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15 December 1969

## SITUATION INFORMATION REPORT

RR #50  
62TRIAL OF THE "CHICAGO 7" (Continued)

During the ninth and tenth weeks of the trial (19 November-2 December) the prosecution continued to present its witnesses against the "Chicago 7"; and on Friday, 5 December, in the eleventh week of the trial, the Government rested its case.

Public interest in the trial, or at least the interest of some segments of the public, has perhaps begun to wane. The New York Times, on 19 November, noted that the spectator section in the courtroom, "which usually has been packed early, was only three-fourths full yesterday and the press section contained only representatives of the Chicago news media."

Defense Attorney William M. Kunstler-continued during the week beginning on the 19th, "to attempt to chip away" at the testimony of undercover Chicago policeman Irvin Bock, who infiltrated the leadership of Chicago and National antiwar groups and attended the sessions at which they planned the demonstrations which took place during the Democratic National Convention. Bock testified during an almost week-long cross-examination that he talked with Abbie Hoffman at headquarters of the National Mobilization Committee to End the War in Vietnam (NMC) on 27 August 1968, and that Hoffman asked if he saw the police car "busted up" in Lincoln Park the night before—commenting that it was a wild scene and adding that more demonstrations were planned for that night (28 August) in the Park. He also testified about a speech he heard Bobby Seale give in Lincoln Park during Convention week.

Considerable argument was heard as to whether or not certain files of the Chicago Police Department's undercover agency (its "Red Squad") should be turned over to the defense. Judge Hoffman originally ruled that records of undercover investigations during the four and one-half months in 1968 covered in the indictment of the "Chicago 7" must be shown to defense lawyers. However, the Judge's order which would have involved the turning over of all reports and names of undercover agents involved, was protested by the Chicago Police Department—it being argued that the surrender of this information "would emasculate the subversion unit of the intelligence division" by revealing the identities of its agents. Judge Hoffman finally modified his original order and

ruled in a lengthy opinion from the bench that the subversion unit need not disclose material concerning the case if the agents who collected it are still involved in undercover operations related to other investigations. This he considered necessary to conceal the identity of agents working on investigations of organized crime. The defense reportedly had expected to rebut testimony given by some undercover agents with the reports of other police agents who allegedly provided conflicting testimony.

On 20 November, the defense failed in its effort to prevent the showing at the trial of a three-minute television film taken by a CBS cameraman which pictured demonstrators hauling down an American flag in Grant Park. Defense attorneys argued that the prosecution wanted to show the flag incident "to inflame and prejudice the jury" and claimed that none of the seven defendants had been tied to the planning or the execution of the incident. The prosecution, while conceding that the film showed none of the defendants, said there would be testimony that Rubin was involved in the incident and that it demonstrated "the mood of the crowd" shortly before defendant David Dellinger addressed it.

Joseph Hale, an agent of the Chicago Police Department's subversive unit during the Convention, testified that he heard Jerry Rubin scream, "Kill the pigs" and "Get the pigs" while objects were being thrown at policemen.

On 24 November, the prosecution asked Judge Hoffman to rule that a prima facie case of conspiracy had been proved against the "Chicago 7", claiming that it had established that a conspiracy existed among the seven defendants accused of crossing state lines to start a riot at the Democratic National Convention last year and citing nearly forty instances to sustain its claim.

Defense Attorney Kunstler objected strongly to the Government's contention, claiming that it had not proved the existence of any conspiratorial agreement among the defendants. Judge Hoffman, however, agreed with the Government's claim and was reported to have asked Government lawyers "to prepare additional language to be used in instructing the jury." According to newspaper accounts, Judge Hoffman "will now instruct the jury that any evidence previously admitted against one or more defendants can be applied against all seven of them."

Typical, perhaps, of what may be expected to be the reaction of the court, is the fact that the first defense witness called was terminated by Judge Hoffman without being allowed to testify. Edward Sparling, President Emeritus of Roosevelt University, had been subpoenaed by the defense to testify regarding a citizens report which found Chicago police guilty of "brutalizing" peace demonstrators in April 1968. (This was, of course, months before the violence connected with the Democratic National Convention.) Sparling was chairman of the citizens committee which accused the police of "brutalizing some demonstrators without provocation." The defense maintained that it was in reaction to this "brutalizing" that the defendants undertook protective measures before the Convention began in August 1968. Those measures included holding karate practice sessions, instructing protesters to bring helmets, etc. Government witnesses had cited these measures as evidence that the defendants had intended to cause violence at the Convention.

The jury was shown a film of police clubbing antiwar protesters in Grant Park.

On 10 December, a woman member of the British Parliament testified regarding her experience outside the Conrad Hilton Hotel on 28 August 1968, that police picked her up and threw her into the police wagon when, upon being told by them "to move along" she replied: "I'm just talking to these young people." The woman, who addressed Judge Hoffman as "My Lord" and told him "Just call me Anne", put on quite a show in the courtroom. She insisted upon being furnished a Bible to swear on, despite Judge Hoffman's statement that there was none in court and that none was necessary; and subsequently demonstrated, in a clear voice, how she had stood on tiptoe in the paddy wagon and sung "We Shall Overcome" out of the paddy wagon window. A policeman on the outside sprayed mace in her face, she said. Judge Hoffman repeatedly cautioned her not to embellish her testimony with personal opinion and personal objections.

Also on 10 December, Cornell graduate student Sarah Diamant, who said she went to Chicago during the Convention to take film for her doctoral dissertation comparing nineteenth century abolitionists with current student activists, was put on the stand as the sixth defense witness to testify about police action in Grant Park and outside the Conrad Hilton Hotel on 28 August. According to the witness, she,

ner husband, and another Cornell student were filming and tape recording events in front of the Hilton when police charged into the ranks of the demonstrators "beating people and pushing people up against buildings." She said a policeman hit her with his club about the neck and shoulders and beat across the nose a man who tried to help her. She also testified to having been "maced" twice while trying to film confrontations. All six witnesses reportedly agreed that the police initiated the confrontations and used unnecessary force. A film taken by Mrs. Diamant was shown to the court at the request of the defense--portions of which the prosecution objected to as "clearly editorial."

During the day, Attorney Leonard I. Weinglass accused Judge Hoffman of showing favoritism when he refused to permit Fred Gardner, radical writer and editor, to continue to testify about what some of the defendants told him during the Convention. He had already testified that Tom Hayden told him that two policemen threatened to kill him, and had begun to testify about a threat allegedly made against the life of Abbie Hoffman.

On 11 December, the defense presented as witnesses Allen Ginsberg, the "poet", and Phil Ochs, protest singer. According to radio reports, the two nearly succeeded in turning the court into a sort of circus, what with chanting, singing, and playing on musical instruments; and did succeed in causing Judge Hoffman to adjourn the trial. As an account of Ginsberg's confrontation with Judge Hoffman in court can best be appreciated in as full detail as possible, a copy of the New York Times account is attached.

Meanwhile, out of court, the defendants continued to pursue their outside activities--speaking, writing, giving interviews, etc. Tom Hayden, whose latest book "Repression and Rebellion" has just come off the press, wrote in an article on the "conspiracy" trial which appeared in the Guardian on 29 November, "We are attempting to create a political trial this time with wide international repercussions." He commented that the courts, which earlier, "protected our right to continue the struggle", are "today... more nearly the assembly points on the road to detention camps"; and he concluded his article: "Knowing that 'the decade of protest' is over, and our rulers have had their fair trial, can we do anything less than find the Government guilty and sentence it to death and go on with the building of a society of our own?"

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Earlier in the day, Judge Hoffman had rejected a defense motion to stop the trial on the grounds that it is having "a chilling effect" on the right to dissent--ruling that the motion was "wholly without foundation." The day's session lasted only two and one-half hours, in order that Defense Attorney Kunstler could argue a case before the Virginia Supreme Court.

On 25 November, tape recordings made during the Lincoln Park rally on 27 August 1968, by a civilian investigator for the Navy who had been assigned to assist the Secret Service in protecting prominent Government officials during the Convention, were introduced over defense objections. The following day, the agent while under cross-examination by the defense agreed that David Dellinger had, in Grant Park, repeatedly pleaded with the crowd to remain calm and not clash with the police.

On 26 November, a day in court described as "tumultuous", Judge Hoffman refused a defense motion for a writ of habeas corpus to release John Sinclair, a White Panther Party leader jailed on a marijuana charge, to permit him to be brought to Chicago as a defense witness. According to defense attorneys, Sinclair, a former Yippie member, was "the only person available in the country" who could testify to the peaceful intentions of the Yippies during the Convention demonstrations. Judge Hoffman, however, ruled that his testimony would be "cumulative" with testimony that could be given by another witness; and commented on the element of danger in bringing convicts from another state. The ruling brought loud angry protests from the defense, notably David Dellinger, Abbie Hoffman, and Rennie Davis; and Attorney Kunstler asked for a recess, stating that his clients wished to discuss "this decision which has shocked and stunned them." The day ended in a shouting match between the lawyers, after Judge Hoffman told the jury he was sorry they would have to be sequestered in their hotel during Thanksgiving. Kunstler leaped up declaring: "It's not our fault. The defense moved to have sequestration ended weeks ago"; and Assistant U. S. Attorney Richard Schultz interrupted saying: "If the defense weren't stalling, the trial would be over now and you would all be home."

On 28 November, following Thanksgiving recess, the Deputy Superintendent of Chicago Police testified that he was attacked by a

National Mobilization Committee leader outside the Conrad Hilton Hotel on 28 August 1968; and had met with David Dellinger during demonstrations outside the hotel that evening, to try and work out an agreement to avoid violence. According to his testimony, he told Dellinger the demonstrators would be permitted to continue their rally in the band shell in Grant Park or to march north to Lincoln Park, but would under no circumstances be permitted to march to the International Amphitheater where the Convention was being held. Dellinger told him, "We're going to march. We're going to the Amphitheater. I do not have to listen to you." Dellinger then turned his back and walked away--whereupon the demonstrators suddenly "flooded" into the street and demonstration marshals began shouting: "We're through the police lines; we're out into Michigan Avenue; the street is ours." When confronted by police who headed them off as they marched south, they began throwing "bottles, rocks, ash trays, boards, balls with nails through them, shoes, every conceivable missile." Incidents of spitting and shouting began; the police "responded"; and fighting broke out that lasted about fifteen minutes before the police superintendent was able to regain control of the group of police officers and bring the situation under control.

The Government's final witness, Albert Baugher, an assistant director of Chicago's Department of Human Resources, who was heard on 4 December, testified that several of the defendants expressed willingness to see violence in the streets during the Democratic National Convention. Baugher said he met with David Dellinger the day before the Convention opened and warned him that the planned demonstrations could cause riots. He was told by Dellinger, he said, that the demonstrators didn't care about riots; that they were going to march anyway; and that the riots were Chicago's problem. Abbie Hoffman, he testified, had told him earlier that he was "willing to die in the streets if necessary to open this city up."

Mr. Baugher, whose testimony was regarded by some observers as the most damaging during the ten-week-long trial, had been assigned in the summer of 1968 to help in dealing with the groups planning demonstrations during the Convention; and in that capacity had met several times with a number of the defendants to discuss applications for permits, proposed march routes, etc. At a meeting on 7 August 1968, Mr. Baugher recalled, Abbie Hoffman and Jerry Rubin angrily asked why the city was not issuing them permits to march and to sleep in the city's parks, and were told by him that they had already had at least one permit but had surrendered it. He told them it was his understanding



that the Free City Survival Committee, a group of Chicago Hippies, had given up their permit because they feared the planned events in Lincoln Park during the Convention would "not be a festival of life but a festival of blood." At a meeting on 12 August, David Dellinger and Rennie Davis both warned that many Americans were willing to use violence if necessary to obtain their civil rights. During the afternoon of 26 August, in Lincoln Park, Abbie Hoffman warned several times that unless the demonstrators were given facilities for a rock concert, they would "tear this Goddam park apart."; and when several demonstrators began closing in on the police and heaving stones and other objects, Mr. Baugher said he heard Hoffman mutter "This is beautiful, this is beautiful."

Upon completion of Mr. Baugher's testimony which terminated the case for the prosecution, and after his cross-examination by defense lawyers, the defense immediately moved for a directed verdict of acquittal—Attorney Kunstler stating that defense arguments on the request would be extensive. Judge Hoffman replied, "only as extensive as I permit it to be."; and during the following session of court rejected the motion.

Earlier Judge Hoffman had quashed a defense subpoena of confidential FBI records, to include all reports on the defendants and alleged co-conspirators as well as reports resulting from electronic surveillance, and the addresses of all agents and informers. He also quashed a demand that FBI Director J. Edgar Hoover testify, saying that it was a "fishing" expedition.

The trial of the "Chicago 7" during the presentation of the case for the defense, which began on Monday, December 8, promises to be no less unorthodox than it was during the ten weeks of the prosecution's presentation. In an interview shortly before the defense opened, Tom Hayden stated that the jury will be invited to "commit civil disobedience against the Judge's (final) instructions... Chicago 1968 will be recreated." He said that the "hidden issues" behind the "persecution" of the defendants will be disclosed and that the defense will prove that the seven acted legally and "came to Chicago as participants in the recreation of a new society in the streets... which continues its growth with its own natural laws, structures, language, and symbols." The defense will, he said, argue the necessity of revolution against "dinosaurs controlling an obsolete system."

David Dellinger, one of the "activists" in the Venceremos Brigade which is currently involved in sending Americans (many from U. S. campuses) to Cuba to help harvest the sugarcane crop, has found time to be interviewed at length by Radio Havana regarding the "Chicago 8", their trial and their roles "in the North American radical movement." Typical was his statement regarding Bobby Seale that "He simply stood at the call of his name and asked that he be allowed to cross-examine the witnesses." This, almost word for word, is the statement invariably made in Communist publications in picturing Seale's conduct when he was one of the eight defendants in Chicago. According to Dellinger, as phrased by Radio Havana, "the definite purpose" of the trial is "to smash the growing antiwar movement in the United States," and "to crush the black liberation." Dellinger pointed out that the last time he spoke with Radio Havana was during the Democratic National Convention.

Dellinger and Rennie Davis, co-chairmen of the New Mobilization Committee to End the War in Vietnam, on 26 November released a list of 59 U. S. military personnel held prisoner by the North Vietnamese which they had received some days before from a member of the North Vietnamese delegation to the Paris peace talks. Five were not previously known to be prisoners of war and were carried as missing in action. Dellinger said they had had the list "for several days," while they tried to find a way to notify the next of kin; and according to him, the North Vietnamese will make public, through him, the names of other Americans being held. The Department of Defense criticized the pair for not having released the names immediately--pointing out that a collect telephone call to the Pentagon would immediately have provided names of the next of kin.

There has continued to be considerable editorial expression of concern over Judge Hoffman's handling of the case and over his lack of judicial restraint and impartiality--though all concede the strong provocation under which he labors. There has also been at least some editorial expression, even by those on the Left, of the belief that the conduct in court of the "Chicago 8" has been such that they have provoked a reaction which will work against them and their causes. Well-known radical Saul Alinsky has complained that they have committed "the highest form of social treason", which is to engage in actions which bring reactions that strengthen the opposition.