



First Lt. William L. Calley after the verdict

## On the Line Civil Justice Not For Army

By Bob Considine



New York — Whatever you felt about the verdict in the Calley court-martial, the fact remains that there are two measures of justice in our country, and in many others: military and civilian. They bear little relationship. Some think they should; some do not.

Calley's attorney said in the wake of the verdict that his client was trained to kill, given automatic weapons to wreak destruction, faced with prison if he disobeyed Army orders to kill, and was not responsible for the military's and the nation's political determinations.

Several of Calley's fellow officers said they would prefer to disobey orders from superiors—even the basic order to ship overseas—and face what one said would be "six months in jail" rather than go to Indochina and become subject to much more horrendous punishments in case one followed Calley's course at bloody My Lai.

A new book published by Random House, titled "Conscience and Command" edited by James Finn, makes a clear case about the differences between uniformed and civilian sins. He writes:

"Despite subsequent alterations by Congress, the American military justice code retains a number of substantive and procedural aspects of the 18th century British code. Dissimilarity between military and civilian criminal law has been further encouraged by the isolation of the court-martial system. The Federal courts have always been reluctant to interfere with the court-martial system; as explained by the Supreme Court in 1953: 'Military law, like state law, is a jurisprudence which exists separate and apart from the law which governs in our Federal judicial establishment. This Court has played no role in its development; we have exerted no supervisory power over the courts which enforce it.' As a result, the court-martial system still differs from the civilian court system in terminology and structure, as well as in procedural and substantive law."

Gen. William T. Sherman, Commanding General of the Army from 1869 to 1883, testified before a Congressional committee in 1879:

"It will be a grave error if by negligence we permit the military law to become emasculated by allowing lawyers to inject into it the principles derived from their practice in the civil courts, which belongs to a totally different system of jurisprudence.

"The object of the civil law is to secure to every human being in a community all the liberty, security, and happiness possible, consistent with the safety of all. The object of military law is to govern armies composed of strong men, so as to be capable of exercising the largest measure of force at the will of the nation.

"These objects are as wide apart as the poles, and each requires its own separate system of laws. An army is a collection of armed men obliged to obey one man. Every enactment, every change of rules which impairs that principle weakens the army, impairs its values, and defeats the very object of its existence. All the traditions of civil lawyers are antagonistic to this vital principle, and military men must meet them on the threshold of discussion, else armies will become demoralized by even grafting on our code their deductions from civil practice."

Ike Eisenhower was a more compassionate man than Sherman; nevertheless he went along with the man who burned Atlanta and who officially recognized that war is hell. Eisenhower, speaking before the New York Lawyer's Club in November, 1948, said:

"I know that groups of lawyers in examining the legal procedures in the Army have believed that it would be very wise to observe that great distinction that is made in our Governmental organization, of a division of power. . . . But I should like to call to your attention one fact about the Army. It was never set up to insure justice. It is set up as your servant, a servant of the civilian population of this country to do a particular job.

"To perform a particular function, and that function demands within the Army almost a violation of the very concepts upon which our government is established. . . ."

## The Church: 1971

# No Simple Answers

By Fr. Andrew Greeley



Brewster Smith is one of America's most distinguished social psychologists, a man whom my boss at the National Opinion Research Center (himself no mean psychologist) has characterized as "a psychologist's psychologist." Smith is well known throughout academia for his sympathy towards and understanding of youthful idealism, a stance which is a continuation of the idealism of his own youth. Hence, when he speaks about political activism he speaks from a perspective that only the ignorant can dismiss.

It seems to me that a recent comment (from his Social Psychology and Human Values) is particularly appropriate to be applied to the subject of Catholic radicalism: "Liberal activism may be a healthy moral exercise for the young as they resist coming to terms prematurely with a flagrantly imperfect society, but it is an inadequate stance for political adults in a world that badly needs the committed contributions of people who can bring both fervently held principles and pragmatic cogency and skill to bear on a host of complex and difficult but immensely challenging problems.

Against Smith's description of the kind of political activism that is needed one may compare Daniel Berrigan's model that American society is "insane" or the Detroit nuns' model that their parish school is "racist," or the model of the sisters de-

scribed in a recent book as "deciding that in the struggle between white and black they had to be on the side of the blacks." Smith observes, "In the sphere of social life, where we must reckon with the fact that people will not fully agree with one another . . . the methods to which we must turn are those of politics."

In the world of Daniel Berrigan and of the Detroit nuns one does not turn to politics but to denunciations. Those who do not fully agree with us are "insane" or "racist."

Why are those who contend that society and its problems are simple hailed as great moral heroes? Why is it more virtuous to go to jail because of one's conviction that society is insane than it is to stay out of jail and work for the improvement of a society that is "flagrantly imperfect" but "immensely challenging"? Why must men like Edward Duff who have spent their whole lives responding to such challenges feel the need to guiltily re-examine their position under the assaults of those who think that "pragmatic cogency and skill" are irrelevant?

The reason given, of course, is the war, though why the war justifies us in thinking that political and social problems are simple and will respond to moralistic denunciation escapes me. We got into the tragedy of war because some of our leaders were content with simple mor-

alistic answers to complex problems. The easy cliché that American society is insane sounds rather like the equally easy cliché that world communism is a conspiracy.

In both clichés, life becomes a very simple matter and the strategies required to respond to it are simple and easy. One has no need for learning or sophistication when one has reduced life to very uncomplicated dimensions nor has one any need for political strategy. One merely denounces and acts, confident of the clarity of one's vision and the righteousness of one's cause.

Father Duff remarks in his "New Republic" article that as the editor of the now defunct journal, "Social Order," he is glad to see that the Berrigan example has inspired a younger generation of Jesuits to social consciousness.

Father Duff cannot have it both ways. Either the style that men like he and George Higgins and William Rooney stood for in the 1950s is the proper response to questions of social action or the liturgical gestures and romantic denunciations of insane society are appropriate. Either the romantics or the pragmatists are right. Either understanding and political action will transform society or it is a waste of time. To the extent that the men who trained me to respect the complexity of the human condition have now sold out to the simpleminded romantics, I feel betrayed.

## On The Right Side

# Unkindest Cut

By Father Paul J. Cuddy



An aggrieved letter from RIT Father Appelby leaves me open-mouthed with astonishment.

Succinctly his lengthy letter in CJ on March 31 suggested: 1) that I have made College Catholic Chaplains a special object of attack; 2) that the mantle of the persecutors of Father Matteo Ricci has fallen upon me; and 3) that I am upsetting the parents of collegians, to quote: "What are they (the parents) to think, when you tell them so much of what you see as wrong, and so little of what you see as right? Don't you see that this approach really undermines all we try to do for these kids? . . . Is this really the way to 'build up the Body of Christ?'"

I replied on April Fool's Day, the first anniversary of the Rochester Democrat and Chronicle's famous double feature: one on the malice of gambling; the other on the virtue of abortion:

"Dear Father Appelby, 'O unkindest cut!'

Place your text aside my own, and tell me how you ever come to your conclusions. Or did you ever read my letter to the collegian at all?"

Enclosed with this brief note to him I sent the full text of the article, "Collegian's Dilemma," (CJ, Mar. 3) and red lined the section which makes Fr. A's complaint so incomprehensible. . . . "However, don't assume your (odd-ball) chaplain is typical of Newman chaplains, I know many in my own diocese.

They are faithful to the Church in the service of their people. It is true that collegiate chaplains tend to be more 'progressive' than the usual parish priests. It is inevitable given the milieu of the academic, and the psychological thrust of maturing manhood. But from what I can observe they are sensitive to the fact that the Catholic Church is the greatest of all visible communities, and they do work conscientiously to help their charges to understand the Church as the Church presents herself.

I have been racking my brains to establish why Fr. Appelby seems to sense some persecution of collegiate chaplains from Fr. Ricci's persecutors' spiritual descendant, meaning me. Could it be an article of June 17, entitled: "Concerning Campus Priests? The article says: 'I read about Catholic chaplains of colleges in our diocese beating the drum to abandon the people of South Viet Nam to Communism. I have read nothing in their dialogue which refers to the killing of six million Chinese and the enslavement of 700,000,000 Chinese people by the Chinese Communist Party. This was done in the late '40s, when the Party leaders were fobbed off by the New York Times, Life, Time, Commonweal, et al as 'agrarian reformers.' And I remember at the time that our own Rochester Maryknoll Father Charles Hilbert made a remark which I recommend to the. Abandon Viet Nam to the Viet Cong' chaplains. He was reading the

mornin' papers at Ss. Peter and Paul Rectory. The papers were full of the State Department, viz.: the Chinese agrarian reformers propaganda. With a combination of indignation and exasperation Father Hilbert said: 'Sure. Of course! If you can't care what happens to the people, give them over to the communists!'

The article concluded: "Recently I asked the chaplain of a well known college campus why the Catholic chaplains are so voluble and visible about our Viet Nam commitment and were so silent and invisible when the abortion law regarding the killing of the unborn children was up for discussion and vote. He thought a bit. Then he replied: 'I suppose because the Viet Nam-Cambodian affair is closer to them personally,' I did not press him about what he meant by that."

Now, I would address myself to the mystifying Father Appelby and to all our Diocesan College chaplains. "You made great agitation last summer about war and peace, with position papers, preaching and wonderful aggressiveness. Have you taken a similar stand with position papers, preaching and like aggressiveness regarding the destruction of unborn children? Your leadership in this matter may lessen your popularity. . . . Just might make the Church, Christ's Holy Body, quite wonderfully visible in your rather unique stance. You will proclaim what is the clear voice of the Church and of our Bishop."