

A 'Bathroom Debate' at Chicago Trial

By J. ANTHONY LUKAS

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CHICAGO, Jan. 9 — When histories of the Chicago conspiracy trial are written, today's proceedings will probably go down as "The Great Bathroom Debate."

On several occasions, the Government, the defense and Judge Julius J. Hoffman argued at length about where the seven defendants may go to the bathroom.

Late yesterday, Judge Hoffman ruled that the defendants could no longer use the public bathroom outside because they had been using their absences from the courtroom to talk with friends, hold conferences and carry on other unauthorized activities.

The judge instructed them to use a washroom in the lockup leading directly off the courtroom.

Marshal Moves In

Shortly after court convened this morning, Jerry Rubin, one of the defendants, rose and headed for a door leading to the corridors. He was intercepted by a Federal marshal.

"I have to go to the bathroom," Mr. Rubin said.

"Use the one in there," the marshal said, pointing to a door leading to the lockup.

"That's a jail," Mr. Rubin said, "I have to go to the bathroom."

William M. Kunstler, a defense attorney, rose to support his client.

"They're not convicted yet," he said. "They don't have to use a jail cell."

"It's not a jail cell," Judge Hoffman said, "it's a men's room."

"Well, it's the first, men's room I ever saw with bars on

A Beach Boy Is Convicted

LOS ANGELES, Jan. 9 (UPI) — Carl Dean Wilson, a member of the Beach Boys singing group, will be sentenced Jan. 29 for failure to report for a civilian work assignment as an alternative to military service. A jury of nine men and three women deliberated 20 minutes yesterday before finding Wilson, who is 22 years old, guilty. He failed to report to his local draft board Nov. 25.

the door," Mr. Kunstler replied.

But Judge Hoffman was adamant. He said the defendants would have to use the lockup facility because "they've abused the privileges I've given them since this trial began."

Mr. Rubin said he would not go into the lockup. None of the six other defendants used it during the morning either.

But shortly afterward there was another flare-up over the same issue.

After Richard Schultz, an Assistant United States Attorney, and Mr. Rubin traded a few remarks in the aisle between the defense and Government tables, Mr. Rubin said, "Your honor, could Mr. Schultz be directed not to make remarks. He said 'Go to the bathroom' to me."

Mr. Schultz rose and conceded he had pointed to the lockup after Mr. Rubin had laughed and "snickered" at him.

"Like it was a victory for you to force us to go to that bathroom," Mr. Rubin said.

Mr. Schultz advanced to the lectern and apologized.

"I said that," he said. "It was not very professional of me, your Honor. Apparently I succumbed a little bit to Mr. Rubin's harassment and that of the other defendants that started four months ago, a procedure and technique they have been using on authorities and policemen all their lives."

"They have been trying it on your Honor and Mr. Foran [the United States Attorney] and myself, and I succumbed and I pointed to the bathroom," Mr. Schultz said.

Moves for Mistrial

Mr. Kunstler then moved for a mistrial on the ground that Mr. Schultz's remarks about "harassment" had prejudiced the jury against his clients.

Judge Hoffman refused the motion, but this afternoon Mr. Schultz moved to have his own remarks stricken from the record. The judge agreed, but took the occasion to admonish the defendants for their language.

"There have been many references here to what has been called the bathroom," Judge Hoffman said. "Never in my many years on the bench have I heard so many references to bathroom."

Mark Lane, the lawyer and

author, later took the witness stand.

He testified about a conversation he had with Tom Hayden, one of the defendants, in a hotel bar shortly before the Democratic National Convention here in 1968. The defendants are charged with conspiracy to indict a riot during that convention.

Mr. Lane said that Mr. Hayden had voiced fears about the "antiriot" law under which he and the other defendants are being prosecuted.