The Law: The Point of View of a Crook

Ellis Boal Oct/69

George Crockett, a well-known Detroit legal scholar, has said that it would be instructive for judges, advocates, and jurors in the American legal system to experience first hand some of the deprivations visited on the [illegible]s inmates of our country's jails, in order that they might better appreciate the nature of the justice they freely dispense. It was some time after I applied to law school, but a year before I came that I inadvertently took this advice to heart. Though 5 hours spent in the tank at the 11th and State Main HQ of the Chicago Police Dept a year ago hardly qualifies as a thorough-going inundation in the penal system, 3 weeks at Bridewell, the Chicago city jail, will probably suffice. This will be the time required to work off a $210 fine for a conviction of disorderly conduct at the 1968 Democratic convention last summer (if our appeal fails): I won't pay. For those that are entering the legal trade through the well-lit front door, so to speak, it may be enlightening to learn the process as seen from the dirtier, murkier entrances I explored in the back.

For all of us in Chicago then the issues were and still are clear: suppression of dissent, imperialism abroad, disenfranchisement at home, and the baleful prospect of an uninteresting and meaningless election contest between twins vying for the greatest power in the land. Anybody not yet convinced of the porcine nature of the Chicago Police was soon persuaded, if not by our rhetoric, then by the swift pragmatic use of hardwood nightsticks. So it was that on Thursday of convention week, the day after HHH had been nominated and the days of macing and beating, crowds of disquieted Yippies, disgruntled McCarthy-ites, and pissed off delegates surged around the Conrad Hilton Hotel, focal point of the police riot the day before and demanded their due. Dick Gregory was [illegible] the leader of the crowd as near as I could tell, and in the midst of one of his speeches, he suddenly stopped, declared

that he was tired, was going home, and was inviting all 3000 of us to join him for tea. This offer was attractive enough for most people, myself included, and considering that the route to his apartment led a short mile away from the Amphitheatre where the convention was in session, the hordes and I accepted with glee.

As I had been a parade marshall for the Mobilization all through the week, it was my responsibility to help see that the march stayed in good order. The city ordinances allow a parade without permit if marchers stay no more than 3 abreast on the sidewalk, leaving space for normal pedestrian traffic. It suffices here to say ~~here~~ that we marched in orderly wise down Michigan Avenue to 18th Street, where we were met by rows and ranks and columns and squads of cops and National Guard, supported at the rear by an armed personell carrier, disporting at its brim a grimly suggestive machine gun; that there the pigs had drawn a line over which it was decreed we could not tread; that 79 of us so trod; that when all the police vans were filled, the remaining thousands were attacked and gassed (my lawyer among them); and that we were summarily transported to the tank at 11th and State.

Tales of mistreatment and mishandling in city lock-ups are commonplace, and it would be no news to recite the dishonors and ignominies we suffered while confined there. In fairness, it must be said that at times our custodians were quite solicitous of our comfort, and from time to time brought us coffee, and asked if everything were all right (!) (In fairness too it must be said that many of the prisoners were newsmen and convention delegates.) In fact, some of the police matrons were so fair in the case of Pat Saltonstall, later one of my co-defendants, that they strip-searched her 3 times just to make sure she would not be charged with carrying a concealed weapon. They even offered her free legal advice, assuring her that it was quite legitimate for them to scrutinize her innards the third time, thus saving her the trouble of calling her lawyer to confirm the legality of their probings;

they fairly insisted on performing this duty to the utmost. As the wheels of justice ground and crunched so presently about us, it seemed somehow appropriate that, as one of the arrestees had retained his portable radio in the lock-up, we could look out over the city from between the bars, breathe deeply the billowy tear gas rolling in through the window, and hear the voice of Hubert Humphrey accepting the nomination of the Democratic Party for the presidency of the United States.

Finally released at 4 in the morning on $25 bond, I contacted the Chicago Legal Defense Committee, which assigned me a lawyer, an old-timey Lawyer's Guild tax-man, who was to represent me in the trial. CLDC was attempting to co-ordinate all the litigation arising out of the convention arrests into a single mass strategy. The idea was simple: everybody ask for a jury trial, submit interrogatories, take depositions and generally harass Daley's courts, to show the city that when they start trampling on the rights of the people, the people will respond in force. So, it was with keen disappointment that I learned on the day of my pleading that practically everybody was copping a plea: the city offered to let us plead guilty to Traffic Obstruction, pay $50, and go home with nothing but a traffic ticket on our records. Worst of all, I was apalled to find out that my own lawyer was recommending this course of action for me. "We can't win," he said. I made a quick call to CLDC, to see if there were any point in continuing with the grand strategy plan. They were less certain about what was happening, but advised me to proceed with the plan anyway; and when I learned that a group of 12 other defendants in the 18th and Michigan bust were having their cases joined and that I could join with them, it was clear that the thing to do was fight. I went back in the courtroom, pleaded not guilty to the charge, and fired my lawyer.

An interesting side-incident that occurred at the time of the pleading is instructive in showing the thorough-going manner in which the city courts approach the political trials. I have a sister in

Chicago named Nina who has been arrested many more times than I, usually for disorderly and resisting, and has spent many hours languishing before the bars of the venerable city magistrates. So I was not altogether surprised when at the end of the long afternoon of waiting in the courtroom, finally the clerk mistakenly called my number and case: "Number 378156-3, Nina Boal"

"The name is Ellis Boal," I said, approaching the bench.

"Ellis Boal," he corrected himself. Then he looked up at me quizically and said, "Are you related to Nina Boal?"

"Yes, she's my sister."

He looked startled. "How do you like that, this is Nina's brother!" he exclaimed aloud.

The prosecutor was Richard J. Elrod, later one of the prosecutors in the trial. Having prosecuted Nina many times in various causes, he was just as surprised to meet me. He smiled. "You're really Nina's brother? Well how is Nina doing these days? We haven't seen her in a long time."

"Oh, she's doing pretty good. She's at school [redacted] at Roosevelt."

"You mean she's decided to go to school now, and give up all this demonstrating?"

"Well she's been in school for a while now. She's studying art. But she's always been doing what she wants to do."

The judge interrupted our colloquy: "Nina's an old friend of ours. She's been up here a lot of times." He knew her too.

"Be sure to say hello to her for us," Elrod said, grinning.

"I'm sure she would want me to say the same to all of you," I replied.

It was not till February 26, the night before the trial, that I finally met all of my co-defendants for the first time since the arrest. Out of the hundreds that were arrested that week, and the 79 arrested that night, almost everybody but the 13 of us had pled guilty and taken the smaller fine. This is not to indicate that

we were more principled than the others, nor that we were the only ones that had not finally contritely realized that Daley had been right in using his "minimum force necessary." It only meant, as co-defendant Murray Kempton said in his February 28 New York Post article, that "going to trial is a luxury of the middle class." That is to say, we were among the few that could afford it. Most of the others were from out of state, or had better things to do, or simply did not want to be hassled by a trial and a higher fine that seemed pointless and unproductive. It might be asked in this regard what in fact we were trying to prove by going to trial only to end up paying the city 4 times as much as a guilty plea would have given it amyway. Why were we going to all this trouble just to be able to say we had been right and the city wrong?

Consider the character of the defendants in the cause. We all worked, and all of us were financially well enough off so that we could afford to take time from or quit our jobs. We were of a "respectable" honest cast, all but 2 over 30, the type of left-liberal that had been properly outraged by the events of convention week (including a bribe offer to Pat Saltenstall whereby she could have had charges against her and 3 others dismissed for $2000), had taken part in the march as a symbolic if futile gesture of indignation, and continued in that posture for the trial. Some had been delegates to the convention: Kempton, Peter Weiss, and Dick Newhouse; others had been alternate delegates, newsmen, aides to candidates, and observers. I was the only mere marcher. This is to say that we were affluent and interested and hopeful enough people that we could stand the expense and hassle of what promised to be a week-long trial.

And what was it that we hoped to gain, for ourselves or from the city? Our case was this: the police and National Guard had arbitrarily stopped our peaceable legal march at a point 5 miles away from the Amphitheatre. We threatened no one at that point. Although we had become loud and disorderly at the time of the arrest,

this had been caused by the fact of the police stopping us; thus by creative activity the police entrapped us into violating their ordinance by assuming martial powers for the time, in decreeing where in the city we could and could not walk. The police were claiming that since we were a crowd of 3000 whites about to march through a black area they had prevented a riot in stopping us; but there was no indication that trouble of this sort was brewing when we were arrested. We thought that by pressing the entrapment issue, future martial Chicagos could be averted. In a more lowly vein, it should be admitted that we wanted to wreak a little vengeance on Daley. So, taking all this into account, our sacrifice seemed well-considered. Besides, we were not going to make the city 4 times as rich as it might otherwise have planned: Daley thought winning this case so important to him that the city hired a special lawyer from outside the corporation council's office to come in and prosecute the case.

This was Camillo Volini, an obese and jocular man who seemed at first glance rather like a pig himself. He later proved to be a humane and sympathetic man, at least compared to Elrod, who was assisting him. From the way he conducted the case, at times I wondered if he were not really on our side. In fact, late in the trial he told me that his own brother had been hit by a cop during the convention.

It was Elrod though that for me was the most interesting person in the trial. Richard J. Elrod of Chicago ranks as one of the most public-spirited individuals that I have ever encountered. His allegiance to the various levels of government is so self-pervasive that he serves simultaniously in all 3 of its branches: he is a senator in the state legislature, he is an assistent corporation counsel prosecuting [redacted] in the courts, and he does police work, to the extent of riding in patrol cars with cops to investigate incidents and demonstrations. Elrod in fact is one of the leading members of Chicago movement people know as the "Red Squad." This is Chicago's equivilent of San Francisco's TAC Squad, [redacted] Detroit's

or Ann Arbor's Lt. Stoddemeier.
Tactical Mobile Unit, ^ It all means the same thing: their job is to show up at all the open demonstrations, pick out the leaders, figure out the plans, and bust it if they can. Testimony of Elrod's actions the day of our arrest, and reports he had made to the police chief were admitted as evidence in the trial. In fact, Elrod had been author of the ordinance under which we were charged. He could be charitably described as a funny buffoon. I give him that: he is funny. He had a way of innocently showing the absurdity of a situation, then raising his eyebrows and telling the judge he just did not understand. But a more critical evaluation would label him as sneaky, overbearing, and not very smart. Too often he relied on cute remarks to make his points, and his reductio ad absurda sometimes fell flat. He did succeed in getting Peter Weiss' goat when Peter was on the stand ~~he was testifying~~, by twisting what Peter had said, breathing in his face, and shouting at him; but he never seemed to have the astuteness that Volini showed in making his arguments and objections. As to his manner in court, I can only describe it as wierd. He was wont at times to engage in staring contests with various of the defendants (usually the girls, and once, me), but, once, when we combined to meet him look for look at every turn, he stopped. The corporation counsel usually gives him the job of prosecuting in the city's political trials; typical of his attitude toward them was his announcenent to the press that he would appeal any acquittals of the 13 defendants.

On our side of the table, we had 7 different lawyers representing us individually and severally at various times. The chief of these was Tom Sullivan who did most of the inquiry for all defendants, and my personal lawyer was Bob Howard, a young guy just out of law school whose firm was giving ~~his~~ him time to represent me. ACLU was taking up most of the expenses of the defense. I might add that just to keep it in the family, one of the other defense lawyers was my cousin.

Rounding out the assemblage was Arthur L. Dunne, the magistrate. He

was pretty young for a magistrate, but he made up for it by wearing a button on his robe of an American flag. Gruff and civil, he saw his job as that of keeping order in the courtroom, carefully scrutinizing the evidence, and giving a reason for the decision. Of course it was not part of his job to make the decision, that having been done for him before the trial had started. Mike Royko, a caustic Chicago columnist made this clear in his April 15 Daily News column, pointing out that Daley, who had such a crucial interest in the outcome of the case, will decide sometime on a promotion for Dunne to Circuit Court judge. Who knows what considerations he will take into account when he makes that decision? I might add that just to keep it in the family, Dunne is a social acquaintence of my parents.

The trial itself started February 27 at 10 in the morning at which time Elrod immediately moved for a continuance, when he found out we were waiving a jury trial. "This unexpected move has taken the city by surprise. We need more time to interview our witnesses," he said. Dunne overruled. So the city called its first witness, Lilburn E. "Pat" Boggs, a government security agent, entrusted with the responsibility of keeping Hubert Humphrey and George McGovern alive during convention week. After qualifying him as an expert in the area of candidate protection, Volini asked him if, based on his experience in the area of candidate protection, on the night of the arrests, he had formed an opinion whether our march, then 5 miles from the Amphitheatre, constituted a threat to the lives of McGovern and Humphrey, then at the Amphitheatre. He said he had, and then Volini wanted to know what it was. He astounded the entire courtroom by saying, "yes, a threat was so constituted." (Evidently it was the right answer, because the week after he testified, he was promoted to chief of security at the White House, in charge of saving Nixon's life. He will never be accused of being lax on the job.) Later however, we got all of his expert testimony thrown out when he refused to disclose the security precautions taken around the Amphitheatre, *invoking executive privilege.*

Next up was James Riordan, commander of the police district where we were arrested. Volini questioned him about his experiences as far back as the meat-loading strikes of the '40s, qualifying him as an expert in crowd control. Then in what was the most surprising move of the trial, he began querying on previous marches and incidents during convention week. I have never seen a lawyer as infuriated as Sullivan was when he started objecting to that. "It's completely irrelavent what happened to some other unknown marchers and cavorters, days before the arrest of these defendants," he cried. "It's extremely relavent to show the tenor and general climate of the city during convention week," Volini replied. Dunne ruled against Sullivan, saying that the general climate was relavent to the case.

This was one of the turning points of the trial, because in opening up all of convention week to inquiry by the court, it seemed that not only the defendants, but the city also wanted to make a political thing out of this trial. They did not just want convictions; they wanted to vindicate the entire police force and the Daley operation of that week. Of course this was the real issue that we wanted brought up too, and since the city had decided to meet us squarely on it, it looked like the whole trial was going to be enlarged to a forum on all the events of convention week. This meant that we would introduce testimony on the police brutality in the clearing of Lincoln Park, the police riot at Balbo and Michigan, and the police raid on the McCarthy headquarters. Our witness list immediately zoomed to include reporters, observers, and public officials, among them McCarthy, Daley, Humphrey, police chief James Conlisk, Dick Gregory, Daniel Walker, and Norman Mailer. (That none of these people ever testified was due to the persuasion of some of the more conservative elements in our band of attorneys. At one point McCarthy did say he would testify for us, but he changed his mind back and forth a couple of times, and finally reneged.) The most immediate effect of this explosion was to lengthen the trial past all expectations. This, in spite of

Dunne, who had said at the beginning of the trial, "This is not going to be any 2 or 3 week circus." The trial lasted 6 weeks.

Riordan went on to testify about the marches he had observed during the week, detailing their disorderly demeanor and his patient forbearance in controlling them, resisting colossal temptations to over-react to the threatening dissenters. He was an exemplar of the co-operative witness giving clear concise answers to all the prosecution's questions. And no model Perry Mason witness could have done such a complete turn-about as when Sullivan started cross-examining him. He balked at almost every question, asking for re-pitition, or wanting clarification of the most straightforward queries. At one point he said he did not know the meaning of the word "fight." He wanted its meaning explained. His unco-operativeness made one suppose that he might even have had an interest in the outcome of the trial.

After Riordan followed a host of other cops and guardsmen, each one testifying that ours was a screaming shouting disorderly mob, and each one expressing his considered opinion that if our march had been allowed to continue, it would have constituted a "threat to the peace and security of the lives and property of the citizens of the city of Chicago." Even the National Guard Commander Richard L. Dunn (no relation to Magistrate Dunne), a downstate lawyer ~~from downstate,~~ testified to this threat, while admitting on cross that the crowd became rioteous only after it had been stopped by the police; our contention exactly. When the arresting officers were asked to identify us there was considerable confusion, not so much on the part of the officers; they had seen pictures of us. But very few of us, the defendants, had ever laid eyes on them, the men who were testifying that they had arrested us. In fact, as I walked into court one day, I overheard Riordan and Merlin Nygren, my arresting officer, evidently discussing the identifications: "That's Ellis Boal," one of them said. Just to make things easier and to avoid embarrassment for Nygren when it came time for him to

identify me in court, I smiled and waved at him. He said, "There."

Raymond O'Malley, a plainclothes cop, next testified that the day of the arrest he and Elrod had been scouting out the regions of the city we would have walked through to get to the Amphitheatre. O'Malley is one of Elrod's regulars in the Red Squad. He alleged that other groups of marchers earlier in the day had been threatened by black residents to the point where O'Malley and his boys had to "rescue" them. Later one of our witnesses who had actually been on that march testified that the black residents had not threatened them at all, but on the contrary had encouraged them and joined them in the march. In fact, it had been the police that had threatened them, following them and insistently telling them to go back, or get in cars, or get on the el, or go home. Twice they had stopped the marchers and told them to quit marching or be arrested.

The key witness for the city was Police Deputy Supt James M. Rochford, second highest ranking officer in the Chicago Police Dept. He impressed me as being more sophisticated than any of the other cops in the trial. People in Chicago are no dummies, and they do not make a man their second top-ranking cop unless he has gone to college. Rochford knew this, and he let everyone else know this. He radiated the calm condescending self-assurance that comes of an educated man who works regularly with people of lower caliber than himself. He came across then as a [redacted] liberal college president, tolerant of dissent, patronizing towards his inferiors, and ready to clamp down in a second with force if he thinks a stuation is out of hand.

It had been solely Rochford's decision to stop our march at 18th and Michigan, or so it was alleged. He claimed responsibility for the whole incident, and he was the biggest gun in Elrod's and Volini's arsenal that would be leveled at us during the trial. Of course he was going to allege, as Gen. Dunn had before him, that he arrived on the scene, saw that it was dangerous or presented an

immanent threat to the peace and security of the city, and so he decided to stop it. On the stand he testified that he and Gen. Dunn had met earlier in the day at about 4 o'clock, decided then that if a march such as ours developed it would be stopped tentatively at 18th and Michigan, where a final decision would be made whether to allow us to continue the march. What we were going to try to bring out, was that Rochford had already made the final decision not to let us go past 18th and Michigan at the afternoon meeting with Dunn. It seemed clear from the other actions of the city during the week that they were not interested in letting the dissidents express their ideas freely, except under the most limited of situations. Their action in refusing to open up Lincoln Park to the Yippies, and in routing the up-till-then peaceful demonstrators the day before in front of the Hilton had shown that, for the duration of the convention, the city had suspended the First Amendment. Rochford had no intention of letting us march to Gregory's house, the Amphitheatre, or anywhere even before the convention had started. Dunn himself had testified that planning to contain "threats" such as our march had begun in the spring, 6 months before the convention even started. It was in the spring then that we contended the decision to stop our march had been made, not at the scene by a high-level scapegoat, heroicized at the trial by ardent city prosecutors for split-second decisive thinking in an "explosive" situation.

Volini only spent half a day each qualifying his previous witnesses as crowd-control experts. But with Rochford he could not be too careful. He wanted to show that here was not only an experienced practitioner of the constabulary art on the stand; no, this was a nationally and internationally known theorist and writer before us, who made a habit of reviewing books and addressing conclaves of the nation-wide elitist police officer class. Indeed this was the man who had kept the lid on during the tension-charged Gage Park demonstrations in the summer of 1966, when Martin Luther King had led hundreds of blacks through a hostile white section of

the city in an open-housing action. ("Kept the lid on" somehow does not seem like the correct expression, in view of the violence that occurred then. Typical incidents were that one of my friends' car was tipped over and my sister was hit by a rock thrown from the crowd. Sullivan made the point on cross that there had then been tremendous blunders made by Rochford and the police, and a near-riot as a result. Rochford was impeaching his own expertise.)

So this was the man to whom we should owe thanks for saving us from the perils of another race riot. If so, we could hardly have known it at the time. When Gregory came forward out of the crowd at one point to discuss the possibility of an alternate route to the Amphitheatre, Rochford made the suggestion, which he soberly stood by at the trial, that he would allow us to go to the Amphitheatre, north along the lake all the way to Evanston, west on the Evanston-Chicago border to the western suburbs, then south and back to the Amphitheatre. Altogether, this would have been a 40 mile detour, taking us through 14 suburbs, getting us to the Amphitheatre 2 days later. This alternate route was offered at trial as an example of the responsible measures the police were taking to find alternate modes of expression for the demonstrators. In retrospect, it seems fair to say that Rochford's suggetion was indeed typical of the police attitude during the week, as the prosecution averred. But we put a construction on that statement different from the city's: as Mike Royko said in his column the next day, Rochford's proposed march would have been "in a class with the Bataan Death March."

This ended the prosecution's case. The next day, our lawyers moved for a directed verdict of acquittal on the entrapment grounds. I cannot reproduce their arguments here from memory, except to say that some of the most beautiful political speeches I have ever heard were made by Sullivan and the other lawyers in the courtroom that day; rarely have members of the legal pro-

fession so brightly shone, as when these people piece by piece dismantled the city's case, and exposed to the trial record the real extra-legal, or rather, super-legal issues raised by all the events of convention week.

As per orders, Magistrate Dunne duly denied the motion, and we commenced our defense. Basically, we just wanted to show that the crowd's conduct had been acceptable, at least up till the time it was stopped by the police line. Our first witness was of all people, a National Guard colonel. He said he had not seen any rocks or missiles thrown, contradicting one of the city's main contentions. Peter Weiss was our next witness. He testified that he and Kempton and Newhouse were leaders of a group of 30 New York delegates who had heard what was going down on the streets of the city, and were sensitive enough and disgusted enough and concerned enough to join the street people in trying to salvage at least part of the human dignity that been obliterated by the melees of the previous days. Small success he was to have.

I must say that the rest of the trial was really pretty boring. Elrod more or less dropped out of it. And the court had given the out-of-state defendants leave to be absent from the trial, so there was no one to mess around or talk with. Occasionally, selected defendants came back to testify, but not all did. The youngest other unmarried (girl) defendant that I had been trying to make it with split back to New York, where she was working in the mayoralty campaign. She was 6 years older than me and a vegetarian, which I dug, but too hung up on going out only with guys that she thought might marry her, which let me out at the beginning. So as I say, there was a lull, and things got slower and slower. It picked up a little when it was my turn to testify. Bob Howard asked me:

Q How did you get to be a marshall?

A Well, the week before convention week I was working as a bus driver, and I went down to the National Mobe office and asked them if there was anything I could do to help out during the convention, and they said to me that I could be a parade marshall and the marshalls were out getting training in Lincoln Park and I could just go on down there and...

THE COURT: Just tell what you did, Mr. Boal, not what people told you. Strike out everything after "National Mobe office."

Bob continued:

Q So what did you do then?

A I went out to Lincoln Park.

Q And what was happening there?

A Teachers specially brought in by the Mobe instructed us in the art and science of parade marshalling.

Q And whereof consists this art?

A Setting up skirmish lines to protect the marchers from hecklers, police, or other dangers that might befall them.

Later Bob asked me how I had got from the back of the parade to the front where I was arrested. Here I testified that I had walked along the same sidewalk that the parade was marching on, passing everybody in the entire march. This was incontrovertible proof of one of our contentions, that it was possible for a non-marching pedestrian to walk along the same sidewalk as the marchers, because I had in fact done it. I testified that when I got to the head of the line and saw that mass arrests were in the works, I removed my identifying black marshall's armband and pressed forward to the very front lines. I testified that I desired to walk over the line south on Michigan Avenue. I testified that I did walk south on Michigan Avenue across the dread line. And I testified that I was arrested and put in a police van with the other defendants. I did not testify that I had decided that final-

ly in my life I was going to assert a moral right. Too many times the opportunity had come for me to express my thoughts, or put my ideals into action and I had failed; too often I had said, "I'll do something about injustice next year," and next year had come and gone with no change in my apathy. The time had come to act: I crossed the line.

I might add here, just to keep it in the family, that the corner of 18th and Michigan was an old stamping ground of some of my ancestors. My grandfather was born in a house on the corner, and lived there till he was married. (It was my lawyer cousin's grandfather too. We tried to liven up the record by getting this in, but Velini objected and Dunne sustained.)

After 5 weeks, the testimony ended, to everyone's relief. There was one day of closing arguments, in which our lawyers performed as brilliantly as they had before, and then the judgement. We were not surprised at the outcome. We had expected it, because we knew the character of the Chicago courts. But the battle is not over yet. Bob Howard is handling the appeal through ACLU, and it will come before the Illinois Supreme Court sometime in the fall. As success there seems unlikely, we will have to wait a few more years until the Supreme Court passes on it.

One might ask, after we had decided to take the matter into the courts, then spent weeks of everybody's time and ACLU's money, and finally lost the case, whether it would have been better to pay the $50 fine for traffic obstruction offered earlier and forget the whole thing. This question of course ignores the principle that we were trying to protect by fighting the thing through. If through our trial we can have constitutional restraints imposed on police activity, we will have succeeded. We are still hopeful of victory at the final stage, but what with Nixon's new Supreme Court appointments, the hopes might not be realized. Say then that it

was a matter of pride, a feeling that we had been wronged, and a thought that perhaps there was some justice in the American courts even if we had to pay through the nose and wait for it 5 years. Whether this thought was well considered now remains to be seen.

There were a couple of side benefits that came to me on account of the trial that I never expected when the whole schmiel began. The first was that the draft councillors I consulted informed me that as long as my case was on appeal and I had a ~~court~~ in a state court case pending, I could not be drafted. When the Supreme Court finally passes on it, I will be 28. So I can thank Elrod and the city of Chicago for keeping me out of the army, and allowing me to go to law school. The other benefit is a little more personal. The convention demonstrations were just one type of action that the movement is capable of, and as time passes, there will be new, better, and bigger actions in Chicago in the future. And each time there is another gathering, demonstration, or action, I go in it. And at every one, I look around, and sure enough, there is Richard J. Elrod and the Red Squad scouting out the arrest possibilities for that day's haul. And it never fails that when I see Elrod, and he sees me, and we realize in each other's eyes what he is there for, what I am there for, and what together we are causing, he comes over to me and says, "Hi, Ellis. How's Nina?"

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Standing outside a dingy municipal courtroom are Georgia Cestero, Peter Weiss, Ellis Boal, Ellen Miller, Patricia Saltonstall and Jane Buckenholz. Their trial, an outgrowth of disorders during the Democratic convention, could become a landmark case. (Photo by Ed DeLuga)

Landmark likely

Convention cases put city court in spotlight

By Larry Green

It's called Municipal Court and it is about as far down the judicial heap as you can go.

People are tried there for hitting other people on the nose, for breaking windows, for telling policemen to mind their own business.

Occasionally, in this lowly court, a case with far-reaching effects is heard. One of these cases is now on trial.

Thirteen persons arrested during the Democratic National Convention last August are on trial for disorderly conduct.

The eyes of the nation are on the simple trial. And it is probably just the beginning of a long string of appeals that the 13 defendants hope will end in the U.S. Supreme Court.

It could become a landmark case like Miranda and Escobedo. And it could give Chicago a black eye.

Magistrate Arthur L. Dunne
Appeal upcoming?

PEOPLE CAN be charged with disorderly conduct for test during the week of the convention.

THE TRIAL is now in its third week. It has been an ordeal for the 13. Most must commute at least once a week convenience to the guardians of 'law and order.'

"We believe that we witnessed, and, unwittingly, became participants in a situation in which the mayor, the police and the National Guard decided, in effect, to suspend the Constitution for the duration of that week."

THE CITY'S case is based on its belief that the march was a threat to the peace and security of Chicago.

"The purpose of this march being stopped at 18th St. was to prevent the fire from being ignited to burn this fair city to the ground," Camillo Volini, a special corporation counsel appointed to prosecute only this trial, told the judge.

He has denied that any constitutional rights were violated and believes the 13 are clearly guilty of disorderly conduct.

Assisting Volini in the city's prosecution is Richard Elrod, chief of the c[illegible]ation coun-

Edge zonir wins

By Jay McMu

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telling policemen to mind their own business, for not going away when a policeman tells them to go away, or for many other seemingly minor offenses.

The thirteen defendants—many of them prominent and 11 from the East Coast—were arrested the night of Aug. 29 when they tried to march through a police and National Guard line at 18th St. and Michigan.

All voluntarily submitted to arrest after police halted the march of about 3,000 persons walking to the International Amphitheatre.

Police charged them with disorderly conduct because they failed to disperse when they were ordered to. They were also in an area where police said at least three persons were "committing acts of disorderly conduct."

For this, each could be fined up to $500.

NOW THEIR case is being heard in Municipal Court before Magistrate Arthur L. Dunne, who sits behind his high bench wearing an American flag button on his judicial gown.

Indeed, if Dunne, who is hearing the case without a jury, should find the 13 guilty and if the Supreme Court should reverse the convictions, judicial history will have been made.

A reversal by the high court could result in drastic changes in the way Chicago, and perhaps other cities, deals with demonstrations, protests and disorders in the future.

A reversal would be interpreted as stinging criticism of the policies and actions Chicago directed against dissidents who came to the city to protest during the week of the convention.

THE TRIAL is now in its third week. It has been an ordeal for the 13. Most must commute at least once a week between their Eastern homes and Chicago.

None had to stand trial.

All were offered the opportunity to plead guilty to lesser offense — obstructing traffic — and pay a $50 fine rather than go through the time and expense of a long trial.

All 13 refused the offer.

Only 2 of the 13 are under 30. Two are attorneys and one was a candidate for Congress in New York last year. One is a university professor another a business executive. One is a teacher, two are newspaper figures, one is a social scientist. One is a minister. Five were delegates or alternate delegates to the convention.

Only one was ever arrested. Twice he was taken into custody for his participation in civil rights demonstrations, but never convicted.

ALL 13 believe their constitutional rights were violated by authorities who halted their march. Their defense attorney's have argued that the right to protest and dissent guaranteed by the First Amendment was suspended by Chicago officials that week.

The march was halted, defense attorneys argued last week, to suppress dissent. And they contend that the city failed in its obligation to protect protestors from violence.

In a prepared statement issued during the trial, the 13 defendants said:

"We believe that the behavior of the authorities during the week of Aug. 25, 1968, rested on the erroneous premise that free speech and free assembly may be tolerated only so long as they pose no indivision and author of the law under which the 13 are charged.

ELROD ALSO has provided additional legal aid for Volini from the city's staff. One of the city law department's big guns, Elrod's presence and participation in the trial is a clue to how important the case is to the city administration.

A second clue can be found in Elrod's announced intention to appeal any acquittal. This is a highly unusual move and is not permitted in more serious criminal cases.

Nine of the 13 defendants are being represented by attorneys from the Roger Baldwin Foundation of the American Civil Liberties Union. Four have their own lawyers.

MAGISTRATE Dunne takes detailed notes during the hours of testimony. He has displayed a wide range of temper since the trial opened, sometimes joking and sometimes snapping.

The 13 defendants sit in the jury box of the old, dimly lighted, overheated courtroom. They, too, take notes. Some have missed a few days of the trial returning to their homes because of family problems.

So far, the trial has produced about 3,000 pages of transcript.

It may last another two weeks.

But to the 13 defendants the big deal in the lowly court is a matter of principal and therefore worth the time. All remain optimistic:

"We are confident that such use of physical power to override constitutional rights will not be sanctioned by our courts. As this confidence is vindicated, our participation (in the trial) will have been worthwhile."

Revolted!

Magistrate Arthur L. Dunne

Appeal upcoming?

...ings or appeals that the 13 defendants hope will end in the U.S. Supreme Court.

It could become a landmark case like Miranda and Escobedo. And it could give Chicago a black eye.

PEOPLE CAN be charged with disorderly conduct for

...test during the week of the convention.

...gnited to burn this fair city to the ground," Camillo Volini, a special corporation counsel appointed to prosecute only this trial, told the judge.

He has denied that any constitutional rights were violated and believes the 13 are clearly guilty of disorderly conduct.

Assisting Volini in the city's prosecution is Richard Elrod, chief of the ... sel's ordinar... division and ...

...ment zoning b... cil represents ... $10,000,000 to ... disclosed men.

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icago's AMERICAN
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GREEN STREAK
COMPLETE
FINAL MARKETS

y in Convention Disorders

Phones Million Time

PROBE

ve departments, a study dis-osed. They are:
COOK COUNTY hospital and e school of nursing, whose mbined phone bill for 1968 as $242,828.56. Their Centrex stem was installed in the

ELLIS BOAL
Chicagoan fined $200.

[CHICAGO'S AMERICAN Photos]

Mrs. Patricia Saltonstall Rosemond tells newsmen she'll appeal riot conviction

Fines Range from $200-400, Plan Appeal

The longest disorderly conduct trial in Chicago's history ended today with 13 defendants being convicted and fined amounts ranging from $200 to $400 for their conduct during a mass march at last August's Democratic national convention.

The 13, all but one of whom are from out of the city, were found guilty in a bench trial by Magistrate Arthur L. Dunne in Circuit court. He heard 30 witnesses during 26 days of testimony.

Lawyers to Appeal

Lawyers for the defendants said they will appeal to higher

Here Is Text Defining Limits to Free Speech for Marchers

Following is the text of Magistrate Arthur L. Dunne's statement on the issue of freedom of speech and assembly in convicting 13 Democratic national convention delegates and campaign staff workers of disorderly conduct yesterday:

"The right of free speech and assembly, while fundamental in our democratic society, does not mean that everyone with opinions or beliefs to express may do so at any public place at any time. The constitutional guarantee of liberty implies the existence of an organized society maintaining public order without which liberty itself would be lost in the excesses of anarchy.

Cites Dangers to Society

"The authority of government is not so trifling as to permit anyone with a complaint to have the vast power to do anything he pleases, whenever he pleases, and wherever he pleases. If this were true, our customs and our habits of conduct — social, political, economic, ethical and religious — would all be destroyed and become no more than relics of a gone, but-not-forgotten past.

"I firmly believe that our cities, and the residents of these cities, can be and must be protected by their government from noisy, chanting, shouting, marching, threatening picketers who, under the guise of free speech, hurl pieces of brick, stones and fireworks, bent on filling the minds of men and women and children who reside in our city, with fear and hysteria.

Magistrate Arthur Dunne

"In the case at bar, there is ample evidence that the totality of the circumstances in the city of Chicago and particularly in the vicinity of 18th and Michigan on the night of Aug. 29, 1968, did present a clear, imminent and present threat of violence to our community. Under these circumstances the authorities have the right, as well as the duty, to take action under ordinances enacted by the municipal authorities for the welfare and protection of the citizenry.

"The ordinance which the defendants are charged with violating is narrowly drawn in such a way as to avoid abridging the right of speech, assembly and petition. It is in no sense a "meatax ordinance." It is also clear in this record that the Illinois national guard, as well as the Chicago police department, did make a determined and successful effort to permit the marchers to peacefully demonstrate and acted only in the interest of maintaining public order.

Order Not Maintained

"I do not believe that this group and its leaders did all in their power to maintain order. On the contrary, it appears that such efforts that were made were nothing more than a shallow pretense — no more than an empty gesture. [It is noteworthy that one of the defendants in this cause stated that he was a parade marshal with the responsibility of maintaining order, abandoning his duties, did remove his identifying armband, pressing to the forefront of the marchers, refusing to obey the lawful order given to him by a peace officer, ultimately being taken into custody.]

"It is readily apparent that this group, bent on airing emotional grievances, either imaginary or real, on the streets of our city, acted in such a fashion that the joint efforts of the Illinois national guard and of the Chicago police department were of no avail, resulting in the issuance both by personal contact and by means of amplifying devices, of an order to disperse—which was lawful in every sense.

"The defendants in this cause knowingly disobeyed this order and sought arrest, rather than obey the duly constituted and lawful authority of the community."

EX-CHICAGO POLISH CONSUL ASKS ASYLUM

[N. Y. Times-Chicago Tribune Service]

New York, April 14—A Polish journalist, formerly consul in Detroit and vice consul in Chicago, today made known his decision to seek asylum in the United States after years of "doubts about the basic validity of communism."

The journalist, Zbigniew Byrski, 55, has been in New York with his wife on a six-month visitor's visa since January.

Byrski said he joined the Polish foreign ministry in 1947 and was assigned as vice consul in Chicago and then in 1950 as consul in Detroit before he returned to Poland. He finally decided against returning to

No. 42487

In The

SUPREME COURT OF ILLINOIS

CITY OF CHICAGO,

Plaintiff-Appellee,

vs.

PETER WEISS, GEORGIANNA CESTERO, RICHARD NEUHAUS, ROSE BROOKS, DAVID BORDEN, ELLEN MILLER, SEMA LEDERMAN(MOSS), ANDREW ROBINSON, PATRICIA SALTONSTALL (ROSEMOND), JAMES M. KEMPTON, JANE BUCHENHOLZ, FRANKLIN MILLER and ELLIS BOAL,

Defendants-Appellants.

Appeal from the Circuit Court of Cook County,
Municipal Department, First District

Honorable Arthur L. Dunne, Presiding

BRIEF AND ARGUMENT FOR ALL DEFENDANTS-APPELLANTS, EXCEPT PETER WEISS

David J. Krupp
Michael L. Shakman
Julie A. Haenel
Attorneys for Defendants-Appellants
208 South LaSalle Street
Chicago, Illinois 60604

Of Counsel:

Devoe, Shadur, Plotkin, Krupp & Miller

Oral Argument Requested

that permission to go further would be discussed later. This was before the march began. (R. 4575-6) He heard a total of five or six firecrackers and only one or two before his arrest. They did not come from the marchers but from the western sidewalk of Michigan Avenue or from the intersection south of the Guard line. (R. 4583-6) He heard the firecrackers explode very near to the intersection itself. He did not see them being thrown but knew that they could not have come from the marchers because the marchers could not have thrown them that far. (R. 4587-9)

Testimony of Ellis Boal

For the first ten minutes or so after Boal arrived at a position where he could see the Guard line, he did not see anyone go through it. Then he took his armband off and stood for about twenty minutes watching individuals go through the line at intervals of about thirty seconds to one minute. He spoke to a Guardsman about six feet south of the east curb line of Michigan who was making announcements to the crowd. The announcement was "The line of march is to the west. Anyone proceeding to the south will be arrested." Boal asked the Guardsman four or five times whether they could be allowed to march west one or two blocks and then south as a group, but the Guardsman did not reply. (R. 4620-5) A second Guardsman took the bullhorn, a white man, and made

the same announcement many times. Boal also asked him the same question he had asked the first Guardsman. The man with the bullhorn kept on making announcements, Boal kept asking the question and finally the Guardsman looked at him and said, "I can't answer that question." A few minutes later Boal went through the Guard line. He proceeded about five or six feet and two Guardsmen grabbed him by the arms and escorted him through the corridor to two policemen who also took him by the arms and escorted him in a line that curved around to the east to a waiting police van where one of the policemen frisked him and he got into the van. (R. 4626-33) He did not see Commander Riordan, Chief Nygren or Deputy Rochford that evening. He did not see any stones or missiles thrown in the air or striking the ground at any time after leaving the Logan Statue, nor did he hear any firecrackers. (R. 4634-5)

Testimony of David Borden

David Borden was forty feet behind the head of the march when it halted at the intersection. (R. 3356) He was standing with Andrew Robinson, Mrs. Moss and others. He moved forward until he got to the Guard line. (R. 4365) The line parted and he went through. As he was going through a Guard colonel spoke to him and he continued walking south. He was

Docket No. 42487—Agenda 33—November, 1971.
THE CITY OF CHICAGO, Appellee, v. PETER WEISS *et al.*, Appellants.

MR. JUSTICE GOLDENHERSH delivered the opinion of the court:

Defendants, Peter Weiss, Richard J. Neuhaus, James Murray Kempton, Jane Buchenholz, Patricia Saltonstall, Georgianna Cestro, Andrew Robinson, Davis Borden, Ellen Miller, Ellis Boal, Franklin Miller, Sema Lederman and Rose Brooks, appeal from the judgments of the circuit court of Cook County finding them guilty, following a bench trial, of disorderly conduct in violation of section 193—1 of the Municipal Code of the City of Chicago. Defendants Weiss and Neuhaus were each fined $400; defendant Kempton, $250; and each of the other defendants, $200. Costs were assessed against each defendant.

Section 193—1, in pertinent part, provides: "A person commits disorderly conduct when he knowingly: *** (d) Fails to obey a lawful order of dispersal by a person known by him to be a peace officer under circumstances where three or more persons are committing acts of disorderly conduct in the immediate vicinity, which acts are likely to cause substantial harm or serious inconvenience, annoyance or alarm ***."

The Democratic National Convention was held in Chicago during the last week of August, 1968, and the occurrence out of which these cases arose took place on the evening of August 29, 1968.

The leaders of various dissident groups had announced earlier that protesters would disrupt the convention and the city. Leaders of two dissident groups, the Youth International Party (Yippies), and the National Mobilization Committee to end the war in Viet Nam (MOB), met with representatives of the mayor's office concerning the use of public facilities during the week of the convention. It was agreed that the public facilities of the city were to be made available to members of the Yippies and MOB, so long as they were used in a peaceful and orderly manner, but the city refused to approve their plans to sleep in the parks for the reason that park ordinances of long standing prohibited use of the parks after 11:00 P.M. The city also refused to approve their plans for demonstrations in the area immediately adjacent to the International Amphitheatre, the site of the convention, because a mass assembly of people might interfere with the security preparations of both Federal and local authorities.

MOB, Rennie Davis, Tom Hayden, Mark Simons, Mary Lou Nowka, Marie Zelek and Linda Turner filed an action in the United States District Court for the Northern District of Illinois seeking an injunction to prohibit the officials of the city and park district from interfering with the meetings, parades and demonstrations they planned, and from interfering with their members who intended to

sleep in the parks. The plaintiffs argued that they had a right to conduct a massive demonstration within "eye-shot" of the Amphitheatre on the evening of the nominations by the Democratic National Convention, and the defendant local authorities contended that the proposed sites could not be made available because of traffic and security considerations in that area. The district court held that alternative routes of march and assembly suggested by the local officials showed that they had acted in a reasonable and nondiscriminatory manner to preserve public safety and convenience at the site of the convention without depriving plaintiffs and other protesters of their rights of free speech and public assembly. The court also held that the plaintiffs did not have a right to sleep in the parks.

There were numerous demonstrations and marches by various groups from Sunday, August 25, through Thursday, August 29. These marches and demonstrations, which took place in and around the downtown area of the city, several miles north and east of the Amphitheatre, produced a number of confrontations with the police. The protesters made several attempts to march to the Amphitheatre, and to sleep in the parks. Violent confrontations were experienced on the evenings of August 25, 26, and 27, when the police cleared Lincoln Park of persons who wanted to sleep there. About 8:00 P.M. on Wednesday, August 28, a violent and much publicized confrontation occurred in front of the Conrad Hilton Hotel. On the night of August 28, 1968, following adjournment of the Democratic Convention until the next day, 5 of the defendants attended a meeting at the Amphitheatre at which the participants agreed to assemble the next evening in front of the Conrad Hilton Hotel to protest occurrences, particularly alleged acts of police brutality, which took place during that day.

About 2:00 P.M. on August 29, a large group began to assemble in Grant Park across from the Hilton Hotel. This group was addressed by a number of speakers, including Senator Eugene McCarthy, Dick Gregory, Reverend Ralph Abernathy, Reverend Andrew Young, and Pierre Salinger. About 4:00 P.M. some 2,000 of the group began to march from Grant Park to the Amphitheatre. About 4:30 P.M. the police stopped the march at 16th Street and Michigan Avenue. Deputy Superintendent of Police James Rochford told the marchers that the Secret Service was seriously concerned about the safety of the candidates and asked the demonstrators to return to the Grant Park area where they could demonstrate "to their heart's content."

Most of the group returned to Grant Park. A small part of the group, approximately 30 in number, proceeded south into a Negro residential neighborhood. Several squad cars accompanied this group. The residents of the area were heckling the group, and at 31st Street the police walked with the marchers. Some of the marchers began to fall out of the march, and when the group reached 41st Street about 6:00 P.M. there was a brief scuffle with some Negro youths. These remaining marchers accepted a police offer of escort out of the area.

In the meantime the main group had returned to, and was still assembled in, Grant Park. At approximately 6:30 P.M., General Richard T. Dunn, the commanding officer of the Illinois National Guard, met with Dick Gregory in front of the Hilton Hotel. He told Gregory that 18th

Street had been selected as the point beyond which it was not safe for the demonstrators to proceed and that the [illegible] in the area bounded by 18th Street on the south and State Street on the west. Gregory said he would lead the march south on Michigan Avenue to 18th Street. General Dunn said he would meet with representatives of the city, the Secret Service, and the United States District Attorney's office at 18th Street and Michigan Avenue and decide if the march could proceed further.

At approximately 7:20 P.M., approximately 3,000 marchers started south on Michigan Avenue. They marched 3 and 4 abreast on the east sidewalk. About 450 National Guardsmen walked in the street next to them. The marchers stayed on the sidewalk, and as they proceeded south there was some chanting and a few vulgar remarks but no violence. The group reached the intersection of 18th and Michigan at approximately 8:30 P.M. There Michigan Avenue had been barricaded with jeeps and barbed wire, and there was a line of National Guardsmen, in full battle regalia, positioned diagonally from the northeast corner to the southwest corner of the intersection. Behind the Guardsmen to the south were police, and the testimony shows there were approximately 1,250 National Guardsmen and 120 policemen in the area. North of the intersection was a television van equipped with spotlights. As the march was halted at the intersection, the marchers "bunched up" and filled the street.

The marchers were told that they could turn west on 18th Street or go north, but that they would be arrested if they proceeded south. There was considerable discussion between Guard and police officers and leaders of the march, but a stalemate occurred as the marchers refused to go any direction but south, and the National Guard refused to permit them to go south. This situation continued for about 45 minutes to an hour and tensions began to build. Then the arrests began. Any marchers proceeding south were permitted to go through a corridor in the Guard line where they were arrested by the police and placed in a police van. In a period of approximately one hour, 90 to 100 individuals, including all of the defendants, were arrested. Very shortly thereafter an announcement was made that there would be no further arrests, and the arrest corridor was closed off. About 15 or 20 minutes after the arrests were concluded, the marchers surged forward. The Guard line pushed the demonstrators back and released tear gas. The marchers dispersed and returned to Grant Park.

As grounds for reversal, defendants contend first that section 193–1(d) of the Municipal Code of Chicago is unconstitutionally vague and overbroad on its face. They acknowledge that in *City of Chicago v. Fort (1970), 46 Ill.2d 12; City of Chicago v. Jacobs (1970), 46 Ill.2d 214;* and *City of Chicago v. Greene (1970), 47 Ill.2d 30, cert. denied (1971), 402 U.S.———, 29 L.Ed.2d 162, 91*

S.Ct. 2180, this court considered and rejected the contentions here presented, but argue that *Coates v. City of Cincinnati (1971), 402 U.S. 611, 29 L.Ed.2d 214, 91 S.Ct. 1686,* decided subsequent to *Greene,* requires reconsideration and reversal of our prior holdings.

The ordinance in *Coates,* insofar as here relevant, provides: "It shall be unlawful for three or more persons to assemble, except at a public meeting of citizens, on any of the sidewalks, street corners, vacant lots, or mouths of alleys, and there conduct themselves in a manner annoying to persons passing by, or occupants of adjacent buildings." 402 U.S. 611, n.1, 29 L.Ed.2d 214, 216.

The Court in holding the ordinance so vague as to be invalid said: "Thus, the ordinance is vague not in the sense that it requires a person to conform his conduct to an imprecise but comprehensible normative standard, but rather in the sense that no standard of conduct is specified at all." (402 U.S. 611, 29 L.Ed.2d 214, 217, 91 S.Ct. 1686, 1688.) In our opinion the ordinances are clearly distinguishable, and we adhere to our decision in *City of Chicago v. Fort (1970), 46 Ill.2d 12,* wherein at page 16 we said, "*** the ordinance defines boundaries sufficiently distinct for us to review the reasonableness of the peace officer's on-the-spot decision that three or more people in the immediate vicinity were engaged in acts of disorderly conduct."

Defendants' principal contention is that assuming, *arguendo,* that the ordinance is constitutional on its face, the manner in which it was applied to these defendants renders it unconstitutional. They argue that the order was not one of dispersal within the contemplation of the ordinance, for the reason that, although it prohibited their going to the south, it did not order them to disperse. They argue further that the order was unlawful for the reason that when given they were peacefully engaged in the exercise of their constitutional rights, there was then present no element of violence or disorderly conduct, and that whether the order was lawful must be determined as of the time they were barred from marching south and cannot be decided on the basis of disorderly conduct by other persons subsequent to the allegedly unlawful interference with their march to the Amphitheatre. They contend that although the ordinance might possibly be constitutionally applied to "non-speech" activities it cannot survive scrutiny under first amendment tests, and they state, correctly, that because a claim of a constitutionally protected right is involved, this court may not apply to the findings of the trial court the same tests as are used in other cases, but must itself examine the whole record. *(Cox v. Louisiana, 379 U.S. 536, 545, 13 L.Ed.2d 471, 478-479, 85 S.Ct. 453, 459.)* We note, parenthetically, that the record is 6,000 pages in length.

It is the city's position that the lawfulness of the order not to proceed south is not an issue in the case. The city argues that even if the order were not lawful, the arrests of

the defendants were proper and the convictions must be affirmed because the evidence shows that at the time of the arrests there is no question that disorderly conduct as defined by paragraph (a) of section 193–1 was committed, and in fact, a great deal of violence was then in progress. Alternatively plaintiff argues that the order, when originally given, was lawful.

The first question to be determined is whether the order not to proceed south of 18th Street was an order of dispersal under section 193–1(d). It is apparent from the record that the police and National Guard gave no order, and made no attempt, to completely disperse the march when it reached the intersection. The demonstrators were free to continue their march west or return north. The order not to proceed south was given on numerous occasions over a bull horn and the demonstrators were fully advised that they would be arrested if they did proceed south. The clear intent of this order was that the march would be dispersed if, and as, it attempted to move south, and it was an order of dispersal within the meaning of section 193–1(d).

The next issue to be determined is whether the order not to proceed south was "lawful" as required by section 193–1(d). The lawfulness of the order must be determined as of the time when it was given, when, admittedly, the march continued to be peaceful and orderly, and if unlawful at that time it cannot be rendered lawful by the violence which followed the refusal to permit the march to proceed south of 18th Street.

As stated by the Supreme Court in *Cox v. Louisiana, 379 U.S. 536, 554, 13 L.Ed.2d 471, 483, 85 S.Ct. 453, 464,* the contention presented "raises an issue with which this Court has dealt in many decisions, that is, the right of a State or municipality to regulate the use of city streets and other facilities to assure the safety and convenience of the people in their use and the concomitant right of the people of free speech and assembly."

The court went on to say, "The rights of free speech and assembly, while fundamental in our democratic society, still do not mean that everyone with opinions or beliefs to express may address a group at any public place and at any time. The constitutional guarantee of liberty implies the existence of an organized society maintaining public order, without which liberty itself would be lost in the excesses of anarchy." (379 U.S. 536, at 554, 13 L.Ed. 2d 471, at 484, 85 S.Ct. 453, at 464.) "We emphatically reject the notion urged by appellant that the First and Fourteenth Amendments afford the same kind of freedom to those who would communicate ideas by conduct such as patrolling, marching, and picketing on streets and highways, as these amendments afford to those who communicate ideas by pure speech." (379 U.S. 536, at 555, 13 L.Ed.2d 471, at 484, 85 S.Ct. 453, at 464.) "We also reaffirm the repeated decisions of this Court that there is no place for violence in a democratic society dedicated to

liberty under law, and that the right of peaceful protest does not mean that everyone with opinions or beliefs to express may do so at any time and at any place. There is a proper time and place for even the most peaceful protest and a plain duty and responsibility on the part of all citizens to obey all valid laws and regulations." *Cox v. Louisiana, 379 U.S. 559, at 574, 14 L.Ed.2d 487, at 498, 85 S.Ct. 476, at 486.* 487, 498, 85 S.Ct. 476, at 486.

As required by *Cox*, we have examined the entire record and conclude that the order not to proceed south of 18th Street was lawful when given. The record reflects numerous outbreaks of violence in various parts of the city, and the testimony of Deputy Superintendent of Police Rochford persuades us that there was a reasonable basis for the fear that a march of 3,000 demonstrators which presented no immediate threat of violence in the industrial area which lay north of 18th Street might, if permitted to move into a densely populated area in which violence had recently occurred, present a serious threat to the peace and safety of the community. Further we find the testimony of Commanders James Riordan and Robert Harness of the Chicago Police Department and General Dunn of the National Guard supportive of Deputy Superintendent Rochford's opinion that permitting the march to proceed south of 18th Street would present a threat to the peace and security of the area.

We are cognizant of defendants' contention that with 1,250 Guardsmen and 120 police immediately available, any difficulty which arose could be controlled. We recognize that the police may not stop a peaceful demonstration merely because a hostile crowd which does not agree with the views of the demonstrators threatens violence and, in fact, owe a duty to protect the peaceful individuals from acts of hostility. There are circumstances, however, when the first amendment right to assemble and demonstrate in a specific place or area must yield to the compelling interest of the community to maintain peace and order. In our opinion, against the background of what had already occurred and the potential danger of permitting the march to proceed, the order given was reasonable, and we hold that within the meaning of the ordinance it was a lawful order.

The record shows that the order prohibiting the marchers to proceed south of 18th Street was announced by a National Guard officer standing on a truck and using a bull horn. He announced, repeatedly, that the procession could go west or north but would not be permitted to go south. Approximately 10 minutes after the first announcement, Dick Gregory came out of the line of marchers and spoke with Deputy Superintendent Rochford. He told Rochford that the group wanted to march to the Amphitheatre, and Rochford replied that he was concerned that violence might erupt in the area into which they desired to march. Gregory stated that he wanted to take the group to

his home for a meeting, and Rochford offered to escort any reasonable number of people to Gregory's home. Gregory rejoined the marchers and shortly thereafter returned and told Rochford they were going to march to the Amphitheatre. Rochford told him that if he crossed over 18th Street he would be arrested.

Defendant Neuhaus spoke with Rochford and told him he "represented a number of delegates" who wished to go to the Amphitheatre. Rochford told him no one would be permitted to walk through the line of Guardsmen but if he would call the delegates together transportation would be arranged to the convention.

Defendant Weiss, a delegate to the convention, testified that he joined the march and continued with it to the point where it was stopped. He stated that he advanced to the front of the marchers and at that point had a conversation with National Guard Colonel Donald G. Lapsley, who told him "the line of march was to the west;" Weiss replied that he was a delegate on his way to the Amphitheatre and intended to go there. Lapsley told him that if he went south of 18th Street he would be arrested. He walked south and was arrested.

Defendant Kempton, also a delegate, joined the march near Grant Park and continued on to 18th and Michigan. He too was told that if he went south of the "line" he would be arrested. He walked through the line and was placed under arrest.

Defendant Weiss, in a separate brief contends that he was arrested "solely for the crime of walking in a southerly direction after being told not to do so; there was absolutely no showing of any imminent present threat of hostility caused by his lone act of walking to the south." He argues too, that prior to walking to the south he sought to avail himself of Deputy Superintendent Rochford's offer of transportation to the convention but was advised by Colonel Lapsley that the offer had been withdrawn. In rebuttal Rochford testified that only he had authority to withdraw the offer and had not done so.

Our review of the testimony leads us to conclude that the argument of defendant Weiss that when arrested he was in the act of walking to the convention alone, thus, in effect, completely disassociated from the other marchers, does not find support in the testimony. We conclude further that even assuming that when he sought to accept the previously extended offer of transportation to the Amphitheatre he was told it had been withdrawn, this fact did not give rise to a right to violate the lawful order not to proceed south on 18th Street. If reaching the Amphitheatre were in fact his intention, there were available means of achieving that goal without violating the police order.

Defendants argue that the order to stop the marchers at 18th Street was not given because of imminent danger of violence if the march proceeded, but was given in

furtherance of enforcing a "blanket prohibition against marches to the Amphitheatre." We have examined the portions of the record cited in support of this argument, and although there can be little doubt that the city did intend to prohibit demonstrations at the Amphitheatre, it does not follow that it intended to prohibit this particular march for any reason other than the one given by Rochford and the other police officials. It should be noted that the record presents no issue of the validity of the ban on demonstrations at the Amphitheatre. We are here concerned only with what occurred at 18th and Michigan, and having determined that the order not to proceed south of 18th Street was lawful, the sole remaining issue is whether, when defendants disobeyed the order, the other conditions requisite to sustain the judgment were present.

The record shows that immediately prior to and at the time when defendants crossed the "line" and were arrested, rocks and firecrackers were being thrown, more than three people were committing these acts in the immediate vicinity, and there is ample basis in the record to show that these acts would cause substantial harm. The testimony shows repeated announcement of the order, conversations between several of the defendants and various police officers, and obviously the defendants knew the order was that of a peace officer as required by the ordinance. There is no evidence that any of the defendants threw rocks or firecrackers or engaged in disorderly conduct, but it is not necessary for a conviction under section 193—1(d) to show that the defendant was one of the "three or more persons" committing acts of disorderly conduct. *City of Chicago v. Fort (1970), 46 Ill.2d 12; City of Chicago v. Greene (1970), 47 Ill.2d 30.*

Defendants, in their brief, point out alleged inconsistencies in the testimony of the police officers with respect to what they term the "female defendants." We have examined the testimony and it supports a finding that these defendants were within hearing range of the dispersal order, unmistakably being given by a peace officer, and elected to cross the "line" knowing that it would result in their being arrested. We do not find the argument that no order of dispersal was given the "female defendants" persuasive.

Our examination of this record convinces us that the circumstances out of which these cases arose presented a situation where defendants' first amendment rights were required to yield to the compelling interest of the city to maintain peace and order. They elected to defy a lawful order and in so doing violated a valid ordinance. The judgments of the circuit court of Cook County are affirmed.

Judgments affirmed.

MR. JUSTICE SCHAEFER took no part in the consideration or decision of this case.

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, D. C. 20543

OCT 10 1972

Harry Golter, Esq.
Overton, Schwarts & Yacker
Suite 830
105 West Adams St.
Chicago, Ill 60603

RE: Peter Weiss, et al., v. City of Chicago
72-19

Dear Sir:

The Court today denied the petition for a writ of certiorari in the above-entitled case. Mr. Justice Douglas would grant certiorari and reverse the judgment of the Supreme Court of Illinois. Coates v. City of Cincinnati, 402 U.S. 611 (1971).

Very truly yours,

MICHAEL RODAK, JR., Clerk

By _____
Helen Taylor (Mrs.)
Assistant Clerk

Richard L. Curry, Esq.
Corporation Counsel of the City of
Chicago
511 City Hall
Chicago, Illinois 60602

LAW OFFICES OF

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MICHAEL SMITH
OF COUNSEL

TELEPHONE
875-9800
AREA CODE 313

Dominic Greco
Civic Center, Room 1006
Chicago, Illinois
60602

Dear Mr. Greco:

Pursuant to order of the Circuit Court of Cook County, dated January 18, 1973, I herewith enclose the _____ installment of $_____ on a fine of $187.50 levied against me as a defendant in the case of ~~XXtXX~~ City v. Peter Weiss, et al.

I understand per my lawyer David Goldberger of the ~~XX~~ ACLU that I will be expected to pay $10.00 monthly beginning February 10 and each month thereafter until the fine is paid. I am required to pay the fine at $10.00 per month until I gain substantial employment, at which time I should pay the remainder of the fine in larger installments, or pay the remainder in a lump sum. If the monthly installment is not received by the 10th of each month, or at the very latest, the 15th of each month, a warrant will issue for my arrest and can be served on me should I return to Illinois.

If there is any problem please contact me at the above address.

Sincerely,

Ellie Soal

ELLIS BOAL
ATTORNEY

925 FORD BUILDING, DETROIT, MICHIGAN 48226-3988
(313) 962-2770 • FAX (313) 962-9384

September 8, 1993

Mike Royko
Chicago Tribune
Editorial Department
Fourth Floor
435 N Michigan Avenue
Chicago, IL 60611

Re: "Chicago '68: Legendary for the wrong reasons," 9/5/93

Dear Mike:

In this column you rightly say that the 1968 Chicago Democratic convention debacle could have been avoided had the police simply let the war protesters camp overnight in Lincoln Park on the city's north side, far from the Amphitheatre site.

But you denigrate the protesters, saying we made ridiculous threats, and if we had been allowed to march south to the Amphitheatre "many [of us] might have been mugging victims." You go on to draw out the political consequences of the convention week.

On the immediate facts you had a different position writing at the time. Perhaps you were piqued by the "rock generation" caller who prompted your present column, with whom I also disagree. But you go too far.

I was living in Lincoln Park at the time working variously as a schoolteacher, bus driver, and cab driver. I regularly followed and enjoyed your Daily News column, to the point that though we have never met I feel comfortable addressing you familiarly.

The following year 13 of the demonstrators including myself raised a constitutional challenge to the city's handling of the demonstrations, in a run-up to the more famous federal conspiracy trial against the Chicago 8 later that year. I saved clippings on our case, including three you wrote.

I was a parade marshall through the week, and witnessed many of police atrocities. My sister, an amateur photographer, also recorded many of them on film. On the last day of the convention 3000 dissidents, shocked by the police activity and the political direction of the convention, demanded to march from Grant Park to the Amphitheatre to let the delegates and the country know. "The whole world is watching!" was one of our chants. We were stopped at 18th and Michigan, 79 were arrested, and the remainder were attacked and gassed.

Our trial before Magistrate Arthur L. Dunne lasted six weeks. The Illinois Supreme Court affirmed him in 1971, holding that at "the time [the order to disperse] was given, ... admittedly, the march continued to be peaceful and orderly." Yet "[our] first amendment rights were required to yield to the compelling interest of the city to maintain peace and order." Why? Because the police had a "reasonable basis" to fear a serious threat to the community if our march were permitted to continue south through a black residential neighborhood to the Amphitheatre.

Unlike today, you ridiculed this rationale in your column of 3/13/69 ("As detours go, here's a lulu!"). You wrote: "Just why the residents might want to attack the marchers isn't clear. Possibly they were jealous of all the fun the police had been having."

In that column and that of 3/11/69 ("Our judges are wise and kind") you described us as "prominent convention marchers" "marching for peace," and the city's proposed alternate 40-mile detour route as "almost in a class with the Bataan Death March." Your column of 4/15/69 ("Mayor Daley's suspense ends") reamed Magistrate Dunne as a hack beholden for his job to the Democratic Party, Mayor Daley, and his own family, gratefully repaying them by convicting us in a politically sensitive case.

Reading your work then we thought of you as one of us. But today you only heap scorn. You say we actually might have lengthened the war by insuring the election of Nixon and a 25-year string of depressing successors, instead of Humphrey, whom you term a decent well-qualified man. You add the convention was no watershed in US consciousness, or at least not a salutary one.

Perhaps the convention by itself wasn't a watershed. But it was one particle in a decade-long anti-war movement that indisputably did influence Nixon to pull out of Vietnam.

It is also true that the political direction of the country has gone downhill since then. But you can't pin that on us. You had it right in 1969. We stood on our rights. The

first amendment does not yield to "peace and order." It was the police who forced the confrontation.

Nor can you pin the rightward drift of the baby boomers on us. Though there are exceptions, for myself and many participants the convention was a catalyzing experience. It pushed me toward a life of activist involvement, now in the labor movement in Detroit, primarily with the organizations Labor Notes, Teamsters for a Democratic Union (TDU), and more recently the New Directions movement in the UAW. Labor Notes has a newsletter (circulation 11,000) and several publications. We push for active rank-and-file participation in unions, speak against sexual harassment and racism, and oppose the government's plans to amend the 1935 Wagner Act and bring back company unions via phoney "cooperative" labor-management relations. Most recently we had a conference here this spring attended by 1,100 union rank-and-filers and officials. We feel this is important work and many of the organizers grew into it through experiences similar to Chicago '68.

Agreed, these events were not important for the masses of yuppies and baby boomers. But there were serious people involved then. You do a disservice by equating your caller's views to all the participants in the cathartic events of Chicago that year.

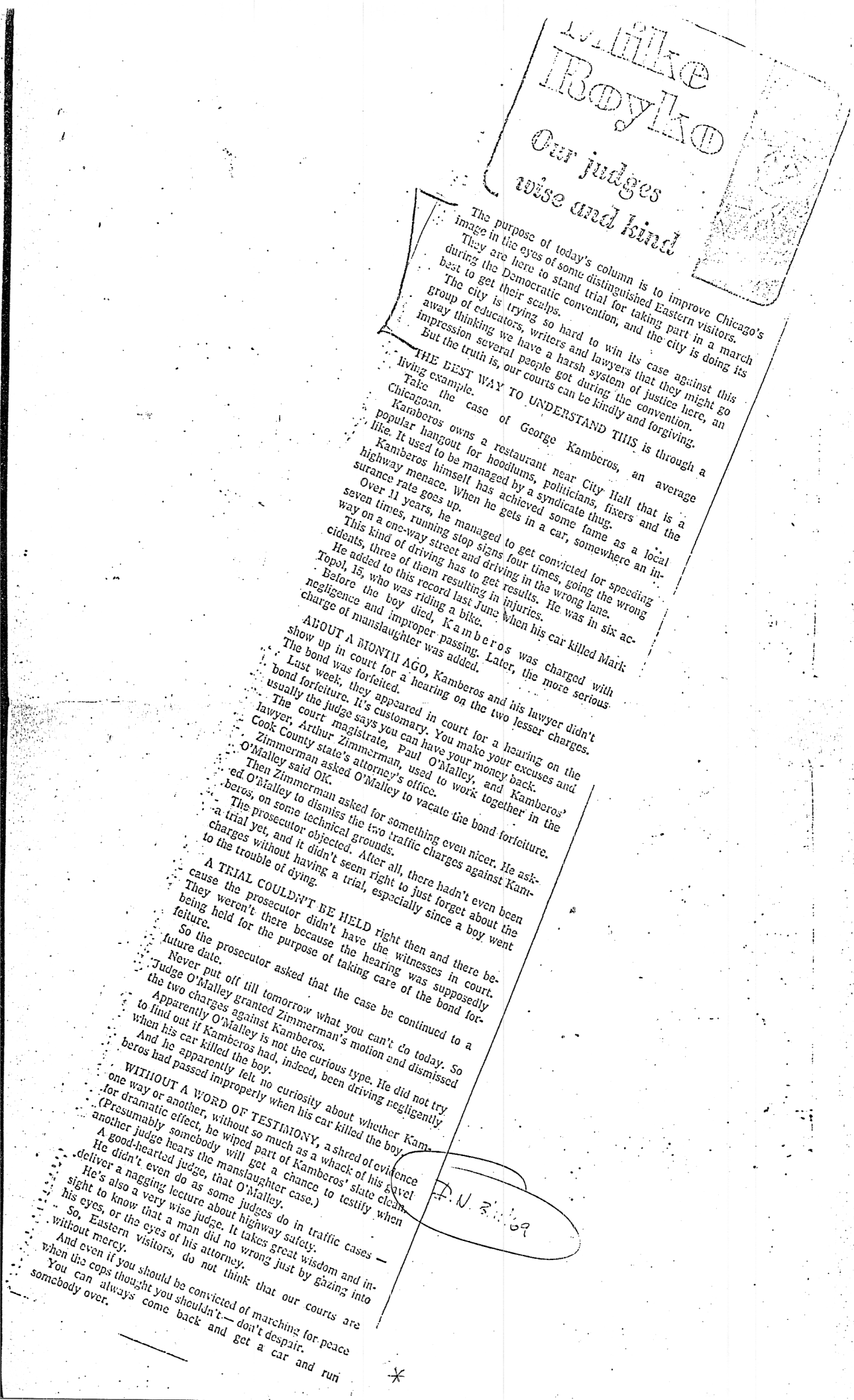
Very truly yours,

Ellis Boal

EB/jar

Encl Our Judges are wise and kind, 3/11/69
As detours go, here's a lulu!, 3/13/69
Mayor Daley's suspense ends, 4/15/69
Chicago '68: Legendary for the wrong reasons, 9/5/93

c: Nina Boal
Peter Weiss
Phil Moore



Mike Royko

Our judges wise and kind

The purpose of today's column is to improve Chicago's image in the eyes of some distinguished Eastern visitors.

They are here to stand trial for taking part in a march during the Democratic convention, and the city is doing its best to get their scalps.

The city is trying so hard to win its case against this group of educators, writers and lawyers that they might go away thinking we have a harsh system of justice here, an impression several people got during the convention.

But the truth is, our courts can be kindly and forgiving.

THE BEST WAY TO UNDERSTAND THIS is through a living example.

Take the case of George Kamberos, an average Chicagoan.

Kamberos owns a restaurant near City Hall that is a popular hangout for hoodlums, politicians, fixers and the like. It used to be managed by a syndicate thug.

Kamberos himself has achieved some fame as a local highway menace. When he gets in a car, somewhere an insurance rate goes up.

Over 11 years, he managed to get convicted for speeding seven times, running stop signs four times, going the wrong way on a one-way street and driving in the wrong lane.

This kind of driving has to get results. He was in six accidents, three of them resulting in injuries.

He added to this record last June when his car killed Mark Topol, 15, who was riding a bike.

Before the boy died, Kamberos was charged with negligence and improper passing. Later, the more serious charge of manslaughter was added.

ABOUT A MONTH AGO, Kamberos and his lawyer didn't show up in court for a hearing on the two lesser charges.

The bond was forfeited.

Last week, they appeared in court for a hearing on the bond forfeiture. It's customary. You make your excuses and usually the judge says you can have your money back.

The court magistrate, Paul O'Malley, and Kamberos' lawyer, Arthur Zimmerman, used to work together in the Cook County state's attorney's office.

Zimmerman asked O'Malley to vacate the bond forfeiture. O'Malley said OK.

Then Zimmerman asked for something even nicer. He asked O'Malley to dismiss the two traffic charges against Kamberos, on some technical grounds.

The prosecutor objected. After all, there hadn't even been a trial yet, and it didn't seem right to just forget about the charges without having a trial, especially since a boy went to the trouble of dying.

A TRIAL COULDN'T BE HELD right then and there because the prosecutor didn't have the witnesses in court.

They weren't there because the hearing was supposedly being held for the purpose of taking care of the bond forfeiture.

So the prosecutor asked that the case be continued to a future date.

Never put off till tomorrow what you can't do today. So Judge O'Malley granted Zimmerman's motion and dismissed the two charges against Kamberos.

Apparently O'Malley is not the curious type. He did not try to find out if Kamberos had, indeed, been driving negligently when his car killed the boy.

And he apparently felt no curiosity about whether Kamberos had passed improperly when his car killed the boy.

WITHOUT A WORD OF TESTIMONY, a shred of evidence one way or another, without so much as a whack of his gavel for dramatic effect, he wiped part of Kamberos' slate clean. (Presumably somebody will get a chance to testify when another judge hears the manslaughter case.)

A good-hearted judge, that O'Malley.

He didn't even do as some judges do in traffic cases — deliver a nagging lecture about highway safety.

He's also a very wise judge. It takes great wisdom and insight to know that a man did no wrong just by gazing into his eyes, or the eyes of his attorney.

So, Eastern visitors, do not think that our courts are without mercy.

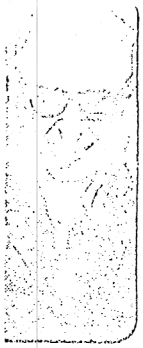
And even if you should be convicted of marching for peace when the cops thought you shouldn't — don't despair.

You can always come back and get a car and run somebody over.

F.N. 2-1-69

Mike Royko

As detours go, here's a lulu!



Daily News
3/13/69

At one time or another, everybody is a speck in the great flow of traffic. Those of us who spend a lot of time as specks have learned to appreciate some of the more imaginative creations of the traffic experts.

My favorite is the Soldier Field parking lots, which were cleverly designed to imprison people and their cars for a minimum of one hour after a game.

Another fine one is the curve on the Kennedy Expressway near Addison St., which was apparently built to test an expert's theory that if you put an S-curve in an expressway, traffic will stop. He was right.

NOTHING MATCHES THE EDENS-KENNEDY junction, also known as "the whirlpool." It is the only section of expressway I have ever seen in which traffic moves in four directions at once.

Sometimes when these lively systems break down, the traffic experts put in a "detour." I have not looked in my dictionary, but I believe the word detour means: "To travel to a strange, far-away place, never to return."

A successfully planned detour is one that takes traffic way from where it is going and keeps it from ever getting there. A perfect detour (one that can get you promoted from traffic planning to urban renewal) takes the traffic right back to where it began.

The average speck in traffic seldom knows who makes these plans, or how.

A FEW DAYS AGO, SOME INSIGHT was provided into this subject by a traffic expert.

He is Capt. James Rochford, a high-ranking member of the Chicago Police Department.

Rochford described a detour that may rank with the best of them. It is almost in a class with the Bataan Death March.

He was testifying at the trial of some prominent Easterners who are on trial because they tried to march to the Amphitheatre the last night of the Democratic convention. Rochford testified the police didn't want them to march from 18th St. straight to the Amphitheatre, about four or five miles, because he feared the residents of the area would attack them.

Just why the residents might want to attack the marchers isn't clear. Possibly they were jealous of all the fun the police had been having.

Anyway, Rochford said he proposed an alternate route —a detour—for the marchers. And he told of the route in court.

I'VE CHECKED THE MAPS and this is what the detour would have involved.

First, the marchers would have had to leave Chicago.

Then they would have gone through, or along the edge of 14 suburbs: Evanston, Skokie, Niles, Harwood Heights, Norridge, Elmwood Park, River Forest, Oak Park, Riverside, North Riverside, Berwyn, Lyons and Forest View.

In all, they would have had to walk 49 miles.

Specifically, Rochford's recommended detour went from downtown north on the Outer Drive to Howard St., west to Harlem Av., south to about 35th St. and east to Halsted St.

Since the marchers weren't particularly athletic, it would have taken two days, probably.

That means they would have arrived at the Amphitheatre after the convention had ended and all the delegates had gone home, diminishing the propaganda value of the march considerably.

PRESUMABLY, THE DANGER TO THE MARCHERS would have still existed after they got to the Amphitheatre. So they might have had to go back the same way, through those 14 suburbs, dodging housewife-driven station wagons and living on 15-cent hamburgers.

Finally, blistered feet would have got carried back downtown about five days after they set out.

But the marchers refused to use the detour, so some were arrested.

In a way, it is too bad. Rochford's detour would have made traffic history and led to bigger challenges for him. The city might have even put him in charge of figuring out what to do about all the narrow streets around the Hancock Building. It would have been fun to see how many cars Rochford directed to Des Moines.

Daily News
4/15/69

Mike Royk

Mayor Da[illegible] suspense ends

The suspense is finally over and Mayor Daley can relax.

For weeks he has surely been on the edge of his chair wondering how the trial of 13 prominent convention marchers would turn out.

That's the fascinating thing about a trial — you can never know in advance what the results will be.

THIS CASE WAS IMPORTANT to the mayor because an acquittal would have been a slap at the way he handled the convention. But the convictions help vindicate him.

But all he could do was keep his fingers crossed and hope, because in our courts it doesn't matter what a political boss might want.

Maybe he rules City Hall, but when the bailiff chants his lines and the court is in session, it is all up to the judge.

That is an inspiring tribute to our system of justice.

And it should be remembered that the case was being heared by a magistrate. He's not even a full judge. Magistrates are appointed for only a year at a time and usually hear the most routine cases.

This made the situation even more dramatic and inspiring. Here you had a powerful man like the mayor waiting powerlessly to hear what an obscure young magistrate would decide.

IN THIS CASE, THE YOUNG MAGISTRATE was Arthur L. Dunne. Until this case came along, he was virtually unknown.

His grandfather, Edward Dunne, was far better known. He was once a Democratic mayor of Chicago and governor of Illinois. Young people wouldn't remember him, of course, but to older Democrat politicians, he was a famous and influential man.

Magistrate Dunne's uncle is also better known than he is. He is Judge Robert Jerome Dunne, son of the former mayor and one of the long time powers in the Cook County court system. For years he has headed the big Probate Division.

Naturally, young Dunne has not yet achieved such success.

As a young lawyer, he was lucky enough to be hired by the Cook County state's attorney, a Democrat, as an assistant.

AFTER HE WORKED THERE AWHILE, he was lucky enough to be hired by the U.S. Attorney, a Democrat, as an assistant.

Then, when it came time for the Circuit Court judges to hire some magistrates, he was lucky enough, at age 35 to be named by the chief judge, a Democrat, to his present position.

Now he's had the rare experience, for a magistrate, of hearing a really big case. Most magistrates get nothing bigger than traffic cases, wife beatings and back-yard squabbles.

It is unlikely that Magistrate Dunne will ever get to hear another case of this importance.

ABOUT THE ONLY WAY THAT COULD HAPPEN would be if the Democratic Party decides some day that he has what it takes to become a full Circuit Court judge which is what most magistrates dream about.

But there is no way of knowing if that will ever happen.

Such decisions are made by a handful of local political leaders, led by the mayor.

When they get together, magistrate can only sit on the edge of his chair and keep his fingers crossed, hoping for the best.

It's something like waiting for a trial to end.

Final day

No to[illegible]

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Chicago '68: Legendary for the wrong reasons

The radio talk show host said he wanted to do a show about the 25th anniversary of the legendary 1968 Democratic National Convention.

"The way I see it," he said, "we could talk about the true long-range significance of that convention."

MIKE ROYKO

Uh-huh. And that significance — what was it?

"How it led to a new era in American politics — the coming of age politically of the baby boomers, the rock generation. People such as myself.

"And it brought together young blacks and whites in the cause of reforming American politics. In that case, it was their united opposition to the Vietnam War.

"We could talk about that. And how it led to the collapse of the Daley machine and brought on a reform movement."

Because we were talking by phone, he couldn't see the expression on my face, as if I had taken a big bite of a lemon.

So I thanked him for his invitation, but said I had a commitment that evening and had to decline.

Had I been truthful, I would have said he was a self-important jackass who didn't have a clue about the significance of the 1968 convention.

But he isn't alone. In recent days, there's been much strange babbling about that wild week in Chicago. So let's get a few things straight.

First, what that Democratic convention did was bring about the election of Republican Richard Nixon. And with his election came the Watergate scandal, his resignation, the interim presidency of the unknown Gerald Ford, which led to the opportunity of the equally unknown Jimmy Carter. And that, in turn, opened the White House door for Ronald Reagan, George Bush and now Bill Clinton.

So, yes, it was a heck of a significant convention. It altered the course of presidential history for the next 25 years.

If the convention had been orderly and boring, as modern conventions had already become, it's likely that Hubert Humphrey, not Nixon, would have been president.

And that significance — what was it?

Would that have been good or bad? I don't know. I think it would have been good, given the antics of Nixon and his vice president, Spiro Agnew. Others will disagree.

Nixon won because millions of voters saw cops bashing heads, protesters gagging on tear gas, hippies chanting obscenities and Democratic delegates shrieking about being prisoners in Mayor Richard Daley's police state.

And these voters asked themselves: Do I want to trust the White House to people who let a convention become a week-long riot? That's leadership? The answer of many was, hell, no.

What makes the whole thing so nutty is how easily it could have been avoided.

People forget that the entire city was not under siege from hundreds of thousands of dangerous hippies, yippies and dippies.

When the convention was gathering, only a few thousand war protesters were in town. They really weren't sure what they were going to do except make ridiculous threats.

They gathered in Lincoln Park, about eight miles from the convention hall on the south side, three miles from the headquarters hotel.

East of the protesters were Lake Shore Drive and Lake Michigan. If they went that way, they'd be run over by cars or drowned.

Just west waited an army of cops in riot gear. If they got past the cops, which was unlikely, they'd be in the Old Town entertainment area. Fine place for a drink, but not much to demonstrate against.

If they broke through, they'd still be many dangerous miles from the Amphitheatre. Depending on the route they took, many might have been mugging victims.

So they sat in the park, wondering what to do. I later asked one of the leaders what would have happened if the police had just let them sit all night. Maybe bellowing threats into their bullhorns every hour to keep them awake and afraid.

He told me: "We would have sat there waiting for the cops to move in. Then in the morning ..." He shrugged. "I guess we would have been exhausted and would have gone home to get some sleep. That might have been the end of it."

Instead, police moved in after the park curfew. And the brawl was on. Network TV broadcast that first violence, and it served as a recruiting call. Other angry young war protesters came pouring into Chicago, and the game was on.

By week's end, the story of the Democratic convention was not the nomination of Hubert Humphrey, a decent man and well-qualified candidate.

The story was cops battling longhairs on Michigan Avenue. Protesters in trees screaming obscenities. Cops cracking the heads of reporters.

And, of course, the late Richard Daley saying he had defended his city against the invasion of revolutionaries, anarchists, terrorists, maybe assassins. It wasn't true, but what can you say when your police force runs amok?

Now we have the myths:

Myth: The protests led to the end of the Vietnam War. Baloney. The war went on five more years. It might have ended sooner with Humphrey's election.

Myth: It wrecked Daley's reputation and his machine. Nonsense. Daley was even more popular after the convention because the majority of Chicagoans thought that bashing hippie heads was great sport. The machine came apart years later, but for other reasons.

Myth: The protest heightened the political conscience of the baby boomers. Oh, yeah? Then why were they such strong supporters of Ronald Reagan?

Myth: It brought together young blacks and whites in a common cause. Nope. Few blacks took part in the protests. They figured that if young white suburbanites wanted their heads bashed, that was their choice. The blacks had enough troubles of their own.

But if the now-aging protesters want to boast about something, they can. They helped elect Nixon and shaped the next 25 years of American government.

You want to brag? Be my guest.

Tribune Media Services

To: Chicago '68 People

From: Ellis Boal, 925 Ford bulding, Detroit, Michigan, 48226, 313/962-2770, EllisBoal@aol.com, http://members.aol.-com/dnarag

Re: Royko Flip-Flops On Chicago '68

In the aftermath of the Chicago convention, Daily News columnist Mike Royko joined other reporters in attacking the violent actions of the city police against the demonstrators.

His columns of March and April, 1969, zeroed in on a particular incident, the attempted march to the Amphitheatre by 3000 dissidents led by Dick Gregory. The marchers were stopped by police at 18th and Michigan, 79 were arrested, and the rest were attacked and gassed.

Police led by Captain James Rochford justified their action by claiming that if the march had continued, black city residents would have attacked the marchers on the way.

The following year, Magistrate Arthur Dunne accepted this rationale and convicted the marchers. The supreme court denied review over a dissent by Justice Douglas.

At the time, Royko's columns hooted ridicule of both Rochford and Dunne. There was no reason to think residents would attack, he wrote: Rochford's proposed 40-mile alternate suburban route was "almost in a class with the Bataan Death March," and Dunne was a hack beholden to Daley and the Democrats for his job.

On the 25th anniversary in 1993 Royko revisited the controversy, flip-flopping on the most important point. He now asserts had protesters been allowed to march many might have become mugging victims.

Ignoring published accounts of the influence on Nixon by exactly this kind of protest, Royko also asserts today that the convention did not lead to the end of the Vietnam war.

Royko's peregrinations are documented in a 1993 response of 1968 dissident Ellis Boal, and the original Royko columns. Royko did not respond.