was a small article titled, “Mrs. Murphy and the Number People,” which mocks the naming of these various groups of draft raiders (Baltimore 4, Catonsville 9, and the Milwaukee 14). It claims that Philip Berrigan “manhandled” Mary Murphy to seize the files in Catonsville. It continues further to argue that Catonsville Nine and the other “number people” groups were not good Americans or good Catholics. Murphy attempted to prevent them from taking her files, and declared them “awful people” for such actions. “All of which tells us that she is a good American, very probably a good Catholic, too, to whom therefore we send our greetings,” the article said; arguing that the Catonsville Nine were bad Catholics and worse Americans.<sup>12</sup>

As the time passed, the *National Review* made attacks on the Nine wherever they saw fit, generally following the same style of attacks in previous articles. Mocking the terminology of the draft groups they remarked, “the editors of the *National Review* now think of the themselves as the Thirty-Fifth Street Four.” The periodical quoted Father Andrew Greely in the *Holy Cross Quarterly* as comparing Daniel with the “self-righteous fanatic who are familiar in revolutionary movements. There isn’t much doubt... that he

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<sup>11</sup> Anthony T. Bouscaren, “The Catholic Peaceniks,” *National Review*, March 8, 1966.

<sup>12</sup> “Mrs. Murphy And The Number People,” *National Review*, October 22, 1968.

denies the legitimacy of American society and is calling for its destruction.”<sup>13</sup> Continuing the theme of Marxism, *National Review* published a quote under the heading of “The Holy Terrorists,” from Fidel Castro saying, “Radical priests may be a greater threat to America than the Communist Party.” The article continued to describe how the Berrigan’s father “use to beat the tar out of them,” and claimed that abuse as influencing their pacifism. It characterizes Philip as “a man who outrages easily,” and links their action to that of the Weathermen. The article also mocks the idea that their action can be characterized as non-violent, by asking “how do you destroy things non-violently?” In addition, the article attempted to characterize the Catholic Left as an American enemy by stating, “The problem of the Catholic Left, as Castro had warned, is even more of a threat to American society than is the Communist Party and needs special attention.”<sup>14</sup> *National Review* treated the Nine and the entire Catholic Left very harshly; constantly calling them un-American and Communist sympathizers.

The left leaning periodical, Catholic *Commonweal* supported and sympathized with the Nine from the beginning. After the 1967 action at the Baltimore Customs House, *Commonweal* published Philip Berrigan’s “From Protest to Resistance: Musings From the Baltimore City Jail,” which was an explanation of his reasons for moving from lawful protest to civil disobedience. It provided a forum for him to espouse his views to other sympathetic Catholics. In it he used the idea of the French Revolution, “The bread is rising...and people are moving from dissent to resistance... One thing is sure, people

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<sup>13</sup> “The Berrigans In Focus,” *National Review*, February 23, 1971.

<sup>14</sup> Max Geltman, “The Holy Terrorists: The Berrigans vs. the United States,” *National Review*, May 4, 1971.

must have power to be people, or they will seize it.”<sup>15</sup> Furthermore, while Philip was awaiting trial for his 1967 protest in Baltimore, Daniel Berrigan published an article in *Commonweal* defending his brother’s action, and denouncing the war. Again, the magazine provided an outlet for them to speak their minds, and any willing Catholics who would listen.<sup>16</sup>

*Commonweal* printed articles on a regular basis that were sympathetic to them, or allowed them to print their own writings and provided them with a forum to defend their views. A June 1968 “News and Views” article explained the actions of the Catonsville Nine, and the Baltimore Four before them. It tells the reader that a jail term has become “essential to the Berrigan brothers for the fullness of their witness.” Furthering the point, *Commonweal* asks “Passionate? Yes... Foolhardy? Don’t be too sure.” It claims that “such actions have high purpose and call attention to a bevy of injustices; economic and racial as well as military.” This article clearly puts the Berrigan Brothers, and by association the Catonsville Nine in a positive light, defending and explaining their action as part of a “full witness.” The article concludes that “Forgiveness there is no need. Better there be gratitude.”<sup>17</sup> *Commonweal* also supported them in their efforts in court, and the protests surrounding the trial. The periodical printed a letter written from the Catonsville Nine inviting people to partake in the festivities surrounding the trial. They promised all who came “a good time in the company of love and courage, ‘legal’

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<sup>15</sup> Philip Berrigan, “From Protest to Resistance: Musings From a Baltimore Jail,” *Commonweal*, November 17, 1967.

<sup>16</sup> Daniel Berrigan, “The Trial of the Baltimore Four: My Brother, The Witness,” *Commonweal*, April 26, 1968.

<sup>17</sup> John Deedy, “News and Views,” *Commonweal*, June 7, 1968.

proceedings that will blow your mind and open your heart.”<sup>18</sup> From this it is clear that *Commonweal* provided a publication which would not only defend them and support their views, but a place where they could publish their own work and espouse their view for themselves.

Another left-leaning publication which supported the Nine was *Ramparts*. The publication printed an article on both the Baltimore Four and the Catonsville Nine during the summer of 1968. The article began by discussing the original action of the Baltimore Four and discussing how during sentencing Philip Berrigan and Tom Lewis struck again with the Catonsville Nine. It glorified the action by providing a quotation from Mark Rudd at Columbia University who said, “Anyone can take a building. But to walk in and deface draft records? Well that takes courage.” The article then claims that the Catonsville Nine destroyed almost 600 draft files, that number is almost double the amount reported. After the explanation of the “Baltimore Saints” action, the article continued to discuss each of the four members and their background, as well as a discussion of the nine members of Catonsville, explaining their previous backgrounds and how all Nine had experience abroad except for David Darst. The title alone suggests this concept of sainthood of the raiders as the title read “Lives of the Baltimore Saints.” The article concluded by asking, “must such saints perish in this generation to make life more comfortable for those who have no religion?”<sup>19</sup> This implied both that their specific religion that they subscribed to and the actions they took promote a positive message for the future of America. *Ramparts* clearly sympathized with the draft raiders; it declared

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<sup>18</sup> Daniel Berrigan, “From the Catonsville Nine: Greetings,” *Commonweal*, September 27, 1968.

<sup>19</sup> Marianne Hinckle, “Lives of the Baltimore Saints,” *Ramparts*, June 26, 1968.

them saints, argued that they had a positive message for America, and glorified the action in general. In addition, they claimed a much higher amount of files destroyed than actually happened.

It is clear from a close look at the newspapers from the era that the media coverage largely broke down along political lines. The mainstream media, in this case the *New York Times*, *Chicago Tribune*, and the *Los Angeles Times*, seemed to take a middle of the road approach to Catonsville, with few articles and rare front-page coverage; while the *Boston Globe* remained suspiciously silent on the matter. The one exception to that was the *Washington Post*, which typically portrayed the actions of the protests and trial in a favorable light, and went out of its way at times to demonize the opposition. Politically based media broke down as expected. The conservative media condemned the actions at Catonsville and the reasoning for it, often calling the participants un-American, Marxists, or linking them and their movement with that of Castro. The liberal side glorified the action, and wanted to explain their justifications, as well as provided a forum in which they could publish their own writings.

It is, perhaps, not groundbreaking to say that the media coverage of the Catonsville Nine largely broke down along as expected. However, this small case study contradicts Melvin Small's thesis, in which asserted that the mainstream media, "concentrated on violent and radical behavior on the fringes of the activity, undercounted the crowds, and ignored political arguments the protesters leadership presented." Most media coverage commented on the entire spectrum of the action. There is no example of

a media source leaving out, at the very least, a quote from the Nine's official statement; and most times did not take the time to choose sides in the matter. Furthermore, the coverage in the *Washington Post* directly contradicts that argument. The *Post* went out of its way to cast the protestors and the Nine in a good light. In addition, Small asserts that the liberal media was far more objective, and provided more accurate information about the actual protests, and gave more credence to their political arguments. However, according to this study, that again does not seem to be the case. While, *Commonweal* did publish articles explaining the reasons for the action, and even exclaiming it as a good thing, to call the liberal media "objective," in its portrayal would be a stretch. In fact, they were no more or less objective than the *National Review*. At least in the case of the Catonsville Nine, Small's thesis does not stand to be true.

However, what is more important than the media coverage was the furthering of the message by the Catonsville Nine themselves. While the research shows that the media coverage was not particularly unfair, the Nine perceived the it as overly negative. This perception led them to promote their message through the media even further than they felt the media allowed them to. Daniel Berrigan wrote a play, which would influence future portrayal's of the Catonsville Nine.



## Chapter 4

The protest at Catonsville, the trial, and the Berrigan brothers, who would become the faces and voices of the Catonsville Nine, forced their message out to the public.

Daniel Berrigan wrote a play based on the Trial which reiterated the message of the Nine. The play was turned into a motion picture, and though it found little commercial success, it maintained the same message pointing out the ills of America. These efforts to promote their message did not have a great impact on the whole of American society but it did live on within liberal circles around the country for nearly forty years.

The need to further their message came from the belief that members of the Nine felt the media obscured their message or that their supporters abandoned them. In the introduction to his play, Berrigan wrote, “the students who traveled to Baltimore by the hundreds in October put us down sharply a few months later: our style, our nonviolence, our religion.” He thought that the act at Catonsville had not only been forgotten, but disowned by most of the people the group had counted on. Other members of the Nine felt that the media was against them. Philip Berrigan said that *Time* magazine had called their action “bizarre,” and Moylan said that she stopped reading the mainstream media that defined them as “Catholic Pacifists.”<sup>1</sup> Daniel Berrigan obviously felt that the protest and the subsequent trial were of great importance, and thought it was a shame that people had quickly forgotten about it. By his own estimation, Berrigan wanted to “wind the

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<sup>1</sup> Berrigan, *Fighting the Lambs War*, 100; Mary Moylan, *Underground Woman* in Baxandall, Rosalyn, and Linda Gordon, eds. "Dear Sisters: Dispatches from the Women's Liberation Movement." New York City: Basic Books, 2000, 42-43.

spring tighter.”<sup>2</sup> This desire led Berrigan to write a play to further the message of the Nine. Their ideology and arguments are found throughout its pages. The play was his way of reinvigorating the Nine’s main arguments and presenting their ideology to their audience once again.

Daniel Berrigan’s play accurately mirrored the courtroom proceedings beginning with jury selection in which the defense refused to participate. The judge then brought in perspective jurors and asked them a variation of the same question; “Have you taken any position, any public position, with respect to the war in Vietnam?” On each occasion the judge took the prospective juror at his word. These actions by the judge and defense allowed veterans of World Wars I and II, government employees, and other people who appeared to have preconceived ideas of the trial and the protest, to serve on the jury. While this scene may appear to be enhanced for dramatic effect, it did not alter the actual events of the trial. The defense did refuse to take part in jury selection, and jurors were only stricken from service if they admitted to already making up their mind about the event at Catonsville.<sup>3</sup> They took this action because they wanted a broad cross section of American society in the jury. To eliminate jurors would defeat the purpose of going to trial.

The play covered the government’s case against the Nine in only three pages. Berrigan consciously decided to leave out all the evidence that the prosecution presented in the courtroom. Therefore, in the play, the government did not bring any physical evidence against the Nine. The only case the prosecution presented was to depose one

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<sup>2</sup> Berrigan, *The Trial of the Catonsville Nine*, 3-9.

<sup>3</sup> Berrigan, *The Trial of the Catonsville Nine*, 3-9.

witness on the stand. This witness was never named, but it was clearly Mary Murphy, the draft office employee who was involved in a scuffle with members of the Nine. The witness' time on the stand was brief; the prosecution allowed her to give her testimony by asking about the specific events of that day, with an emphasis on the injuries she sustained in the scuffle. Upon cross-examination, the defense only asked if the Nine had sent her flowers after the event, which the judge would not allow her to answer. The failure to present the prosecution's case in the play showed Berrigan's lack of respect for their argument or the witness. As noted previously, the government's argument surrounded whether or not the Nine were guilty of destroying of draft files. They presented multiple witnesses that placed them at the scene of the crime, still pictures, video footage, and the burnt files themselves. In a 2003 interview Daniel Berrigan stated, "they rolled in boxes of paper as though they were something," in reference to the prosecution's evidence. Berrigan did not think that the boxes of burned paper were sufficient evidence, especially when compared to the boxes of burnt human body parts he saw while in Vietnam.<sup>4</sup> This idea was prevalent among the Nine, and they felt that media and trial obscured this argument, which hinged on the premise that if what the Nine did to "paper" was illegal, then the way in which the American government treated Americans and Vietnamese in the Vietnam War and other places around the world was as well.

The third act detailed the defense's case. "The Day of the Nine," as it was titled, encompassed seventy-four pages of the total one hundred twenty one pages of the play. As in the actual trial, each member of the Nine separately took the stand and gave their

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<sup>4</sup> Berrigan, *Trial of the Catonsville Nine*, 13-15; Lynne Sachs, *Investigation of a Flame: A Documentary Portrait of the Catonsville Nine*, DVD, First Run Icarus Films (Sundance Channel, 2003); Daniel Berrigan, *Night Flight to Hanoi*.

own personal testimony. Their explanations assured the audience that they acted out of their Christian convictions, their belief they were being patriotic and the proclamation that they acted in order to let others live. Philip Berrigan appeared first and gave his extensive background without interruption from the prosecution, including his military service, his time in New Orleans, and why he choose to burn files at Catonsville. The prosecution questioned David Darst next and he readily admitted to burning files and bemoaned America's neglect of its poor. Tom Lewis began his diatribe on the American government and justified his action through the spirit of Christianity, announcing that early Christians often practiced civil disobedience. Thomas and Marjorie Melville testified together in the play. They described their experiences in Guatemala, and attacked the foreign policy approach of the United States towards South American countries, urging Americans to consider the points, which they raise. Mary Moylan and George Mische both testified about their work abroad, and how they saw first hand the poor and the anger other people had towards America, and they both boldly proclaimed that they participated in Catonsville "for life." Hogan used an analogy to justify his action at Catonsville; if a rogue car was about to crash into a group of children, and if he had the ability to stop it, he would. Finally, Daniel Berrigan gave his testimony and attacked America's involvement in Vietnam, the government's obliviousness to the poor, and assured people of his Christian values. He ended his testimony by declaring that he committed this action so that the children of the judge and the jury would live.<sup>5</sup> It is in this section of the play that the message of the Nine shines through more prevalently. It highlights not just the war in Vietnam but America's involvement around the world and

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<sup>5</sup> Berrigan, *Trial of the Catonsville Nine*, 21- 95.

its neglect of the poor, and proclaimed their Christian values. It was not just an attack on the Vietnam War, but on the ills of American society as the Nine perceived them.

The last two acts of the play were the closing statements and the verdict, and once again mirrored the actual court proceedings. The prosecution closed its case by re-asserting the facts. The prosecutor explained to the jury that all of the defendants admitted to burning the files at Catonsville, and that this case was not about conscience but about fact. In the defense's summation, they argued on moral grounds, urging the jury to use their consciences and cited the case of Peter Zenger. The judge then interrupted the defense attorney and instructed the jury to decide the verdict based on the law and not their conscience. The jury was excused for deliberations, at which time the nine defendants requested and received permission to address the judge. Without interruption, each member stated their case individually, and said that the court distorted and ignored their main arguments because the judge instructed the jury not to decide the case based on their consciences. Daniel Berrigan ended this discussion by thanking the court, and assuring them that the Nine did not agree with the judge. The play, like the real life trial concluded with the conviction of the Nine and a recitation of the *Our Father* by the defendants, judge, and prosecution.<sup>6</sup>

One of the most obvious differences between the play and the actual events was the softening of the role of the prosecution. One of the major characters during the actual trial was Stephen Sachs, lead prosecutorial attorney. Throughout the trial transcripts he consistently attacked the defendants, argued the mere facts of the case and relentlessly objected to anything and everything the defense presented. The use of the word "intent"

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<sup>6</sup> Berrigan, *Trial of the Catonsville Nine*, 99-121.

drew an objection each time from the prosecution. During the defense's case when all Nine defendants had their chance to speak on the stand, the prosecution did not sit back idly. Sachs constantly objected to the relevance of the testimonies, and consistently pushed the judge to force the defendants to discuss the actual events involved in the case. However, in the play, the prosecuting attorney, was never identified by name and generally sat back and allowed the defendants to give their testimonies without interruption. On the rare occasion that this character did object, the objection was ignored and the defendant continued with his or her testimony. There were two main reasons for this; first, Daniel Berrigan viewed Sachs with the utmost contempt and did not want to give him any bigger a role than he had to. In his autobiography Berrigan wrote about Sachs, "the prosecutor... his every move, infused heavily with scorn and ego, tempted us to angry contempt... Sachs, burdened with no discernible conscience, has risen in public service and servitude." Second, and more important, Berrigan did not want the Nine's main message obscured by the prosecution or any other conflicting opinions. As Berrigan had already felt that their message had been blurred and distorted throughout the actual trial, he did not let that happen in his own portrayal.<sup>7</sup>

Another major difference between the play and the actual events of the trial was the lessening of the judge's role. Multiple times throughout the text of the play, Judge Roszel C. Thomsen attempted to interrupt the defendant's long testimonies but much like the prosecutor, the defendants ignored him. For instance, during Philip Berrigan's fictional testimony in the play, he described his experiences in New Orleans and discussed the vast racial issues that the region faced. Judge Thomsen then interrupted him

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<sup>7</sup> Berrigan, *To Dwell in Peace*, 230.

to say, “we are not trying the racial situation in the United States, nor are we trying the high moral character of this witness,” Philip ignored the commands of the judge and continued to discuss race relations without further interruption from either the prosecution or the judge.

The play also highlighted the judge as sympathetic to towards the nine defendants. Just before the verdict was read, the Nine defendants discussed the major issues at hand with the judge and Daniel asked if “reverence for the law does not also require a judge to interpret and adjust the law to the needs of the people here and now?”

The judge responded,

You speak to me as a man and as a judge. As a man, I would be a very funny sort if I were not moved by your views. I agree with you completely, as a person. We can never accomplish what we would like to accomplish, or give a better life to people, if we are going to keep on spending so much money for war.<sup>8</sup>

The judge went on to claim that the basic principles of the law dictate that humans do things in an orderly fashion. The judge’s response showed an individual who agreed with and was sympathetic towards the Nine’s cause, but was restricted from ruling based on his own beliefs by a legal system that dictated the protestor’s guilt. Much like his treatment of the prosecution, Daniel Berrigan wrote the judge to be a weaker character in the play than he had truly been in order to perpetuate Berrigan’s belief that the legal system prohibited them from making their case clear, essentially turning the Nine into martyrs of the court system. The suppression of their arguments and general comments

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<sup>8</sup> Berrigan, *Trial of the Catonsville Nine*, 115.

on the war makes the court seem biased against the Nine. Thus, the Nine could continue to claim how the government is ignoring them.

A reading of the manuscript of the play showed Daniel Berrigan's justification of the draft board raid through use of quotes from major historical and literary figures. Throughout the manuscript, the action of the play is halted and a quotation from a major historical figure appeared, often justifying their action or condemning certain government activities. Some of the people quoted throughout the text of the play were Thomas Jefferson, Franz Kafka, Robert Oppenheimer, Sophocles, and Adolf Hitler. Two quotations of importance were by Jefferson and Hitler. Jefferson's quote referred to civil disobedience, and came directly after a question about Philip Berrigan's experience and participation in social struggles, and an objection by the prosecution. The quote, according to Daniel Berrigan, came from a letter written in 1787 by Jefferson to General William S. Smith. The interjection read, "God forbid we should be twenty years without a rebellion. What country can preserve its liberties if the rulers are not warned from time to time that their people preserve the spirit of resistance?" This quotation from a Founding Father and former president appeared to actually call for civil disobedience in order to keep the government in check. In the belief of the Nine, that was exactly what they were doing.<sup>9</sup>

The second quote appeared after a rare objection by the prosecution. Mische responded to the objection by exclaiming that if the jury did not deal with the "spirit of the law" that there will be no peace or resolutions, only disorder and riots. What followed

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<sup>9</sup> Berrigan, *The Trial of the Catonsville Nine*, 24.



in the manuscript was a quotation from Hitler in which the dictator described his country as being in turmoil. Hitler's statement described how rebelling and rioting students filled Germany, and how the country was under attack from the communists from within and without. The final line of the quotation stated, "without law and order, our nation cannot survive. We shall restore law and order." Berrigan's use of this particular quotation was an attempt to equate the judge, the prosecution, and the entire American government with Hitler and the Nazi regime through their attempt to keep order through the prosecution of the Nine.<sup>10</sup>

*The Trial of the Catonsville Nine* was performed for audiences across the United States. Its first performance was in Los Angeles at the Mark Taper Forum in August 1971. The play was presented in both off-Broadway and Broadway productions, and earned director Gordon Davidson a "Best Director" Tony nomination for the play. Many critics received the play well. Harold Clurman, a drama critic, called it an "absorbing event of sobering impact." One reviewer claimed it had brought them to tears, and another said its criticism of the contemporary social and foreign issues were correct.<sup>11</sup> However, not everyone found received the play well. Kevin Kelly of the *Boston Globe* described the play as an "Artless play of eloquence," calling it a "very simple courtroom drama... but the questions it raises are so profound is often both eloquent and moving." While this is not a directly negative review, it does provide more criticisms of the play many other reviews. A reviewer for the *National Review* called said of the play and the author, "The action and the statement are confused as I have suspected the author is." He

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<sup>10</sup> Berrigan, *Trial of the Catonsville Nine*, 71.

<sup>11</sup> Stacy, 93-94.

argues directly against positive reviews of the play, “I just do not understand, charitably, how Clive Barnes, the *New York Times*’ drama critic could write: ‘Like so many courtroom dramas, it makes a positively riveting play.’”<sup>12</sup>

Gregory Peck produced the film version of *The Trial of the Catonsville Nine*, which Melville Productions released in May 1972, and Gordon Davidson directed the film adaptation as well. The film starred Ed Flanders as Daniel Berrigan, Douglass Watson as Philip Berrigan, and William Schallert as Judge Roszel Thomsen. Unlike the play, the film included a scene of the actual protest at Catonsville in black and white before the movie transferred into color for the trial. The film echoed most of the themes of the play, including a softened and sympathetic judge, who when ignored by the defendants did nothing. The prosecutor rarely objected and when he did, the defendants ignored him. The director intercut their testimonies with clips from the Vietnam War and the Civil Rights movement. The movie adaptation did not enjoy a mainstream distribution, nor was it a box office success. Despite that fact, Jim Stacy argued in, *Theater War and Propaganda: 1930-2005*, that millions still had seen it in many art houses and film festivals over the last thirty years. The movie also echoed the strong antiwar sentiment and deep religious convictions of the Nine. It portrayed both the prosecutor and judge as being more of a hindrance to the defendant’s testimony than actually participating in the trial. Much like the play, the movie was just another vehicle to further the message of the Catonsville Nine.<sup>13</sup>

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<sup>12</sup> Kevin Kelly, “‘Catonsville Nine’ Artless Play of Eloquence,” *Boston Globe*, May 23, 1971.

<sup>13</sup> *The Trial of the Catonsville Nine*, Produced by Gregory Peck, (Melville Productions, 1972); Stacy, 99.

The same year that Peck and Davidson adapted the play into a motion picture, the Nine were symbolically, albeit ambiguously represented in a song by musician Paul Simon. In 1972, he released the song “Me and Julio Down by the Schoolyard.” The song tells the story of two boys in the schoolyard and when the “mama pajama” sees what they had done, she went to the police department because it “was against the law.” The lyrics are ambiguous and have produced many different interpretations. However, one common interpretation was that the song is a metaphor for an antiwar protest. The boys got arrested for participating in protests similar to those on college campuses (the schoolyard) at the time. What lends more credence to this interpretation was the line, “but the press let the story leak, and when the radical priest come to get me released, we’s [sic] all on the cover of *Newsweek*.” Again, it is not certain who is the “radical priest,” but almost all interpretations of the song view it as a reference to either Philip or Daniel Berrigan.<sup>14</sup>

Simon himself has never given any clear indication about the meaning of the song. As speculation grew, he was finally asked in an interview with *Rolling Stone*, “What was it that mama pajama saw?” He responded, “I have no idea. I imagined something sexual, but I never really thought about it. It didn’t make any difference to me.” Simon left the ambiguity and the interpretation up to his listeners. For many it was a song about a war protest involving a Berrigan brother, thus representing Catonsville in a symbolic way. Simon’s intended meaning in the song is irrelevant, as he stated anyway that he left it purposefully ambiguous. For those who believe the Catonsville interpretation of “Me and Julio Down By the Schoolyard,” the song remains part of the

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<sup>14</sup>Paul Simon, “Me and Julio Down by the Schoolyard,” 1972; Other common interpretations include homosexual acts between the two boys or some type of drug use. Also, some think that the “radical priest” could have been the Presbyterian minister William Sloane Coffin. However, this is unlikely since Presbyterian clergy are not referred to as priest.

canonization of the Berrigan's and their protests, and the most visible of those was the action at Catonsville.<sup>15</sup>

Another indirect portrayal of the Catonsville Nine was in January 1971 when both Daniel and Philip appeared on the cover of *Time*. The article, "Rebel Priests: The Curious Case of the Berrigans," only mentioned Catonsville in passing. The crux of the article had to do with an alleged plot to blow up heating systems at five government sites on George Washington's birthday. The following day the Berrigans were allegedly going to kidnap Henry Kissinger, President Richard Nixon's national security advisor, and hold him hostage until Nixon agreed to bring the war in Vietnam to a close. At the time of the accusation and cover story, both brothers were serving their sentences for their participation at Catonsville in the Danbury, Connecticut federal prison. Although the article never stated that the Berrigans were innocent, it implied so by expressing serious doubt in the government's case. The article also claimed that the Berrigan's and their anti-war actions, specifically at Catonsville, had cemented their place in history and labeled them as prophets.<sup>16</sup>

More important than the article itself was the picture of the two priests on the cover of *Time*. The picture was flattering to the two men, portraying them on the front lines of battle. The two men are staggered so that Daniel is in front, and the picture likens the brothers to hardened war veterans. The two had been fighting "the good fight" on the front lines, at home. Daniel, who was a poet, fought the war with his pen and eloquent words. Philip, the larger and brawnier of the two, stands a half head taller than Daniel in

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<sup>15</sup> Jon Landau, "Interview with Paul Simon," *Rolling Stone*, 20 July 1972, 34.

<sup>16</sup> "The Nation: The Berrigan: Conspiracy and Conscience," *Time*, 25 January 1971.

the picture. Both men have a sorrowful but determined look in their eyes. While this picture only represented the two priests, at that point in time they were both in jail and are most well known for their action at Catonsville. The two effectively became representatives of the Nine. Attention to them brought attention to their draft board action in Catonsville.<sup>17</sup>

After the Berrigans appearance on the cover of *Time*, the Nine largely fell out of the public consciousness. *Newsweek* published a poll that showed 62 percent of the American public were unaware of the Berrigans or their actions.<sup>18</sup> Daniel's play was shown less often, and the movie was not very successful. Over time, Paul Simon's song became out-dated, and *Time* and other news outlets covered fewer stories on the Berrigans and their acts of resistance. However, their quick rise to fame had an impact. While it is hard to say how far this reach was, based on the play, which was nominated for "Best Director" and was on Broadway for a brief period, the movie produced by Gregory Peck, an ambiguous Paul Simon song, and gracing the cover of *Time*, it is safe to assume that they were able to further message through various media and to a certain level they graced the public conscience. In the twenty-first century, the American invasion of Iraq brought the memory back for some Americans, and their protest had a small but significant cultural resurgence.

The Catonsville Nine were directly immortalized in folk singer Dar Williams' song, "I Had No Right," which was released in 2000. The song was a representation of the Nine that nobody saw since Berrigan's play. The song was narrated from the point of

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<sup>17</sup> "Radical Priests: The Curious Case of the Berrigans," *Time*, 25 January 1971.

<sup>18</sup> *Those Who Spoke Up*, 235.

view of Daniel Berrigan, and summed up the entire protest, from the burning of files, to the trial, and why the defendants went to Catonsville. In the beginning of the song, the lyrics described, “pulling out the files, and burning them in the parking lot.” Then, the line “Better the files than the bodies of children,” is uttered, which was one of Daniel Berrigan’s favorite lines during the actual trial. The background of a few of the defendants also appears, “Tom in Guatemala, Philip in New Orleans...I went to Vietnam, I went for peace.” The next verse sums up many of the questions and issues brought about in the trial, “first it was a question, then it was a mission, how to be American? How to be a Christian?” This alludes to most of the points brought up by the defendants during the trial, in how they were acting in accordance with Christian and American values. Finally, the chorus of the song boldly proclaimed “I had no right but for the love of you,” which explains the illegality of the action but the author’s view of the justness of it as well. Although the Nine admitted no right to burning the files, they hoped to convey that the protest was born out of love and not violence. However, the line “for the love of you,” attempted to show that it was conducted out of love for all. The song was another avenue, which furthered the message of the Catonsville Nine.<sup>19</sup>

In 2009, Berrigan’s play experienced a revival when The Actors Gang under the direction of Oscar winning actor Tim Robbins performed it. The original director of *The Trial of the Catonsville Nine*, Gordon Davidson, had strong ties to the Actors Gang and convinced them to read it. According to Robbins, the group was so moved by the manuscript that they decided to produce their own interpretation. The play was performed for one month and only in select cities. Despite the fact that the dissemination of the

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<sup>19</sup> Dar Williams, “I Had No Right,” 2000.

play's influence was not extensive it directly critiques the United States government's role in the Vietnam War.<sup>20</sup> While, the play seems like nothing more than a remembrance of anti-war activity in 1960's the people involved with it all related the issues to the Iraq War. In an interview Robbins related the ideas of speaking out and using freedom of speech to the Berrigans, saying that "it is not always easy to speak out against these things, but in a free society it must be done." With that idea Robbins aligned himself with in the tradition of the Berrigans with an opposition to the war in Iraq.<sup>21</sup>

The modern legacy of the Berrigans and the Catonsville Nine has lived on in popular culture. Robin Anderson, a communications professor at Fordham University, wrote in the 2004 introduction to Berrigan's play that "*The Trial of the Catonsville Nine* is part of a culture of resistance and wisdom though rarely openly celebrated." This tends to hold true. Even with the play's original success in 1972, a movie produced by Gregory Peck, the ambiguity of a Paul Simon song, and the cover of *Time*, Catonsville people quickly forgot. All of these portrayals displayed the Nine and specifically the Berrigan brothers in a flattering manner and often distorted the actual events. The portrayals in the early 1970's had a larger influence than those in the twenty-first century. Although the story of the Catonsville Nine has had relatively little influence over the general population since the 1970s artists like Paul Simon, Dar Williams and Tim Robbins have shown the Catonsville legacy still lives on through many anti-war activists in America.

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<sup>20</sup> Democracy Now! "Actor, Director Tim Robbins Takes Up Historic Vietnam War Protest in Production of "The Trial of the Catonsville Nine," 27 August 2009 ([http://www.democracynow.org/2009/8/27/actor\\_director\\_tim\\_robbins\\_takes\\_up](http://www.democracynow.org/2009/8/27/actor_director_tim_robbins_takes_up)).

<sup>21</sup> Democracy Now! "Actor, Director Tim Robbins Takes Up Historic Vietnam War Protest in Production of "The Trial of the Catonsville Nine," 27 August 2009 ([http://www.democracynow.org/2009/8/27/actor\\_director\\_tim\\_robbins\\_takes\\_up](http://www.democracynow.org/2009/8/27/actor_director_tim_robbins_takes_up)).

## **Conclusion**

J. Justin Gaustainis argued that the Catonsville Nine was about propaganda and rhetoric; he is only half correct. The trial, play, and movie were more or less methods of propaganda that no doubt propelled the very specific message that the Nine wanted to convey. To say, however, that it was only about propaganda and rhetoric misses the intention of the action, trial, and the message of the Nine. Their message was central their action; and this message resonated with antiwar protestors and some Catholics. Similar protest actions to the Catonsville Nine took place all across the United States after their action. Thus, before one can truly understand the action and further implications one has to understand the message itself.

The ideological underpinnings of the message stem from the ideas founded in the Catholic Worker. Here, Dorothy Day and Peter Maurin established a new theological view of peace within the Catholic Church. The Catholic Worker developed an idea of total pacifism in which violence or war should never be used for any reason. The Catholic Worker also had a deep commitment to the poor and destitute of the world. Some members of the group even committed their lives to poverty to, in their minds, act as Jesus would. This deep commitment to peace and the poor is seen most clearly when many Catholics refused to serve in the United States military forces during World War II, the Korean War, and the Vietnam War. Most members of the Catonsville Nine aligned themselves either directly with the Catholic Worker or at least the with movement's ideology.



The promoting of the Nine's message began almost immediately. Prior to the protest, the Nine alerted the news media that "a spectacular event" would be taking place, and told them where to be and at what time. Once they finished napalming the draft files, they distributed a prepared statement to the press that expressed their deep sentiments regarding the injustices they felt were taking place in America and around the world. Every newspaper that reported on the demonstration released at least a partial quotation from this statement. However, it was at the trial that the Nine were really able to define, elaborate, and explain their message.

The Nine defendants took a rather unorthodox approach to the trial. They refused to participate in jury selection because they wanted a cross section of Americans to serve. In addition, the Nine admitted at the beginning of the proceedings that they did in fact steal and burn the paper at Catonsville on 17 May 1968. Rather than argue the legality of their actions, however, the defendants sought to appeal to the jury's conscience regarding the anti-war movement. While the government's attorneys brought in evidence including still pictures, film, and witnesses who placed the Nine at the scene of the crime, the defense wanted to explain the motivation behind their actions. Each defendant received a chance to take the stand and explicate why they chose to participate in the anti-war demonstration. Although each defendant had different reasons for participating in the protest, they all had the same abhorrence for the war and wanted to reach the same ends, namely the end of the Vietnam War

One of the questions that scholars attempt to answer when studying protest movements is deciding whether the movement was successful? In the case of the Catonsville Nine that completely depends on how one defines success. If success is

defined by ending the war, then the answer, of course, is no. If success is defined by their ability to end the draft, again, the answer is no. However, the Catonsville Nine did not believe that their homemade napalm would end the Vietnam War. Instead they aimed to, and succeeded, in galvanizing the antiwar movement. The protests in support of the Nine at the trial were some of the largest demonstrations that the city of Baltimore had ever seen. They encouraged other groups after them to take the same action they did. Soon after the Catonsville Nine, the Milwaukee Fourteen followed. Other groups began to follow in the same fashion; the D.C. Nine, the Chicago Fifteen, the Camden Twenty-Eight, and others. By the end of the draft board raids, nearly 200 people had participated in these protests, the vast majority of whom were Catholics. Each of these cases would make excellent future case studies for future inquiry into looking at the idea of Catholics in opposition to the Vietnam War. There is no doubt that Catonsville was the guidebook for these later actions. So, in the sense that they were able to garner support and encourage others to protest the war, they succeeded. The trial was essentially a public forum in which they were able to speak their mind and push forward their message as far as possible. After their sentencing, the play and movie helped push forward that message, and both the play and movie have survived through to today.

There is no doubt that the Catonsville action was successful in the sense that it was able to push forward its message, expose the weaknesses of American policies domestically and in international affairs. And the message and pushing the ideas of it forward is what was most important for the Catonsville Nine.

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