The Story of the Trial of the St. Patrick’s Four: Jury Votes 9-3 to Acquit Peace Activists Despite Admission They Poured Blood in Military Recruiting Center

by Bill Quigley¹ last revised 6-18-04

“Have you heard about the St. Patrick’s Four? Of course not. They aren’t going to tell you about the St. Patrick’s Four. The St. Patrick’s Four were four people from the Catholic peace movement who, on St. Patrick’s Day last year, poured their blood around at a military recruiting station in Ithaca, New York, and they were put on trial. And the jury refused to convict. It was a hung jury. So I’m hopeful about the future of this country based on the idea that people have a certain common decency and that when they learn the truth, the truth has a power that can overcome even the most sophisticated of propaganda machines that they government has and the media collaborate with.”
Howard Zinn, May 8, 2004²

On March 17, 2003, two days before the invasion of Iraq, four members of the Catholic Worker community in Ithaca, New York walked into the waiting room of the local Army-Marine recruiting center in Lansing, New York.³ They then poured their own blood on the walls, the windows, the posters, cardboard mannequins of soldiers, the door and the American flag. They brought pictures of Iraqi mothers and children into the recruiting center along with a letter from American peace activists in Baghdad who called on peace activists in the US to nonviolently resist the promise of shock and awe. They read a statement, then knelt in prayer and awaited the authorities.⁴

The four, Daniel Burns, 43, Clare Grady, 45, Teresa Grady 38, and Peter DeMott, 57, were each arrested and charged with felony criminal damage to property, criminal mischief in the third degree. The statute reads:

“A person is guilty of criminal mischief in the third degree when, with intent to damage property of another person, and having no right to do so nor any reasonable ground to believe that he has such a right, he damages property of another person in an amount exceeding two hundred fifty dollars.”⁵

Because of the date of their actions, they became known as the “St. Patrick’s Four.” The four decided to represent themselves at their upcoming jury trial with assistance of advisory counsel.⁶

From the very beginning, the four insisted that their action was taken to try to prevent the loss of life to people in Iraq and to prevent damage and death to the young women and men in the US military. Clare Grady had visited Iraq a few years before with a delegation from Voices in the Wilderness and had met with mothers and children.⁷ She brought pictures of several mothers and children into the recruiting center with her. Another of the four, Peter DeMott, had served in both the Army and the Marines during the Vietnam war and knew first hand the destructive power of war on the people who are its targets and the soldiers who are forced to
They always admitted that they poured their blood to try to stop the invasion of Iraq.

They met dozens of times to plan out a coordinated way to educate the jury about what they were doing and to use the trial as an opportunity to organize around peace in the community. For months they prepared for their trial with one non-lawyer family member doing most of the legal research and memo writing. Most of their trial preparation was without any of the lawyers around, which freed them from structured lawyer-client relationships and allowed unlimited room for creativity and freedom but also forced them and their non-lawyer guide to research huge amounts of law and criminal procedure. Additionally, the four decided to make all trial decisions by consensus, which took a lot of time and patient help from families and volunteer facilitators.

The pressure of a possible felony conviction and up to four years in prison was felt and there were plenty of disagreements about how to proceed. But there was generous family and community support. Together they planned a trial strategy. Jury selection, opening and closing statements, who would examine which prosecution witnesses, what questions would be asked, what documents would they try to get before the jury - all the while trying to keep the concerns of the people of Iraq as the centerpiece of the trial.

In the end, they chose to pursue four complementary trial strategies together and to try, as best they could, to put the legality of the war in Iraq on trial.

They started with a careful reading of the elements of the statute they were charged with violating. The New York criminal mischief statute requires proof of damage to property, and clearly they damaged property. But the statute also required proof that they “had no right to do so nor any reasonable ground to believe” that they had a right to do so. That was an area to explore. As was the amount of damage, which the statute required to exceed $250.

Their first defense was that their actions were absolutely legal under international law because they were trying to stop an illegal war. Because the United Nations had not approved the invasion of Iraq, the invasion was a series of serious illegal acts that constitute war crimes. Therefore, they had a right under the Nuremberg principles to try to stop war crimes. They hoped to put on evidence about the illegality of the war and the Nuremberg principles.

Their second defense was that even if their actions were technical violations of law, they were authorized by the law of necessity which allows the breaking of minor laws in order to prevent more serious harm. With this element they planned to put on evidence of the widespread devastation caused by the invasion of Iraq in order to compare it to the damage to the recruiting center. The essence of the necessity defense is that your act was something which would otherwise be breaking the law but is not breaking the law when it is done to prevent a greater harm - like breaking into a stranger’s home in an emergency like a fire if you are trying to rescue a child.

Their third defense was that, even if they did not have a legal right to damage the
property, the statute allowed them to testify as to their defense as to why they thought they had a
reasonable ground to believe that they could take the action they did.\textsuperscript{12} Here they hoped to put
on proof of the history of civil disobedience in bringing about justice.\textsuperscript{13}

Their fourth defense was their only technical one: that the damage caused by pouring of
their blood was less than two hundred fifty dollars. Defendants were given several different bills
in pre-trial discovery, and also found out that while it took two people paid less than $10 an hour
fourteen hours to clean up the blood, the cleaning contractor charged $45 an hour for their work.
After much discussion, the defendants decided to pursue this defense, even though it was
unrelated to the war itself, for two reasons. It showed the exaggerations of the government and it
could give the jury a way to find in their favor if they wanted to choose a less political ground.
Here they would rely on cross-examination of the government’s evidence.

Early on, they refused an offer of the District Attorney’s Office to plead guilty to a
misdemeanor. The refused because they did not feel they were guilty. Because they were
charged with a felony, a jury trial was scheduled.

One of the most important strategies around the trial, however, was not about the legal
process. It was a local and regional effort to gather the peace community to support and to use
the trial as an organizing opportunity. There were speaking engagements, email newsletters,
 fundraisers, potluck dinners, and teach-ins. Family, friends, and supporters planned daily shifts
of courtroom observers and trial lunch gatherings at the nearby Unitarian church. Each night of
the trial had prayer vigils, dinners and music and educational programs scheduled. Part of the
fund-raising was to help pay for the travel costs of experts who were planning to come to testify
for the defense.

Prior to the trial, the court heard about the potential experts and asked the peace
protestors to disclose any experts that they intended to call so there could be a pre-trial
determination of whether they would be allowed to testify. The defendants, who were
committing serious time and money arranging for experts to come in and testify, decided to
comply with this request in order to preserve their resources for the experts who would be
allowed to testify at trial.

The defendants advised the court that they intended to utilize international law, the
Nuremberg defense, and the doctrine of necessity in their defense. They notified the court that
they had contacted and were prepared to call the following experts: former U.S. Attorney
General Ramsey Clark to testify that the invasion of Iraq violated international law and the
Nuremberg principles; Professor Howard Zinn to testify on the history and effect of civil
disobedience; Catholic Bishop Thomas Gumbleton to testify on the religious basis for non-
violent civil disobedience in response to war and the scriptural and spiritual basis for
peacemaking; and Cathy Breen, a member of the New York Catholic Worker community who
stayed in Baghdad throughout the invasion to testify about the devastation caused by the
bombing.

The prosecutor opposed allowing any of these experts to testify and opposed the use of
international law, the Nuremberg principles, and the law of necessity as defenses at all.\textsuperscript{14}
The trial court made a pre-trial ruling two weeks before the trial agreeing with the prosecution that the actions of the four were not legally justified under international law, the Nuremberg principles, or necessity. The court also ruled that because these defenses were not available, the proposed experts would not be allowed to testify.

This was a devastating blow to the defense. All their work in contacting the experts and arranging for their transportation to Ithaca was now useless. The impact of the experts on their trial and on the larger community was lost.

However, in a part of the ruling that was mostly overshadowed at the time by the exclusion of the experts, the court also ruled that the statute allowed the defendants to explain why they thought they had “reasonable grounds” to believe that their actions were justified. Therefore, the defendants could themselves testify about their beliefs and what caused them to believe their actions were legal, even though the judge had already decided that as a matter of law they were not.

Trial preparation changed abruptly. With no experts to explain international law, the Nuremberg principles, or the necessity defense, the defense was going to be much shorter. Responsibility for explaining these defenses would have to be incorporated into their individual testimonies in a coordinated and non-repetitive way.

The defendants then turned to the process of jury selection. They solicited ideas about questions for the jury panel from counsel and developed their own. They watched “Runaway Jury” together and decided to try to get as much information as possible about the potential jurors as they could. They got a copy of the jury pool and asked members of the community to “google” each juror and to research voting and property records to see what information could be turned up.

Opening statements, direct testimonies, and cross examination questions were drafted and tried out on mock audiences and advisory counsel.

As the morning of trial dawned, reporters on the local paper created a pool on how long it would take the jury to convict - the longest bet was a couple of hours.

The trial was held in a big, white, high-ceilinged, congregational style courtroom with wooden pews for the spectators. The judge sat on a massive raised platform with white columns on the wall behind him, arching into IN GOD WE TRUST in large gold letters.

The judge called in the jury pool and gave them basic instructions, telling them that the trial may last as long as a week. From a pool of about 160 jurors, the judge sat groups of 18 for voir dire. As the 18 sat, the judge elicited basic information from them about age, occupation, connection to local law enforcement. The rest of the pool was in the courtroom listening. Each side was given half an hour per panel. The prosecutor introduced herself, asked the standard questions, engaged the jury, made them promise to follow the law, and sat.

The St. Patrick’s Four conducted their own jury selection from a table where supporters
had placed three daffodils in a small glass vase. They started out by telling the jury exactly what they had done. Clare Grady rose first to speak to the jury. She introduced herself and the other defendants and thanked the jury for their time. Clare then told the jury how the defendants had gone to the recruiting center and poured their blood on the walls, the recruiting posters, the windows and the flag. Clare told the jury that she and the others took their actions to try to stop the war in Iraq. The prosecutor objected vigorously and the judge ordered Clare Grady to ask questions rather than make statements. She did. Did anyone believe it was wrong to protest the war in Iraq? Did people think the President could make a mistake? Did anyone object to non-violent disobedience? Did anyone feel the war in Iraq was wrong? Did people know how many people died in Iraq? Did anyone know how many Iraqi people died in the invasion? Over the prosecutor’s objections, the questioning continued. Did anyone think the war in Iraq was right? Did anyone have family members serving in Iraq? Were people familiar with the Boston Tea Party? Did Iraq have anything to do with 9-11? Could the jurors keep an open mind about whether the four should be convicted until after all the evidence was in, or had people already decided? Some jurors were puzzled - saying “didn’t you just admit you were guilty?” “No, we admitted that we took the action, but we are not guilty because it was authorized under international law and necessity.” Could you still start with a presumption of innocence in a case like this? Can you accept that pouring blood on the flag is no different legally than pouring blood on any other piece of cloth, or does the damage to the flag make it impossible for you to follow the presumption of innocence? Are any of you so upset by the facts in this case that you cannot put your feelings aside?

Several of the potential jurors were becoming agitated, raising their hands indicating they were upset with this line of questioning. Others expressed strong reservations about the war in Iraq and serious criticism of the President. A few had strong personal connections with people in military service and could not be open about criticism of the war in Iraq. Others volunteered that they could not sit for an entire week of this. Other potential jurors seated in the courtroom also indicated restlessness and unease at these questions.

Daniel Burns told the jury that what the defendants wanted from the jurors was justice and for them to use the conscience of the community. “The prosecutor asked you to promise to follow the law. We ask you, will you promise us to do justice in this matter?” The jurors agreed.

The defense questioning ended with Peter DeMott rising and introducing himself to the potential jurors and asking them a single question. “Would the fact that I served for years in the Army and Marines during the Vietnam War preclude you from giving me a fair trial?” No one objected.

Out of the first panel, only two jurors survived the cause and peremptory challenges. Several were excluded because of time problems. Others because they were so strongly for or against the war that it was not clear that they could be fair in the case.

The next panel was more animated because they had already sat through the questioning of the first group. The prosecutor now added more questions about the war in Iraq, particularly for those who opposed the war. A couple of jurors admitted that they felt so strongly negative
about the war that they could never convict anyone who protested it unless someone was injured. Some even said the war itself was a crime. Defendants now became more expressive about their actions, about the war, and in their questions. Was it against the law to free slaves? What were the obligations of citizens in Germany when their country was committing war crimes? Were Iraqi lives as important as American lives? What about the obligation to dissent? They also tried to rehabilitate those potential jurors who were opposed to the war, pleading with them to agree to be open and to be fair to the prosecution. Others jurors openly expressed negative feelings about desecration of the flag, about spending time listening to people discuss their opposition to the war in Iraq, and that they were offended by the actions of the protestors.

Out of this panel, seven were chosen. At a break, supporters of the defendants in the courtroom expressed serious reservations about the strong questioning of the jury pool, saying that potential jurors sitting out in the audience were getting mad.

By this time it was late afternoon. As another panel of eighteen was seated, the judge asked each juror one by one if they could be fair given all that they had heard. Potential jurors who had been sitting in court all day immediately volunteered to the judge that they could not be fair, even before the prosecution or defense questioned them. Many were openly angry. It was like popcorn finally reaching full heat. Juror after juror said they could not be fair and left and the judge immediately replaced them in the panel. One angry person in the panel was replaced by another angry person, who was also replaced. Seven were replaced even before questioning by either side began.

The questioning by prosecution and defense continued and people were very expressive. By 6 pm a full jury and alternates had been seated and the trial was recessed. Several jurors were clearly not supportive of the defendants, but a few others seemed very opposed to the war and open to considering the reasonableness of non-violent civil disobedience.

Over sixty people had been questioned about the war in Iraq and their ability to sit on a jury to determine the legality of a nonviolent protest. For dozens of citizens of Tomkins County, New York, the civic obligation of jury duty had also been transformed into a focus group on the war in Iraq. What became absolutely clear is that there are very few people who do not have very strong feelings about the war in Iraq. People were passionate about the war, for or against. Some jurors said the war was a horrible mistake and they could never convict anyone of doing anything to oppose it. Other jurors were visibly angry saying that even though they thought the invasion may have been a mistake, this was no time to criticize the war while troops were on the ground - prompting other potential jurors to break out in applause. Stereotypes were shattered as VFW members scoffed at the judgment of the president and business lobbyists said they were passionately against the war. Supporters and opponents of the war did not fall into neat categories. First impressions of jurors, based on their occupations, voter registration, age, and gender proved absolutely wrong again and again when they had a chance to answer questions. Now a jury was seated, the next day was trial.

For the defendants, it was an exhausting day, but one in which some of the questions about the war were raised - hopefully raising some justice issues about the people of Iraq. After the long day, there was yet another meeting of the defendants and counsel - many hopes and
some tears - ending with holding hands and prayers for the people of Iraq.

Meanwhile supporters were preparing open lunches in a nearby Unitarian church and dinners and music for dozens each evening - great opportunities for sharing information about the trial and building community. Trial strategy meetings were often held on folding tables with crawling babies while eating everything from Moosewood restaurant spinach quiche and goat curry to peanut butter and jelly sandwiches.

The trial began with an opening statement by the prosecutor that was only a few minutes long. It was a simple case. Defendants damaged property that was not theirs and they had no reasonable grounds to do so. If the jurors listened to the facts and followed the law given by the judge, the case was simple.

Peter DeMott gave the first opening for the defendants. He introduced himself as a father, a local contractor, a man of strong faith, and a former member of the Marines and Army who served in Vietnam. He started to tell the jury about his understanding of the Nuremberg Principles when he was interrupted by objection by the prosecution. The judge instructed the jury that Peter was not the source of law in the case, the judge was, but that he assumed Peter was going to testify about his intent and the reasonableness of his actions. Then he let Peter continue explaining his understanding of the Nuremberg principles. Peter concluded by advising the jury that he did pour blood in the recruiting center in order to try to stop the imminent war in Iraq, but he did not think what he did was illegal. It was action taken to try to save lives - the lives of sisters and brothers in Iraq and the lives of US military people. He had been with people in war, he explained, and he knew the toll that war takes, even on the survivors.

The other defendants followed and each told the jury their own story of how they arrived at a place in their life where they felt compelled to pour blood to try to stop a war. Teresa Grady told about growing up in a household of resistance where her father had destroyed draft cards in Camden and his jury acquitted him anyway, her trip to Nicaragua and the successes of numerous campaigns of civil resistance from anti-apartheid, to Vieques, to civil rights, to the right of women to vote. Danny Burns told the jury that the American flag already had blood on it, the blood of native Americans and slaves and immigrants and civilians in Hiroshima and Vietnamese burning children. And he told about his family and humbly asked the jury to listen to the defendants tell their story about international law and justification. Clare Grady told them about her trip to Iraq in the 1990s and her bonds with the women and children she met there - people whose pictures she brought into the recruiting center - people whose lives she hoped to put before the jury as they weighed the legality of their protest. Clare also explained why they chose to pour their own blood - a powerful symbol of life and death, a symbol used by many world religions to convey their deepest held beliefs.

The prosecutor then started. As she did, the defendants stood and offered to stipulate to the facts of the case - but the prosecutor insisted on calling witnesses and the judge allowed her to do so. Though the defendants admitted they damaged the property, witnesses from the recruiting center were brought in to prove it. Two soldiers from the recruiting center told about the blood being poured all over, including the flag. When the prosecutor asked each of their
witnesses if a defendant was in the courtroom - the defendant stood up to make the identification easier. The prosecutor showed the jury big pictures of bloody walls and windows and the bloody American flag.

The defendants only asked the soldiers whether potential recruits were advised about the dangers of depleted uranium to soldiers\(^\text{15}\) or the spiritual or psychological consequences of warfare,\(^\text{16}\) or whether they knew that over forty percent of those who served in the first gulf war are now on disability.\(^\text{17}\) The soldiers said that they did not know about these things and did not advise anyone about them.

The arresting officer told of the arrest - and the only response of the defendants was to thank him for the respectful treatment he gave them during the arrest.

The only contested prosecution witness was the person who submitted a bill for cleaning. He was cross examined about the different bills submitted at different times and the fact that though he only paid the two people who cleaned up $7 to $10 an hour for a total of 14 hours of work, he charged the government $45 an hour and a couple of hundred extra for his time and for supplies, thus calling into question whether the damage was over $250 or not - a key element for the felony charge. The prosecution’s final witness testified he donated a new American flag to the recruiting center and the blood spattered flag was lifted up to show the jury. The prosecution rested.

As the trial went on, a routine developed among the defendants. At the close of each day of trial, the defendants met to coordinate their strategies and to make mid-trial corrections. Many in the community had a stomach flu and as all were so often together shared it as generously as everything else. Sleep was hard to come by. Family and supporters in the courtroom had different perspectives on what had happened and what should happen. There were hopes and laughter and tears but always reconciliation, ending with hands held and singing. And as court started each morning, hands were held in court hallways and there were soft songs and prayers.

All the while the trial was going on, the courtroom was full of children and teenagers and cousins and supporters from near and far. Many arriving early and staying late, others popping in between family and work obligations. Patiently sitting and standing in solidarity.

Now it was time for the defense. The jury never knew that the defendants had tried to get additional testimony about Iraq and international law and civil disobedience into evidence. Now, the judge dismissed the jury and again outside of their presence went over all the other witnesses and exhibits proposed to be included in the defendants case to which the prosecutor had lodged objections. Cathy Breen of New York Catholic Worker and Voices in the Wilderness to testify about what it was like in Baghdad before and during the bombardment? Not allowed. Fr. Ned Murphy, SJ, about the defendants’ reputation and the role of blood in scriptures? Denied. Damacio Lopez to speak about the effects of depleted uranium in Iraq and in New Mexico? Denied. Pre-invasion reports by Scott Ritter testifying that Iraq did not have weapons of mass destruction? Denied. Pictures of people in Iraq? Denied. Newspaper articles from around the world about the illegality of an invasion of Iraq under international law?
Denied. A copy of the Nuremberg Principles? Denied. The only evidence the judge was letting in was the testimony of the defendants themselves about what they did, why they did it, and how they thought they were justified in doing so. The jury got to see none of this evidence, nor knew that it was excluded.

In the end, it was up the St. Patrick’s Four, and them alone, to tell the jury and the larger community why they poured their blood and why they thought it was moral and legal.

Peter DeMott testified as a father, a husband, the oldest of nine children and as a Marine and Army Veteran, who served in the war against Vietnam. He stated it was his duty as a Christian and under International Law and the Nuremberg Principles to take non-violent action to stop an illegal and immoral war undertaken by his country. He spoke of his sincere concern for his family and for the Iraqi people suffering under the U.S. sanctions, invasion and occupation. He also spoke of great concern about the U.S. service people who are suffering in Iraq and elsewhere from the ravages of war, and especially about the toxic effects of depleted uranium (DU) on the troops in Iraq and the Iraqi people. Peter also spoke of the contamination of the air, soil and water for millions of years as a result of the U.S. dropping tons of DU in Iraq in the current war and the first Gulf War. He respected the soldiers but he feared for them. At the end, when asked about the command to "Love Your Enemies", he responded by saying he had no enemies. The prosecutor asked him about prior convictions and he testified he had been arrested over 25 times protesting at the White House, the Pentagon, the Department of Energy, the Air and Space Museum and numerous army and navy installations and had spent time in prison for his nonviolent protests.

Teresa Grady testified about being raised to embrace all of God's children and to greatly appreciate the diversity of people while growing up in New York City. She said her religious convictions were a strong motivation for her to take her action. She spoke of her father's acquittal in the Camden 28 trial, in which he and 27 others were involved in destroying the draft files of men about to be drafted for the Vietnam War. Teresa spoke as the parent of a teenage boy and how important it is to educate young people about the real impact of signing up for the military, the reality that the recruiters gloss over. She pointed to the numbers of people killed in Iraq during the time of the trial alone, and how that pointed to the desperate need for the prevention of this war. She testified about numerous instances where nonviolent resistance to unjust laws ultimately helped make justice possible.

Daniel Burns testified that as a parent of a small child, he felt that the loss of a single child would be too great for anyone to bear, and that he was thinking very much of that when he took his action. As the tenth of twelve children, he thought of the parents of soldiers and Iraqi citizens and how horrible it was for any of them to lose their children to war. The prosecutor said to Danny, "Why didn't you just bring your own flag to the recruitment station and pour your blood on it outside? That would have been fine." He stated that Rosa Parks didn't just stand outside the bus and hold a sign. She went inside the bus and took more serious action and the world was better for her action. Danny said he felt there was an emergency about to occur in Iraq and that our country is essentially "on fire", with the emergency continuing in Iraq and the tragedy continuing here as well in the form of U.S. military people still coming home dead, wounded and scarred. He felt his action was taken as an emergency measure, in conjunction with
many others around the world who were also saying “NO” to this war. He talked about seeing articles in the paper challenging the proposed invasion as a violation of international law and statements by hundreds of law professors who said war was illegal.

Clare Grady told of her eyewitness knowledge of the suffering in Iraq at the hands of the U.S. sanctions when she visited there with a Voices in the Wilderness Delegation in 1999. She told how she visited with Iraqi mothers and despite their language barriers they together shared the joy of their children, kissing each other’s photographs of their children. Clare spoke of her strong religious belief that there is never justification for killing. Clare said that she was raised to oppose injustice, to oppose racism, war making and the injustices of poverty. She remembered how her father cried when Martin Luther King was killed and how the family helped her father as run as a peace candidate for congress. She spoke of her work as kitchen coordinator for 15 years in the community kitchen in Ithaca, serving free meals 5 times per week. She then recounted how she went to the recruiting center and carefully poured the blood and knelt and prayed and waited for the authorities.

In the fourth day of the trial, after Clare finished, all the defendants rose and said together “the defense rests.” The jury was dismissed for the Easter weekend.

The judge then discussed proposed jury instructions - ultimately rejecting most of the ones suggested by the defendants on international law, necessity, and Nuremberg principles - instead keeping most of the standard jury instructions for a criminal damage case.

Over the Easter weekend, while the defendants worked on their closing statements to the jury there was a shock - Peter DeMott had been hospitalized with a brain hemorrhage. While he was in intensive care, the community and the families rallied to support his family and the rest of the defendants. The doctors would not allow him to leave the hospital. Would the trial continue or would there be a mistrial? Peter wanted the trial to continue for the sake of all involved, especially the jurors who had already given up four days. Defendants and dozens in the community decided to go forward with a huge Easter gathering with a pitch-in dinner and music and festivities.

On Monday the judge agreed to allow the trial to go forward as Peter had requested and allowed Peter’s advisory counsel to read a brief closing statement from him to the jury.

In her closing argument, the prosecutor dismissed the argument that defendants had articulated a reasonable belief that they were entitled to damage property. This defense to the damage of property was used, she said, when you thought the tree you cut down was yours because it was on your property, but it was actually on your neighbor’s property. This case was not about Iraq, she said, but about simple respect for other people’s property.

Teresa Grady closed with a reading of “We are Catholic Workers and We Are Still Pacifists” repeating that no matter what, they and others were committed to love as a solution rather than violence. Clare Grady thanked the jury for their time and reminded them that while everyone in the trial had the weekend to catch up and take a breath, the people of Iraq were dying by the dozens as were many US soldiers. Clare finished with a quote from GK Chesterton
about the importance and wisdom of juries:

“Our civilization has decided, and very justly decided, that determining the guilt or innocence of men is a thing too important to be trusted to trained men. It wishes for light upon that awful matter, it asks men who know no more law than I know, but who can feel the things that I felt in the jury box. When it wants a library catalogued, or the solar system discovered, or any trifle of that kind, it uses up its specialists. But when it wishes anything done which is really serious, it collects twelve of the ordinary men standing round.”

Daniel Burns gave a brief summation of the case and asked the jury to look at their action not in the narrow legalistic context that the prosecutor wanted, but in the context of the war in Iraq, in the context of history of nonviolent civil resistance, and in the context of justice. Danny said Iraq is the building and the building is on fire, though they were not able to stop the fire of war, they should not be penalized for trying. He reminded the jurors of their promise to give justice and asked them to send the world a message of justice and peace by deciding justly.

The prosecutor then repeated that this was a simple case with a simple outcome - conviction of people who, though idealistic, were wrong and engaged in illegal acts that if approved would lead to anarchy. She also said that even if Iraq was a burning building, it was millions of miles away and there was nothing that anyone could reasonably do about it - thus the defendants should be convicted.

The judge then gave the jury his instructions and their deliberations started at 11:30 on Monday morning. One of the court personnel was overheard saying in disgust “These people are making a mockery of this whole process!”

While at a community lunch in the nearby church, one person from upstate New York told how she and others had gone over a fence around a national guard installation to protest the first gulf war, had gone to trial and poured their hearts out for a day and a half - and their jury was out seven minutes before convicting them! Not a welcome thought.

As the afternoon inched forward, supporters were heard saying “every hour is a victory.” The reporters were surprised that the jury was still out in late afternoon - the newspaper reporters’ pool for how long the jury would be out topped out at a couple of hours!

At 5:45 all were summoned back into court. As the jury filed in, the judge said the jury had requested that the cross-examination testimony of the defendants read back to them. No defendant took this as a good sign. In the cross, the prosecutor focused only on having each defendant admit again that they did not own the property, that they had poured blood on the property, and waited to be arrested. Hopes sagged. The testimony was re-read to them. After that the judge ordered them dinner and sent them back to deliberate.

At 8 at night all were summoned back into the courtroom. People thought the jury had decided, but it turned out that the light in the jury room had gone out and the judge was going to dismiss them for the night.

The next day the jury was out all morning and the judge ordered them lunch. The print
reporter admitted that no one in their pool even bet that the jury would be out overnight. The TV reporter said her managers wanted to know what was going on? Hadn’t the defendants admitted that they did it? What was taking so long?

Courtroom officers admitted they were surprised by how long the jury was taking. Another courtroom official was exasperated and said “This is ridiculous!”

At 2:30 the judge asked everyone to come back to the courtroom. The jury said they were unable to reach a unanimous verdict as required by New York law. They did not foresee any changes and asked to be let go. Defendants agreed with the jury request. But the prosecutor asked that they be given further an “Allen charge” by the court to re-evaluate the evidence and their positions and the court did so. Once the jury was told this and sent back to deliberate, the judge said, outside the hearing of the jury, that he would reconsider their request to be let go at 5 o’clock.

The next few hours went by extremely slowly. At 5 the jury had another question and the judge answered it and sent them back to deliberate and ordered dinner.

At 8:50, after 20 hours of deliberation, the jury again said it was deadlocked and the judge agreed to dismiss them and declare a mistrial. As the jury advised the judge that they were unable to reach a verdict, the packed courtroom gave them a tremendous ovation and repeated it as they filed out. The defendants indicated that they intended to file a motion to dismiss the case in the interests of justice and the judge gave them time to do so.

The DA was stunned, the media were stunned, the community was elated. But the greatest news of all? Within 24 hours, it was reported that the jury was deadlocked 9 to 3 in favor of acquittal of the defendants.

The prosecutor said publicly that he would try the protestors again.

As this article was going to press, the district attorney reversed himself and agreed to dismiss the charges telling the court that he did not think a re-trial would have a different outcome. But he also said that the local US attorney had agreed to bring federal charges against the St. Patrick’s Four. At press time, no charges had been filed.

In reaction to the decision to drop the state charges and institute a federal prosecution, Daniel Burns focused on the positive saying “The fact that the DA admits that local people will not convict their fellow citizens for taking direct nonviolent action against the war is a victory for all who struggle for peace and justice.”

The peace activists were not deterred by the possibility of federal prosecution.

“If there is a trial in federal court,” said Peter DeMott, “we will explain to a second jury why we had a right and obligation to take nonviolent direct action against the war.” The rest of the four agreed.
Clare Grady was steadfast, “We are willing to testify at any place and at any time to what we know and what we’ve done.” Teresa Grady affirmed that “Whether or not there is a trial in federal court, we will continue to hold our government accountable for crimes against the peace and against the people of Iraq.”

This started as a trial of brave and conscientious protestors. But it was clear that somewhere along the way the trial changed.

It ended up that the war in Iraq itself had gone on trial. It was a victory and provided yet another opportunity to lift up the concerns of the people in Iraq and work to try to stop the violence.

This is a story of a jury who really answered the plea to not be bound by the narrowness of the law. Some would say it is jury nullification. I say it is justice. One of Martin Luther Kings’ favorite quotes was from the abolitionist preacher Theodore Parker, and I think it applies here:

“The arc of the moral universe is long, but it bends towards justice.”

This article ends with the closing argument of Danny Burns. Then I invite the reader to decide how together we can together work to stop the continued killing and bend towards justice. The jury did their part. What is ours?

Closing Argument of Daniel Burns to the Jury

First I want to thank you for giving up a week of your time to hear this case. We are not lawyers and we appreciate your patience with us and we appreciate your attention. We also thank the judge and the courtroom people, thank you. I also thank the prosecutor. We think she is, as she joked, a talented prosecutor arguing a weak case.

I would now like to remind you of the promise you made to us in jury selection. You promised to do justice in this case. For hundreds of years, our system has relied on the wisdom and courage of jurors to do justice. I know you will keep your promise to do justice now that the case is finally in your hands.

The prosecutor wants you to look at this case very narrowly and will tell you that you have no choice to convict us. But that is clearly not the case. The judge will tell you to use your common sense and to search for the just meaning of the words "reasonable." The jury's role is to apply the law to the facts and to produce justice. We know you will not look at this so narrowly and we know you will never forget justice.

The prosecutor has charged with the crime of criminal mischief. The judge will tell you that this law requires 3 elements:
- We intended to damage the property of another;
- We had no right, nor any reasonable ground to believe we had a right to do so;
The damage exceeded $250.

Again, the prosecutor wants you to look at this very narrowly and technically - We want you to use your common sense and look at these elements in the context of the real world.

What is the context for our action?

The immediate context for the justice of our action is the Pre-emptive Invasion of the War of Iraq. An invasion opposed by the United Nations, opposed by most nations in this world, and founded on lies about weapons of mass destruction, and an invasion that has cost a billion dollars a day, hundreds of American sons and daughters, and thousands of our Iraqi sisters and brothers.

Also we ask you to look at the justice of our action in light of the context of international law. Why was the invasion opposed by the UN and many of our allies? Because International law only allows an attack on another country in self defense or with approval of the UN security council - and we had neither. And The Nuremberg principles provide a legal defense for people seeking to prevent war crimes.

We also ask you to look at the justice of our action in a religious context. Think of thou shall not kill. Love your enemies. And Jesus in the temple - where he disturbed the peace and broke the law to protest the injustices of the temple.

The historical context is also important to judge the justice of our action. Remember the Boston Tea party, Rosa Parks, Martin Luther King, Gandhi, Susan B. Anthony, and Sojourner Truth.

The prosecution will tell you to forget all that but we say justice demands that you use common sense and context.

So, in these contexts, how do we think justice applies to the elements of this charge?

The first element, damage to property. We ask you to balance the mess we made with the horrors we were trying to prevent. We think if you do that you will find justice.

The second element is "the right to do so, or reasonable ground to believe we had such a right" - we have tried to explain our religious, historical, moral, and international law reasons. We believe what most other people in the world believe - that no country has the right to invade and bomb another country except in self-defense. We think history will judge that this was an illegal and immoral war. That is what we tried to stop. Even though we are not lawyers, I hope we were able to explain our reasons to you so that you might apply justice.

The third element is damage of over $250. We hurt no person. We admitted from the beginning that we poured our blood, prayed and stayed to take responsibility for our actions - because what we did was right. The prosecution has not given you proof beyond a reasonable doubt that you can put any cost on the mess we created. The cleaner admitted on the stand that he gave one bill under oath to the grand jury and a completely different one under oath here in this court - that alone is enough to create reasonable doubt about the proof of damages. The
cleaner also testified that he did no cleaning himself. 2 people did most of a day's work and he paid them $7 to $10 dollars an hour. 14 hours at $10 an hour is far, far less than $250. And we all know the cost of ammonia. He wanted to be paid $45 an hour and who blames him, but use your common sense, and consider what the real cost is. The prosecution has not proved this element beyond a reasonable doubt.

No jury would convict 4 people of breaking and entering if they broke into a burning house to try to save a child. Here, the building was on fire - as Iraq is now, and we broke in to try to save our troops and the innocent Iraqis. We did not save them, but justice says we should not be punished for trying.

So, we end where we started. We ask for justice.

We ask for justice for the people of Iraq and our troops, We ask for justice for world peace. We ask for justice to say no to pre-emptive illegal war.

Send a message to the world from Tomkins county, New York -
we say yes to conscience,
we say yes to love of neighbor,
we say yes to international law,
say yes to justice.
Thank you and god bless.

END

1. Bill Quigley is a law professor at Loyola University School of Law in New Orleans and acted as one of the advisory counsel in the criminal trial of the peace activists. Unless otherwise noted, the descriptions of this trial are based on his own personal observation. He can be reached at quigley@loyno.edu or 504-861-5591. The author thanks the St. Patrick’s Four for their courage, hard work, and inspiration. All appreciate the consistently helpful efforts of advisory counsel Joni Brandon and Kristine Shaw of Ithaca. Thanks to Tomkins County Judge John Sherman for trying to be fair to all parties. Special thanks to Jessica Stewart who, though she has not yet gone to law school, provided creative and dedicated legal advocacy for and with the St. Patrick’s Four.


3. The Catholic Worker movement is a loose association of dozens of independent faith-based communities and thousands of individuals who try to live simply and work for justice and peace. www.catholicworker.org

5. New York Penal Law, Section 145.05

6. Defendants were assisted by attorneys Joni Brandon and Kristine Shaw of Ithaca and Bill Quigley of New Orleans.

7. Voices in the Wilderness (VITW) is an organization that challenged the sanctions imposed on Iraq by nonviolent resistance to compliance with the federal laws which prohibited visiting or bringing medicine to Iraq without a license from the U.S. Department of Treasury, Office of Foreign Assets Control (OFAC) pursuant to 31 C.F.R. 575. VITW led over seventy delegations of visitors to Iraq in defiance of the sanctions, Clare Grady was in one of those delegations. The author was in another.

   OFAC sued VITW in federal court in Washington DC to collect a $20,000 fine for bringing of medicines to Iraq. In that case, OFAC v VITW, USDC 1:03CV01356, VITW is being defended by the Partnership for Civil Justice, Mara Verheyden-Hilliard and Carl Messineo, and by the author. Updates on the case and on other activities of VITW are available at http://vitw.org (Last viewed 6-30-04).


10. Under international law, the very essence of the Nuremberg Principles is that individuals have international rights and duties to prevent crimes against humanity which transcend the national obligations of obedience imposed by the individual state. The Nuremberg Principles are codified in 59 US Statutes 1544, Article VI (1945). See also US v Goering et al, 6 Federal Rules Decisions 69 (1946) - The Nuremberg Trials - at page 110. See also, Frank Lawrence, “The Nuremberg Principles: A Defense for Political Protestors,” 40 Hastings Law Journal 397 (1989).

11. Such conduct is necessary as an emergency measure to avoid an imminent public or private injury which is about to occur by reason of a situation occasioned or developed through no fault of the defendant, and which is of such gravity that, according to ordinary standards of intelligence and morality, the desirability and urgency of avoiding such injury clearly outweigh the desirability of avoiding the injury sought to be prevented by the statute defining the offense. NY Penal Law 35.05 (2).


12. New York Penal Law, Section 145.05: “A person is guilty of criminal mischief in the third degree when, with intent to damage property of another person, and having no right to do
so nor any reasonable ground to believe that he has such a right, he damages property of another person in an amount exceeding two hundred fifty dollars.” (Emphasis supplied).


18. We are Catholic Workers and we still are pacifists. We too are heartbroken over the events of September 11, 2001. We too grieve the horrific and untimely loss of thousands of lives. In further response, we turn to the non-violent roots of our founders, Dorothy Day and Peter Maurin. We remind ourselves of their (and our) commitment to the Christ of Peace, and to the creation of a new social order within the shell of the old. An order accomplished, not with bombs, but with mercy; not with massive counter-attacks, but with restorative justice.

   We are Catholic Workers and we are still pacifists. Our grief will not be short-circuited with cries of vengeance nor with acts of retribution. We will not cooperate with incitements to become that which we most oppose, namely perpetrators of violence. We will honor the deeper levels of grief, acknowledging the woundedness inflicted upon us and the woundedness that our nation has inflicted upon many others.

   We are Catholic Workers and we are still pacifists. We will dare to ask the difficult questions: How is it that the United States was the focus of such an unspeakable attack? Could it be possible that most of us, as Americans, are ignorant of the injustices done to other nations in our name? Will we ever openly repent of many misdeeds done to peoples of our own land:
Native Americans, African Americans, Japanese Americans, other immigrants, the homeless and the poor? Can we acknowledge the horrific suffering and death we have imposed upon those who live in other lands: The citizens of Hiroshima and Nagasaki, the poor of Central and South America, the people of Iraq? And how many others?

We are Catholic Workers and we still are pacifists. We too are afraid of the possibility of more terrorist actions in our own cities. We too are afraid for our children and their futures. We too have helped to bury the dead—the impoverished on our streets who die in obscurity, unloved and unremembered by society. We continue therefore, even in the wake of our own fears and grief, to feed the hungry, clothe the naked, shelter the homeless, visit the sick and imprisoned. We hope for the day when our nation provides adequate funding for these, the forgotten in our midst, rather than use our money for the proliferation of more and more weapons of mass destruction on earth and even in the heavens.

We are Catholic Workers and we are still pacifists. By faith we dream impossible dreams, see unbelievable visions. We conjure up such hopeful images as U.S. planes dropping, not bombs, but food bundles and messages of hope to the long-suffering people of Afghanistan. We view this paradoxical moment in history as a pause wherein we—every one of us—can desire and work for the well being of all. We pray for hearts to change: The hearts of our leadership, the hearts of our opponents, even our own hearts when tempted to incline toward self-righteousness.

We invite you to participate with us in all our wildest dreams and visions for peace and justice. For now we sadly know that our affluence, our power, our weapons, our possessions cannot serve as protection from harm. We invite you to clamber off the wheel of violence. It is the only worthy legacy we can offer to those who have died. We invite you to join us as we re-examine our consciences, our spiritual paths, our concepts of God, our commitment to a better world.

We are Catholic Workers and we still believe the only solution is love!


20. Daniel Burns’ closing argument is repeated in full at the conclusion of this article.


22. The term "Allen charge," also known as the "dynamite charge" for its effectiveness in breaking up a jury deadlock, derives from an 1898 decision, Allen v. United States, 164 U.S. 492, 17 S.Ct. 154 (1896). It tells the deadlocked jury that, while no juror should compromise a conscientiously held position, those jurors in the minority ought to consider re-thinking their position in light of the opinions of those in the majority.

23. NY Criminal Procedure Section 310.60(1)(a) provides for a mistrial where the jury has deliberated for an extensive period of time without agreeing upon a verdict.


25. NY Criminal Procedure Section 210.40 provides for a motion to dismiss any or all charges when such a dismissal appears in furtherance of justice considering a number of factors including: the seriousness of the offense, extent of harm, evidence of guilt, character of defendants and the impact of the dismissal upon the safety or welfare of the community.


32. Taylor branch, PARTING THE WATERS: America in the King Years (Touchstone, 1998) 196.

33. Copy on file with author.