A Special Supplement

The Trial of Bobby Seale

Jason Epstein

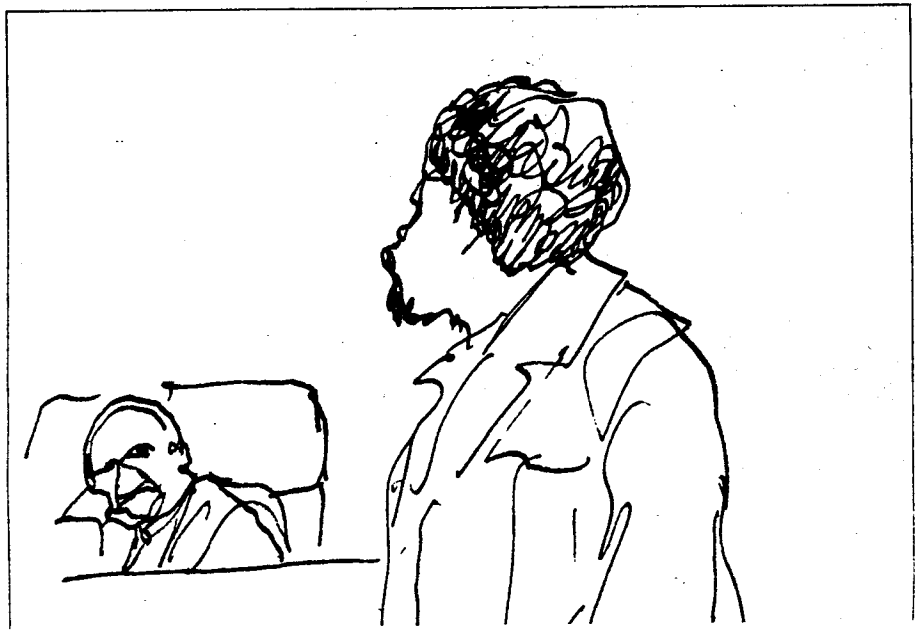
I
Introduction

The United States District Court for the Northern District of Illinois (Eastern Division) occupies several floors of the new Federal Building in Chicago's Loop. Of this thirty-story building, designed in steel and glass by the late Mies van der Rohe, the Chicago Art Institute has said, "The commitment to order everywhere present is translated into an authoritarian and heroic presence." Its lobby is designed "without recourse to historical vocabulary," while the building itself, outside and in, lacks all adornment. The single exception is an electric carillon on the ground floor which in normal times plays popular and patriotic tunes, but during the conspiracy trial which is now in progress the carillon has been silenced. The revolving doors at each of the four corners of the lobby are each guarded by six armed marshals and visitors are asked to identify themselves as they enter. Purses and briefcases are opened and searched. Since the beginning of the trial pistols have been taken from four visitors.

The courtrooms themselves are to be found along interior corridors on the upper floors of the building. Judge Hoffman's court, where the conspiracy trial is held, is on the twenty-third floor and, like the other courtrooms, is two stories high. As the visitor enters through swinging doors at the rear of the room, he finds himself standing in a carpeted aisle between

defendant, Bobby Seale, who is charged with first degree murder in New Haven and is thus without bail, had entered and left the courtroom, before the judge declared a mistrial in his case. On the wall behind the judge's bench are conventional portraits, which belong to the judge himself, of the founding fathers, as well as one of Abraham Lincoln and three of periwigged English jurists. Above these portraits, on the upper part of the wall, is the Great Seal of the United States. The building is so designed that if this upper wall were transparent one could see directly into the lockup on the twenty-fourth floor.

The proceedings which follow occurred between 2:35 and 4:05 P.M. on



transcript will perhaps show, but in an unmistakable theatrical gift which, at an earlier time in his life, might have been a contrivance but is now his second nature. Though he stands only five feet four inches tall and weighs hardly more than the smallest of the formidable lady jurors, he makes use of his diminished stature to enter the courtroom from a door behind his bench so that he does not become visible until he has materialized atop the highest of the several stages at the front of the room. His entrance is invariably accomplished in this surprising manner so that even spectators who have become used to the phenomenon and have learned to anticipate it are occasionally startled by what seems to be his magical appear-

terror. When he utters the name of defendant Rubin it is as if a chord has been struck on the Wurlitzer of a long forgotten music hall. And when he explodes the middle initial of the defendant Bobby G. Seale, one is made to feel that the innocence of that consonant has been lost forever.

What follows is the official transcription, taken by the court stenographer, of what the Judge read from his notes on the afternoon of November 5. The text is printed here without changes except for corrections in spelling and punctuation, the deletion of a few redundant passages, and references to the page numbers of earlier parts of the transcript. I have added explanatory notes which appear in brackets.

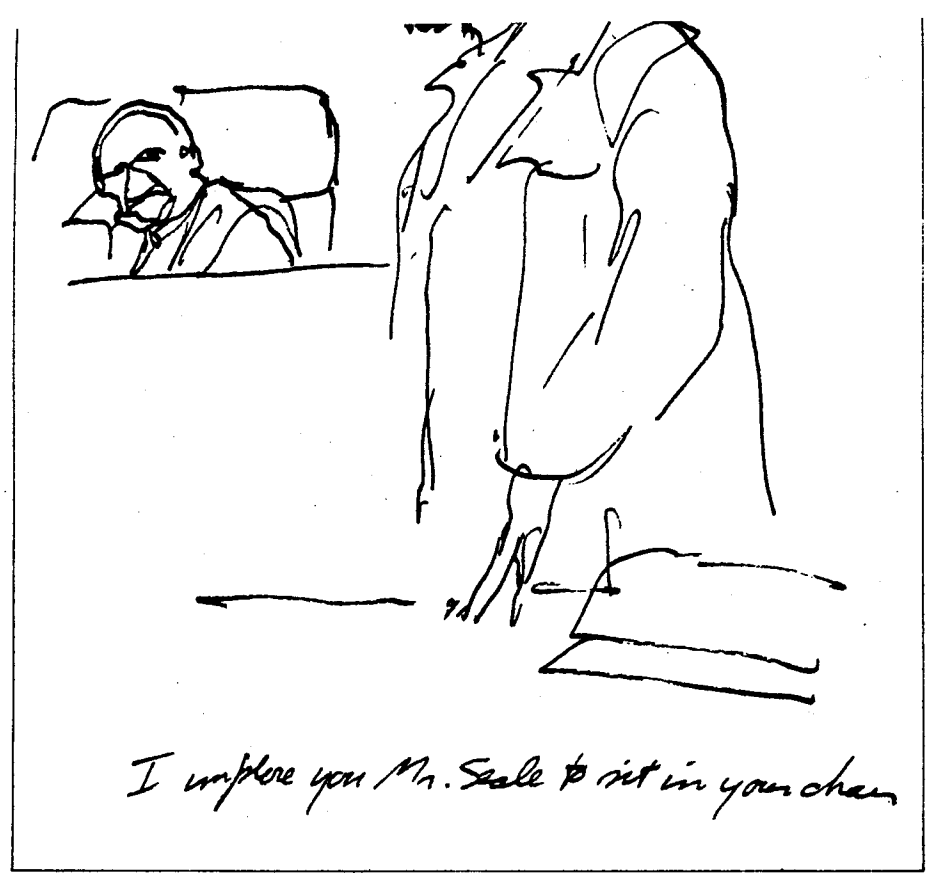
In order to follow Judge Hoffman's statement one must know that the trial began on September 24 and the jury had been chosen by September 26. The events referred to in the transcript thus occurred over a period of five weeks. Throughout these weeks the United States Attorney, Thomas Foran, and his assistant, Richard Schultz, had been presenting their case. Their evidence against the alleged conspirators consisted largely of testimony given by city officials and by undercover agents hired by the FBI, the Chicago police, and, in one case, by a Chicago newspaper columnist who had engaged a young reporter to spy on the organizers of the Chicago protest.

Since Seale had been in Chicago for only two days during the convention and had been invited to come only at

The courtrooms themselves are to be found along interior corridors on the upper floors of the building. Judge Hoffman's court, where the conspiracy trial is held, is on the twenty-third floor and, like the other courtrooms, is two stories high. As the visitor enters through swinging doors at the rear of the room, he finds himself standing in a carpeted aisle between two rows of wooden benches. Those on his left are for spectators, who are carefully searched before they are allowed to enter. The benches to the right are for the press, though the last three rows of this section are reserved for friends and relatives of the defendants. Because the trial has attracted such attention, the benches on both sides of the aisle are usually filled.

At the end of the aisle is a chain and beyond this chain, in a large open space, sit the defendants around four tables arranged in a large rectangle. At the far end of this rectangle sit the two defense attorneys. Opposite them, seated at a table half the size, are the three government lawyers and an FBI agent who assists them. Behind these lawyers is the jury box with its twelve jurors and two alternates. Of these, all but two are women.

At the front of the room, facing the court, is the judge's bench, elevated to form a kind of stage on several levels. On a low platform to the right sits the court stenographer. Behind her, a foot or so higher, is the witness box. At the opposite end of the stage sits a marshal in a kind of pulpit. Along the wall behind the defendants' table there are folding chairs for additional members of the press and in this wall there are two doors. The one farther from the judge's bench leads to a cloakroom and from there to the corridor, while the one closer to the judge leads to the lockup, one floor above. When this door is opened, the defendants, seven of whom are free on bail, may see the steel grating through which the eighth



Wednesday, November 5, 1969. At eleven that morning Judge Hoffman had recessed the Court until two. That afternoon, when he re-entered the courtroom thirty minutes later than the appointed time, his aspect was even more ominous than usual. The jury had not yet been called in and was not to appear until the end of the day. Twenty-two marshals, each with a pistol concealed beneath his suit coat and a badge on his pocket, guarded the various entrances. Several of them hovered at the defendants' table.

Despite his diminutive size and his curiously dainty manner, the seventy-four-year-old Judge conveys an undeniable authority. Only after one has observed him at length does one discover the source of this authority—not in his juridical wisdom, which is hardly remarkable as the following ance.

But it is the Judge's formidable gift for impersonation, such as Dickens is said to have revealed when he read from his novels, which completes and enforces the illusion. On the afternoon of November 5 he was able not only to sustain the resonance of his voice through a wide range of modulations for an hour and thirty minutes but to convey an impression of the defendant Seale, as he read his remarks from the transcript, and of himself as he read his own replies, which raised the dialogue to an impressive theatrical level.

The mouth, his most expressive feature, is highly mobile and can be pursed and stretched to considerable effect. The articulation is precise with an occasional British vowel. The pauses, when he so intends, can strike

against the alleged conspirators consisted largely of testimony given by city officials and by undercover agents hired by the FBI, the Chicago police, and, in one case, by a Chicago newspaper columnist who had engaged a young reporter to spy on the organizers of the Chicago protest.

Since Seale had been in Chicago for only two days during the convention and had been invited to come only at the last minute as a substitute for Eldridge Cleaver, the evidence against him was sparse. It consisted of an account by Robert Pierson, an undercover Chicago policeman, of a speech by Seale in Lincoln Park. In this speech, according to Pierson, Seale had urged his audience to "barbecue some pork," and Judge Hoffman, over the objection of the defense, had allowed Pierson to give his opinion to the jury that this meant "to burn some pigs," i.e., policemen.

Normally the First Amendment protects even such provocative language as this, except in the event of a "clear and present danger" that such language will incite the audience unequivocally and immediately to commit the illegal act recommended by the speaker. Since no such acts were committed either at the time or later, Seale's speech would, ordinarily, be innocent. However, in a trial for conspiracy the ordinary constitutional protections don't necessarily apply. A defendant may be found guilty of conspiracy even though the acts of which he is accused are themselves perfectly legal. To most citizens this aspect of the law is puzzling, but in order to understand the case against Seale and his co-defendants, the mystery must be explained, insofar as it can be.

It is no crime to buy gasoline, nor is it a crime for a second person to buy a match or for a third to hold a fire insurance policy on a building which then burns down. But if a prosecutor can convince a jury that the defendant who bought the gasoline had guilty

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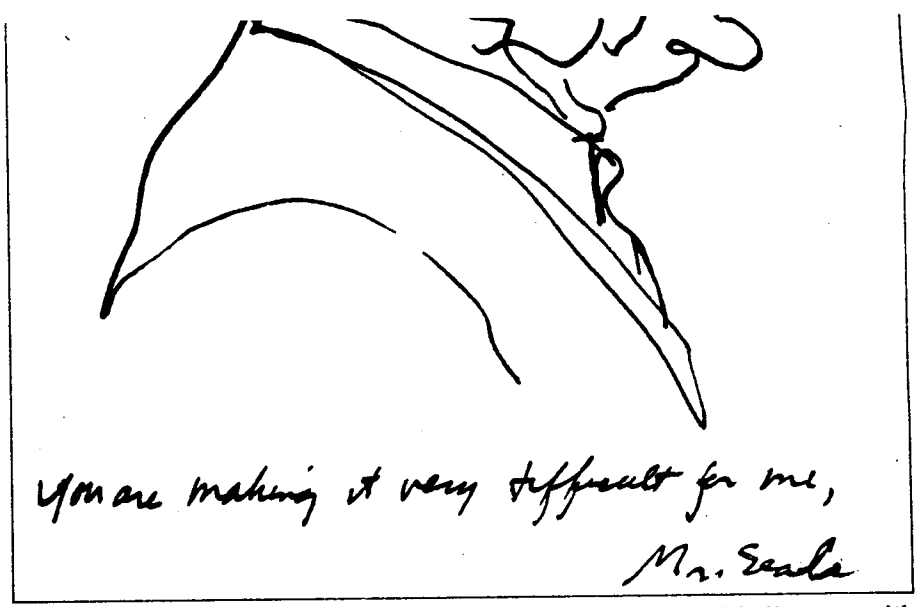

so that if the jury finds that a conspiracy did in fact exist, each defendant who is found to have been part of the conspiracy may then be found guilty of all the acts and statements of the other conspirators. Nor does it matter that Seale did not know most of his fellow defendants at the time of his speech and barely knew the others. A peculiarity of conspiracy law is that the existence of a conspiracy—which is an agreement by two or more people to commit a crime—may be inferred by the jury from the similarity of purpose suggested by the overt acts of the defendants. The defendants need not have met in advance to plan their crime, nor need their arrangements have been made in secret. A conspiracy may be entirely public and may include large numbers of people. Furthermore the government is under no obligation to indict all the members of a conspiracy but can choose as defendants whom it will.

To complicate matters further, the crime which the conspirators are alleged to have committed is hardly as specific as, for example, arson. The charged in the federal indictment with having come from San Francisco to Chicago with the intention of planning a march on the International Amphitheatre, a sleep-in in Lincoln Park, an attack on the Loop in which, according to the indictment, "large numbers of persons would break windows, set off false alarms, set small fires, disable automobiles," and so on. Together with the other alleged conspirators, he is also charged with a plan to invade the Conrad Hilton Hotel and hold and forcibly occupy all or part of it. The fact that Seale did no more than give two speeches in Chicago, of which only a few lines from the second were admitted in evidence, while in the first speech he urged his listeners not to march on the Amphitheatre because it made no sense for them to do so, is of no account.

Nor is it of account that no march on the Amphitheatre did in fact take place, that no fires were set in the Loop, nor were windows smashed, except in one case by the police, or cars disabled, nor was the Hilton invaded, much less forcibly occupied. The application of conspiracy law to

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knowledge of the intentions of the defendant who bought the match and that they shared this knowledge with the defendant who collected the insurance on the burnt building, then the jury may find that all three had been guilty of a conspiracy to burn the house down, even though the actual arsonist is never brought before the court. In the Chicago case, the government's plan was to link Seale's statement about pork to acts and statements of the other defendants so as to show that the combination of these acts and statements prove that the defendants as a group conspired to come to Chicago intending to incite a riot.

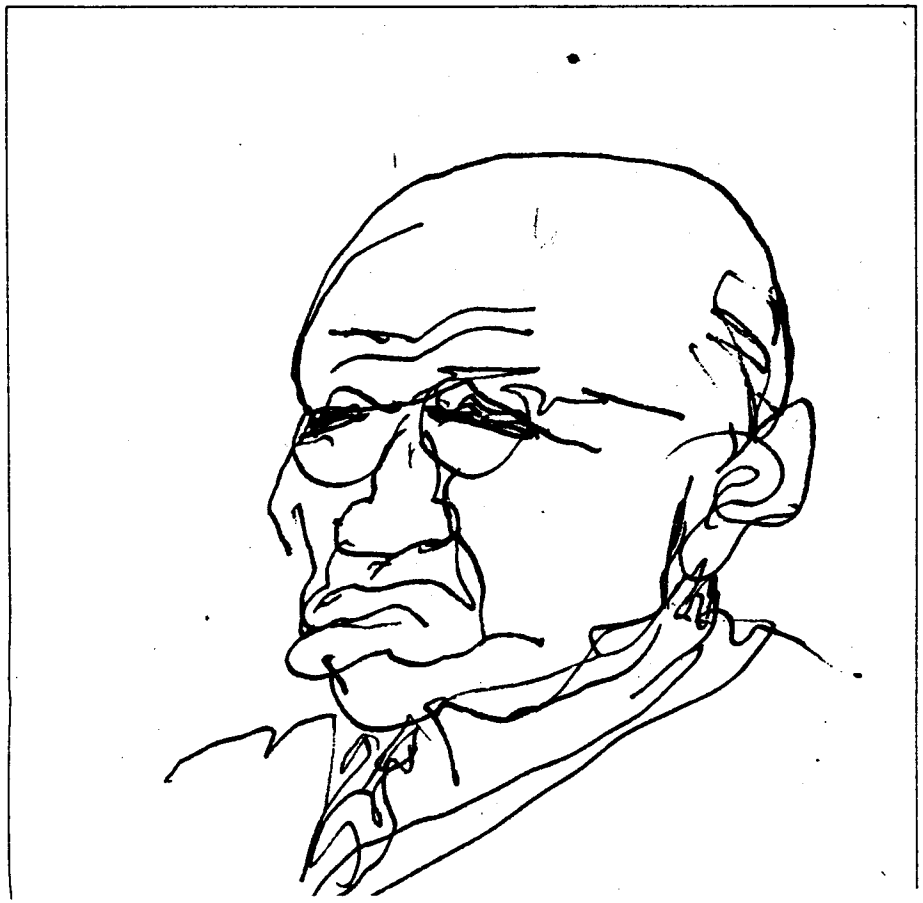
Under the law, each member of a conspiracy is responsible for the words and actions of all the other defendants, statute under which they are being tried, an amendment to the Civil Rights Act of 1968—the so-called Rap Brown Amendment—makes it a crime to cross state lines with the intent to incite to riot. Inciting to riot, under this law, is defined as an act by an individual in a group of three or more which threatens the safety or property of a fourth person. The penalty for such intentions, whether they are carried out or not—so long as a jury perceives them to have existed—is five years in jail. Since the Chicago defendants are indicted not only for having conspired to have such intentions but for actually having them as individuals, each of them faces a prison term of ten years.

As an alleged co-conspirator, Seale is

the 1968 anti-riot statute makes it a crime for Seale simply to have revealed, by his single statement concerning "pork" and another urging his listeners to defend themselves with guns against illegal attacks by the police, that he shared a common purpose or "intent"—implying an agreement—with the other defendants, whose own alleged crimes and "overt acts" as they are described in the indictment are no less metaphysically conceived than Seale's own.

Seale, the Chairman of the Black Panther Party, is however in considerably more trouble than his fellow defendants, for under the New Haven murder charge he faces the death penalty. His defiant behavior in Judge refused the postponement, then refused to permit Seale to defend himself in Garry's absence. These charges were the substance of Seale's several outbursts in the following weeks, which Judge Hoffman was to recite with such eloquence on the afternoon of November 5, and for which he was to charge Seale with sixteen separate counts of contempt and sentence him to jail for four years, an unprecedented punishment for contempt of court.

In late August lawyers for the defense petitioned Judge Hoffman to postpone the trial so that Garry could attend it upon his recovery. On September 9, Garry himself came to Chicago to make the same plea. On both occasions the Judge, perhaps sensing a dilatory tactic, refused. On



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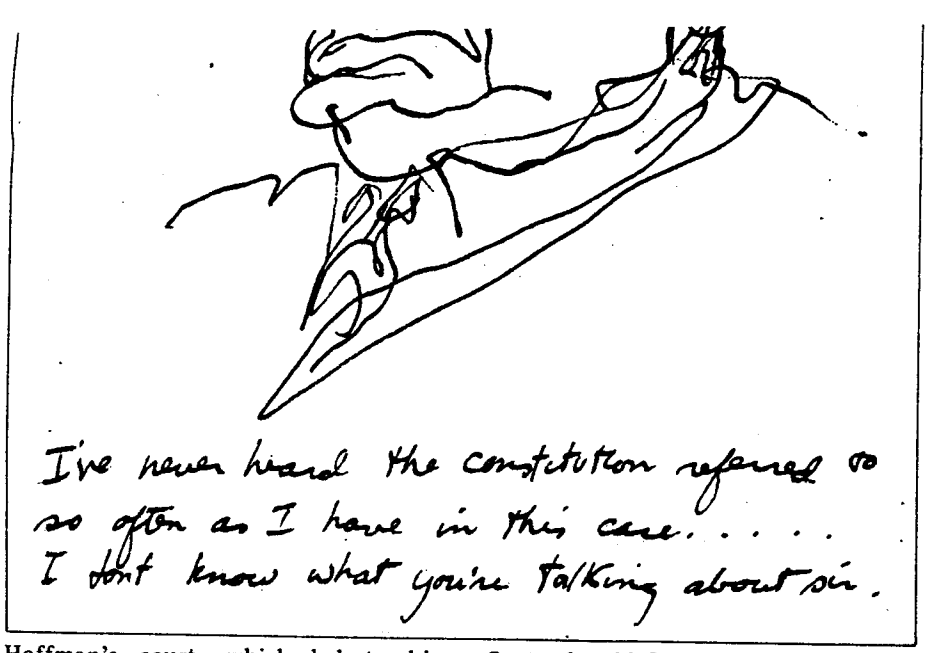

Hoffman's court, which led to his being cited for contempt on November 5, may be understood partly in the light of this fact. 't it also became apparent, as his outbursts continued, that he was forcing the Judge either to grant him his rights or to appear in a humiliating moral light.

It would be wrong, therefore, to regard Seale's actions as simply those of a desperate man whose difficulties in New Haven put him beyond any punishment Judge Hoffman might inflict. Seale had argued from the day the jury first entered the court on September 26 that he had been unfairly denied the counsel of his choice and was thereafter illegally denied his right to defend himself. The basis of his first charge was that Judge Hoffman had, unreasonably in Seale's opinion, refused to postpone the trial so that Charles Garry, Seale's San Francisco lawyer, who had successfully defended a number of Black Panthers in California, could attend the trial after his recovery from a major operation which was scheduled for September 15. The basis for Seale's second charge was that the judge, having September 12 Seale was taken from his cell in a San Francisco jail where he was awaiting extradition to Connecticut, placed in a car by federal marshals, chained to two other prisoners, and driven by a circuitous route to Chicago where he was deposited in the Cook County Jail on the eighteenth.

During this period he was out of touch with the defense lawyers who were not only fearful for his safety but eager to consult with him on the preparation of their case. It was in order to see Seale in Cook County Jail that William Kunstler, one of the defense attorneys, filed an appearance on behalf of Seale, that is, agreed formally to serve as his attorney. It is partly on the basis of Kunstler's having filed this appearance that Judge Hoffman denied Seale the right of self defense.

The right of self defense is guaranteed under the Constitution as well as by statute and has often been exercised, especially by defendants who feel that they are on trial for their political views and who want not only to defend themselves but to use the court, insofar as rules of procedure

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allow, as a political forum. Judges are required to grant this right provided it is requested early enough in the trial so as not to interfere with an orderly proceeding. Thus, in two Smith Act cases, Eugene Dennis and Elizabeth Gurley Flynn defended themselves, and earlier this year so did ten of fourteen defendants on trial in Milwaukee for destroying draft records.*

On September 26, the jury having been chosen and the trial about to begin, Seale submitted to the Court a motion in his own hand asking that the trial be postponed to permit Garry to attend, but in the event that the Judge denied this motion, he wanted it known that he had "fired" his lawyer of record—William Kunstler—and would defend himself. The Judge ignored this motion. Later on the same day, however, after the lawyers for the government and those for the defense had completed their opening statements to the jury and the Judge had asked whether there were any other statements by lawyers before the first witness was called, Seale got to his feet and walked to the lectern which stood before Judge Hoffman's bench. "Just a minute, sir," the Judge asked, "who is your lawyer?"

"Charles R. Garry," Seale replied. The Judge then asked Kunstler whether he represented Seale and Kunstler replied, "No, your Honor, as far as Mr. Seale has indicated, that because of the absence of Charles R. Garry . . ." whereupon the Judge interrupted to ask Kunstler whether he had filed an appearance for Seale. Kunstler said that he had and the Judge then said that he would let Kunstler make an opening statement on Seale's behalf. Kunstler refused, saying that he "could not compromise Mr. Seale's position . . . that he was not his full counsel here," at which point the Judge cut him short and called in the jury.

September 26, the day on which this exchange occurred, was a Friday. On September 30, the following Tuesday, Kunstler moved formally to withdraw his appearance for Seale but the Judge denied the motion, presumably because the trial was now in its second full day and the interest of an orderly proceeding outweighed Seale's constitutional right to self defense. Seale, nevertheless, continued to insist that he had "fired" Kunstler and in Garry's absence would defend himself.

The Judge repeatedly denied Seale this opportunity and reminded him that Kunstler, "a very able criminal lawyer from New York," had filed a written as well as an oral appearance for him. The oral appearance to which the Judge referred was a statement made by Kunstler on September 24 that he and Leonard Weinglass, his colleague, would each represent four defendants, thus each lawyer would have a chance to cross-examine government witnesses separately.

It was not only Seale who wanted Garry's services. So did the other seven defendants. By the end of September it had become apparent to many observers in the Court that the Judge, in his haste to get on with the trial, might, by having refused the postponement, have denied all the defendants their constitutional right to counsel of their choice. In a private conversation at this time, Thomas Foran, the prosecutor, dismissed the possibility that the other seven defendants had grounds under the Sixth Amendment to an argument on appeal, but he admitted that he wasn't so sure that Seale's rights had not been violated. Accordingly Foran reminded the Judge that not only were the defendants represented by Kunstler and Weinglass as well as by two local lawyers, but that four other lawyers had filed appearances for the defendants but had never shown up. Foran wanted the record to show that all the defendants, including Seale, were adequately represented and that if an error had been made it was the fault of these four absent lawyers.

Kunstler replied that these four lawyers had never intended to participate in the trial but had agreed only to prepare pre-trial motions. Their work in this respect having been completed, their services were no longer needed. Judge Hoffman, however, responded to the government's tactic by issuing bench warrants for the arrest of the four lawyers, one of whom, a professor of law at UCLA, was awakened by a federal marshal, put on a plane to Chicago, and found himself the next morning, having been photographed and fingerprinted in Cook County Jail, in the lockup one floor above Judge Hoffman's courtroom. That morning, as the four lawyers were facing jail sentences for their failure to honor their appearances, Judge Hoffman told Kunstler that the keys to the County Jail were in the pockets of the defense, by which Kunstler assumed the Judge to mean that "if the defendants waived their right to counsel . . . with respect to Garry, then the jailhouse would open for these [four] attorneys." The defendants, who later described Judge Hoffman's tactic as "blackmail," refused to relinquish their claim to Garry's services and the Judge, two of whose warrants had been found invalid by the United States District Court in San Francisco and whose own court was now being picketed by angry lawyers from all over the country, was forced to back down.

Seale's demands, thereafter, increased in vehemence despite Judge Hoffman's warnings that if they continued Seale would be bound and gagged. On the afternoon of October 29, Seale was taken forcibly by two marshals through the door to the lockup and returned, ten minutes later, chained hand and foot to a metal chair. A gag of muslin was in his mouth.

The following morning, since the first gag had proved ineffective and the rattling of the chains against the metal chair had obviously disturbed the jury, Seale was brought to court strapped to a wooden chair. The gag that passed over his mouth and was tied in a knot at the nape of his neck was supplemented by another of the same muslin which passed under his chin and was tied in a sort of bow at the top of his head. Under the gag his mouth was taped. Seale sat quietly throughout most of the day, but as the afternoon session ended he managed to speak in a loud, if muffled, voice, once more insisting on his right to defend himself.

The following morning the gag was further strengthened by an elastic bandage and Seale's mouth was stuffed with some kind of cotton which the marshals had managed to insert by holding his nose. This forced him to

*See "The Ultra-Resistance" by Francine Gray, *NYR*, September 25, 1969.

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open his mouth. The arrangement proved effective, but as Seale attempted to breathe the elastic bandage tightened around his head and he choked. Mr. Weinglass, at this point, petitioned the Court to loosen the gag and Judge Hoffman, having inquired whether the government agreed and upon the affirmative reply of the assistant prosecutor, Mr. Schultz, ordered the gag loosened.

Kunstler and Weinglass then moved to recess the Court for the rest of the day so that one of them could fly to California and consult with Garry about a way out of the impasse. Upon the urging of the government lawyers, the Judge agreed. Mr. Schultz admitted that the gag and straps might damage the government's case in the eyes of the jury.

When the trial resumed on the following Monday, Seale entered the courtroom free of his gag and straps. However he continued to interrupt the proceedings, insisting on his right to defend himself, evidently aware that his demands, and Judge Hoffman's refusal to hear them, had put the Judge and, indeed, the judicial system itself in a most awkward position, a conclusion which the Chicago Bar Association confirmed at a press conference on the following day. By Wednesday morning the Judge recessed the Court to prepare the following statement which he read that afternoon.

II
The Transcript

(The following proceedings were had in open court, out of the presence and hearing of the jury:)

THE COURT: There is a matter that I wish to take up, gentlemen, before we proceed further with this trial.

I think, Mr. Witness, you may be excused and go into the witness room.

(Witness temporarily excused.)

THE COURT: As I think everyone that the court must interpret and apply in the trial of criminal cases. In conformity with Rule 42(a) of the Federal Rules of Criminal Procedure and Title 18, United States Code, Section 401, I certify at this time that I saw and overheard the conduct of the defendant Bobby G. Seale to which I shall refer during these observations, which conduct took place in the actual presence of the court during the trial of this case which is entitled United States of America v. David Dellinger and others, the case number

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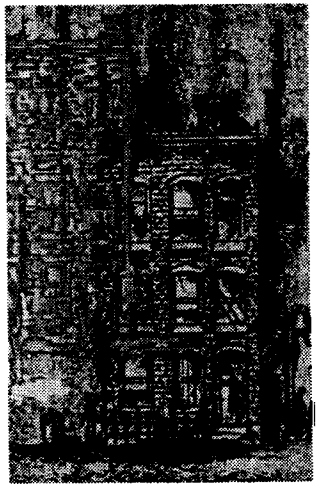

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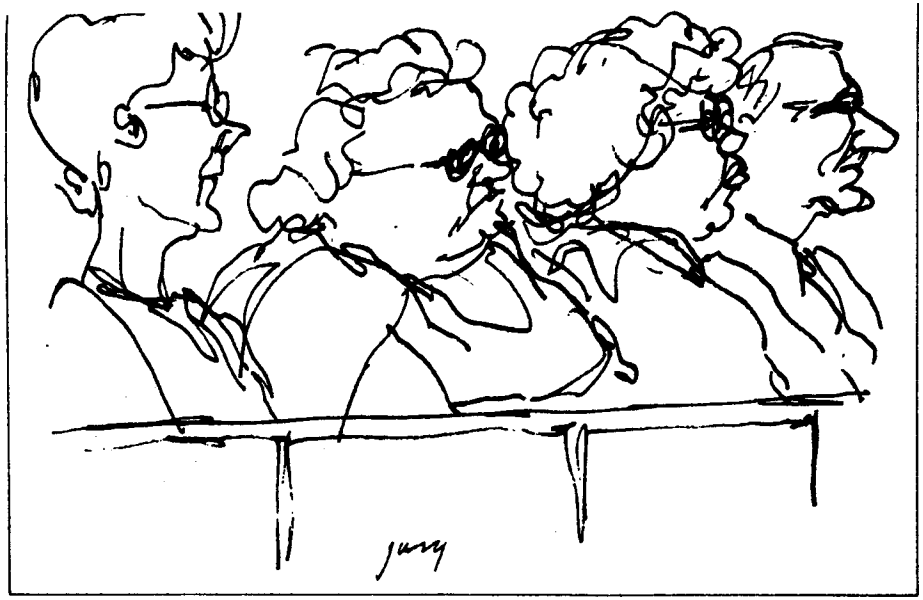

who has attended the various sessions of this trial must, if he is fair, understand, the court has done its best to prevent, or to have repeated, efforts to delay and obstruct this trial which I think have been made for the purpose of causing such disorder and confusion as would prevent a verdict by a jury on the issues presented by the indictment and the pleas of not guilty thereto.

I must now, as I perceive my duty and obligation to be, take proper steps to insure that the trial as it continues be conducted in an atmosphere of dignity, an atmosphere that the defendants and each of them are entitled to have prevail in the trial of this case. As we all know, the defendant Bobby G. Seale has been guilty of conduct in the presence of the court during this trial which is not only contumacious in character but his misconduct was of so grave a character as to continually disrupt the orderly administration of justice.

We have in the federal courts the Federal Rules of Criminal Procedure which together with Title 18 of the United States Code represent the rules being 69 CR 180.

The trial commenced on September 24, 1969, and has continued through this morning. I find not only from seeing and hearing the conduct to which I am about to refer, the conduct of the defendant Seale, but from reading the transcript of the proceedings that the acts, statements and conduct of the defendant Seale which I shall specify here each constitute a separate contempt of this court; that each constituted a deliberate and willful attack upon the administration of justice in an attempt to sabotage the functioning of the federal judicial system.

MR. SEALE: That is a lie. I stood up and spoke in behalf of myself. I stood up and spoke in behalf of myself and made motions and requests.

THE COURT: I don't permit anybody to speak while I am talking.

MR. SEALE: I stood up and walked to the lectern and demonstrated the fact I wanted to cross-examine the witness. You allowed these men here and Tom Hayden to go all the way to California

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to see about my lawyer, which indicated, and I tried to persuade you again to recognize it. I was there no more than five minutes. You are talking about disrupting the proceedings of this trial? That's a lie. That's a lie.

THE COURT: You are making it very difficult for me, Mr. Seale.

MR. SEALE: You are making it difficult for me, Judge Hoffman.

THE COURT: I tried not to—I have done my best. I have done my best.

MR. SEALE: I have a right to stand up and speak in my own behalf. I do. You know that.

THE COURT: You know you do not have a right to speak while the Judge is speaking.

MR. SEALE: I have a right to speak and make requests and make arguments to demonstrate the fact I want to cross-examine. When you say I disrupt, I have never tried to strike anybody, I have never tried to hit anybody. I have never. You know that. And in my arguments and motions I called you a racist and a fascist and a pig, and that's what I consider you as, and my arguments and my motions will always carry that as long as my constitutional rights are being denied. So it is a lie, and you know it.

THE COURT: I find, I repeat, that the acts, statements and conduct of the defendant Seale to which I shall refer specifically each constitute a separate contempt of this Court; that each constituted a deliberate and willful attack upon the administration of justice in an attempt to sabotage the functioning of the Federal Judicial System; that this misconduct was of so grave a character as to continually disrupt the orderly administration of justice.

To maintain the dignity of the Court and to preserve order in the courtroom under these circumstances has been a task of utmost difficulty. There were, accordingly, as the record shows clearly, repeated warnings and admonitions to the defendant Seale to cease this never struck anyone and you know it.

[On the morning of October 29 a group of perhaps twenty Black Panthers had taken seats in the spectators' section. Before the morning session began, and while both the Judge and jury had not yet entered, Mr. Seale addressed this group. He advised them to remain "cool," but in the event they were physically attacked by the marshals they were to defend themselves. When the Judge entered the Court, Assistant US Attorney Schultz accused Seale of having talked about an "attack." Seale vehemently objected to Schultz's misrepresentation and repeated before the Court what he had in fact said. The Judge ignored or failed to understand Seale's clarification. See page 45.]

THE COURT: Accordingly I adjudge—

Mr. SEALE: I will stand up in any court in America and say that.

THE COURT: Accordingly I adjudge the defendant Bobby Seale guilty of

Number 2. During the morning session on October 14, 1969, while the Court, Assistant United States Attorney Schultz, and defense counsel, Mr. Weinglass, were engaged in a colloquy, the defendant Seale interrupted Mr. Weinglass, and the following occurred:

"MR. SEALE: Hey, you don't speak for me. I would like to speak on behalf of my own self and have my counsel handle my case in behalf of myself. How come I can't speak in behalf of myself? I am my own legal counsel. I don't want these lawyers to represent me.

"THE COURT: You have a lawyer of record, and he has been of record here for you since September 24.

"MR. SEALE: I have been arguing that before that jury heard one shred of evidence. I don't want these lawyers because I can take up my own legal defense, and my lawyer is Charles Garry.

"THE COURT: I direct you, sir, to remain quiet.

"MR. SEALE: And just be railroaded?

"THE COURT: Will you remain quiet?

"MR. SEALE: I want to defend myself, do you mind, please?

"THE COURT: Let the record show that the defendant Seale continued to speak after the Court courteously requested him to remain quiet."

Item No. 3. During the morning session on October 16, 1969, out of the presence of the jury, while the witness Oklepek was testifying, a colloquy began between the Court, a marshal, and Mr. Kunstler. After a marshal explained that three spectators who were asked to leave the Court had been allowed to return, the defendant Seale stated to the Court:

"I think there is a bit of racism involved myself."

[That morning three black spectators had been asked by a marshal to leave

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System; that this misconduct was of so grave a character as to continually disrupt the orderly administration of justice.

To maintain the dignity of the Court and to preserve order in the courtroom under these circumstances has been a task of utmost difficulty. There were, accordingly, as the record shows clearly, repeated warnings and admonitions to the defendant Seale to cease this conduct and there were warnings that it would be dealt with accordingly at an appropriate time. However, his continued disruptive conduct made it necessary for the Court for the first time within the experience of this Court to physically and forcibly restrain him. Even these measures proved insufficient because of the potential effect that the continuation of these activities might have had in the future on the administration of justice.

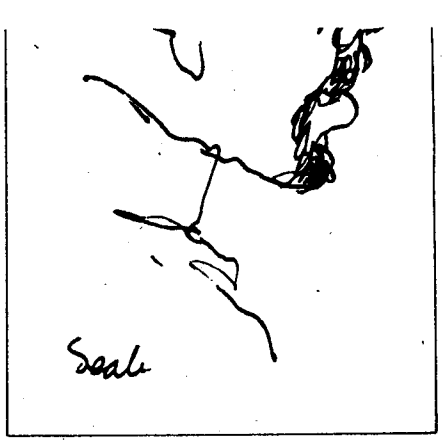
In this case I find that it is necessary that I deal with his conduct at this time. I have tried–I have endeavored on many occasions to make it clear to the defendant that his conduct was contumacious but I was not successful even right down to a few moments ago in persuading him to so conduct himself as we expect individuals to conduct themselves in the courts of the Federal System.

As isolated excerpts from or references to the transcript can give but a partial view of the acts, statements and conduct to which I refer, I make the entire record part of these proceedings. The Court also notes that a reading of this record cannot and does not reflect the true intensity and extent of the disruption which in some instances were accompanied by a physical violence.

MR. SEALE: That is a lie.

THE COURT: –which occurred in the presence of the Court.

MR. SEALE: That is a lie. I never attacked anyone, and you know it. I



the several criminal contempts to which I shall refer. In citing these specific acts and statements of the defendant Seale as contemptuous, the Court has selected only the most flagrant acts.

On Friday, September 26, 1969, during the motion session prior to the time opening statements were made, the defendant Seale addressed the Court in the following manner:

"If I am consistently denied this right of legal defense counsel of my choice who is effective by the Judge of this Court, then I can only see the Judge as a blatant racist of the United States Court.

"THE COURT: Just a minute. Just a minute.

"MR. SEALE: With gross prejudicial error toward all defendants and myself.

"THE COURT: Just a minute. What did you say?

"Read that, Miss Reporter.

"MR. SEALE: I said if my constitutional rights are denied as my constitutional rights have been denied in the past in the course of the trial, et cetera, then the tenor is the act of racism and me a black man, there seems to be a form of prejudice against me even to the other defendants on the part of the Judge."

That is Item No. 1.

witness Oklepek was testifying, a colloquy began between the Court, a marshal, and Mr. Kunstler. After a marshal explained that three spectators who were asked to leave the Court had been allowed to return, the defendant Seale stated to the Court:

"I think there is a bit of racism involved myself."

[That morning three black spectators had been asked by a marshal to leave the Court. Upon Mr. Kunstler's complaint they were readmitted. The marshal explained that one of them had seemed to be sleeping.]

Item No. 4. During the afternoon session on October 20, 1969, out of the presence of the jury, the defendant Seale presented and extensively argued a motion to be permitted to defend himself.

At the conclusion of the argument, the jury returned to the courtroom, and the following occurred:

"THE COURT: Is there any cross-examination of this witness?

"MR. SEALE: I would like to say, Judge, that you denied my motion to defend myself, and you know this jury is prejudiced against me.

"THE COURT: I will ask you to sit down.

"MR. SEALE: You know that. The jury can't go home to their loved ones and their homes, and you know they have been made prejudiced against me.

[Early in the trial two jurors had received threatening letters signed "The Black Panther." These letters were then turned over to the Judge who showed one of them to the first of the two jurors and asked whether she could continue to keep an open mind. She said that she could not and was dismissed. She added that she had not seen the letter until the Judge had shown it to her since her parents had opened it in her absence and delivered

it immediately to the FBI. The second juror said that she was not bothered by the letter. Nevertheless the entire jury was sequestered for the rest of the trial.]

"THE COURT: Ladies and gentlemen of the jury, you are excused."

The jury was then excused, and the following occurred:

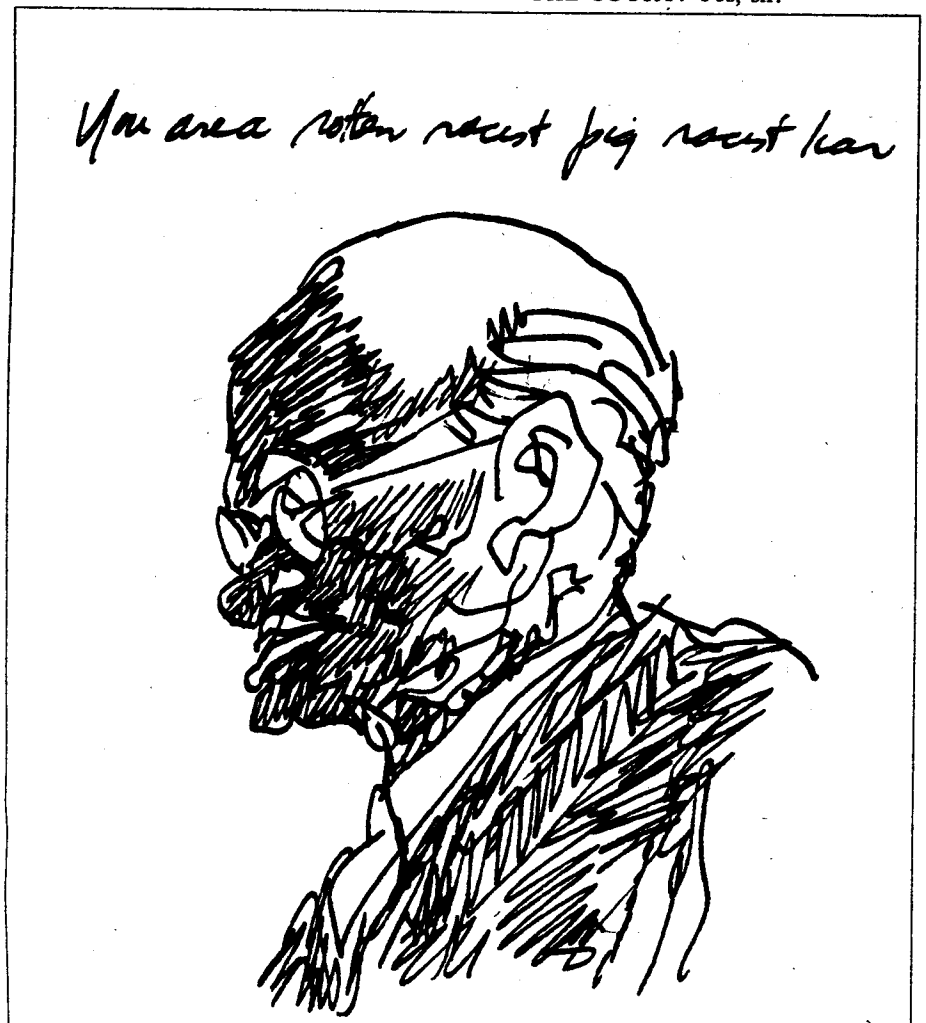
"MR. SEALE: They have been made prejudiced against me, I know. I should be allowed to defend myself. I should be allowed to speak so I can defend myself.

R. Garry is not here in my service. I have explained to you in the past what the situation was. I was put in jail, and everything else. Now you are saying you are going to put me in jail. You are going to put me in jail. That's one thing. You are going to put me in contempt of court because I am speaking in behalf of myself.

"THE COURT: I didn't put you there, sir.

"MR. SEALE: Because I am speaking in behalf of myself, to have a right to defend myself.

"THE COURT: Yes, sir.



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Julius Hoffman does his inimitable impression of Bobby Seale during a reading of the record

"THE MARSHAL: Be quiet.

"MR. SEALE: Don't tell me to shut up. I got a right to speak. I need to speak to defend myself.

"THE COURT: Mr. Seale, I must admonish you that any outburst such as you have just indulged in will be appropriately dealt with at the right time during this trial, and I must order you not to do it again.

"MR. SEALE: In other words, Judge–

"THE COURT: If you do, you do it at your own risk, sir.

"MR. SEALE: In other words, you are saying you're going to put me in contempt of court for speaking on behalf of myself?

"THE COURT: I will not argue with you. Mr. Marshal–

"MR. SEALE: Is that what you are saying to me? I mean, I want to be clear.

"THE COURT: Will you be quiet? That is all. You have a lawyer to speak for you.

"MR. SEALE: They don't speak for me. I want to represent myself. Charles

"MR. SCHULTZ: If the Court pleases, there's one thing that has not been stated.

"MR. SEALE: The jury is prejudiced against me, all right, and you know it because of those threatening letters. You know it, those so-called jive threatening letters, and you know it's a lie. How can that jury give me a fair trial?

"THE COURT: Mr. Marshal, will you go to that man and ask him to be quiet?

"MR. SEALE: I will speak for myself. They can't speak on behalf of myself. I still want to defend myself, and I know I have a right. I just want to let him know. That racist, that fascist. You know, the black man tries to get a fair trial in this country. The United States Government, huh. Nixon and the rest of them. Go ahead and continue. I'll watch and get railroaded.

"MR. SCHULTZ: If the Court please, there is one thing that has not been placed on the record, the fact that since the trial began, in fact, I think since September 24 so far as I

trial conclusions, but also indicate that the movement as an exercise of sovereignty is "a more formidable weapon than ever before." — *Harvard Middle Eastern Studies, 3.* $15.00 at bookstores.

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power sign. Somebody correct the Court on that. It's not the black power sign. It's the power to the people sign.

[The Black Panther Party does not support the idea of Black Power. Instead it calls for Power to the People, by whom it means all oppressed people, black as well as white. Schultz could hardly have been expected to grasp this doctrinal subtlety, nor could Judge Hoffman. To Seale, on the other hand, it is of great importance.]

"THE COURT: Mr. Marshal, will you stop the talking, please.

"MR. SEALE: Yes, but that is still wrong, Judge Hoffman. It's not a black power sign. It's a power to the people sign, and he is deliberately distorting that and that's a racist technique.

"MR. SCHULTZ: If the Court please, this man has repeatedly called me a racist–

"MR. SEALE: Yes, you are. You are, Dick Schultz.

"MR. SCHULTZ: And called Mr. Foran a racist–

"THE COURT: Ladies and gentlemen of the jury, I will ask you to leave the Court. Mr. Marshal, remove the ladies and gentlemen of the jury:

"(The following proceedings were had in open court, out of the presence and hearing of the jury:)

"THE COURT: Mr. Seale and Mr. Kunstler, your lawyer, I must admonish you that such outbursts are considered by the Court to be contemptuous, contumacious, and will be dealt with appropriately in the future.

"MR. KUNSTLER: Your Honor, the defendant was trying to defend himself, and I have already indicated my–

"THE COURT: The defendant was not defending himself.

"MR. SEALE: I was, too, defending myself. Any time anybody gives me the wrong symbol in this courtroom is deliberately–

"THE COURT: He is not addressing me with authority–

"MR. SEALE: –distorting, and put it on the record.

know, and I think this is 100 percent accurate, whenever the defendants have wanted to meet with Mr. Seale and the lawyers, the marshals have made arrangements to bring them to a room where all of them could get together, where Mr. Seale and the defendants and the lawyers have all met and consulted at every occasion that they have so requested. It has been done on a regular basis since the trial did begin. I just thought that should be on the record.

"If there is any statement by defense counsel to the contrary, since I'm not at the meetings and I don't know how many times they have asked the marshals to meet, I think they should so state now.

"MR. SEALE: I would like to put something on the record. You weren't in that room unless you got a tape recorder in there—

"THE MARSHAL: I am asking you to keep quiet.

"MR. SEALE: That man is lying on me.

"THE MARSHAL: All right.

"MR. SEALE: I met with these defendants and argued with these so-called cats about so-called defending me. I want that for the record, too."

Item No. 5. During the morning session on October 22, 1969, while argument on a motion of Attorney William Kunstler for leave to withdraw as counsel for the defendant Seale, the following occurred in open court.

"MR. SEALE: Can I speak on that and answer his argument?

"THE COURT: No. This is not your motion, sir. Your motion has been decided.

"MR. SEALE: In other words, I can't speak in behalf of myself?

"THE COURT: Not at this time, sir.

"MR. SEALE: Why not?

"THE COURT: Because this is your lawyer's motion.

"MR. SEALE: That ain't my lawyer.

"THE COURT: This is not your motion. This is the motion of Mr. William Kunstler for leave to withdraw as your lawyer.

"MR. SEALE: Well, this man has misconstrued a whole lot of things concerning my right to defend myself and he knows he did.

"They can jack you up and get you to sit up there and say rotten, crazy stuff concerning my right to defend myself.

"THE COURT: I would request the marshal to ask the young man to sit down.

"MR. SEALE: Well, I want my right to defend myself and this man knew, I indicated to him he was not my counsel at the very beginning when I first got here and arrived here and was in jail.

"THE COURT: That motion—since you will not listen to the Court, you may sit down.

"Have him sit down, Mr. Marshal.

"MR. SEALE: I still want my right to defend myself. A railroad operation, and you know it, from Nixon on down. They got you running around here violating my constitutional rights."

Item No. 6:

During the morning session on October 22nd, 1969, in the presence of the jury . . . the following occurred:

"MR. SCHULTZ: Your Honor, before the next witness testifies, would it be possible if the Court would permit the Government—well, we haven't offered the picture, as a matter of fact. We have the picture of the boy with the black power symbol fist on his sweat shirt that was identified by Officer Tobin and Carcerano as the boy—

"THE COURT: Is that Government's Exhibit 14?

"MR. SCHULTZ: That's the one .... We are going to move to offer that exhibit in evidence at this time ....

"THE COURT: Show it to counsel.

"MR. SEALE: That's not a black power sign. Somebody correct the Court on that. It's not the black power sign. It's the power to the people sign.

[The Black Panther Party does not support the idea of Black Power. Instead it calls for Power to the People, by whom it means all oppressed people, black as well as white. Schultz could hardly have been expected to grasp this doctrinal subtlety, nor could Judge Hoffman. To Seale, on the other hand, it is of great importance.]

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"THE COURT: Instruct that man to keep quiet.

"MR. SEALE: I want to defend myself and ask him if he isn't lying, and he is going to put that lying crap on the record. No, siree–I am not going to sit here and get that on the record. I am going to at least let it be known–request that you understand that this man is erroneously representing symbols directly related to the party of which I am chairman."

Item No. 7:

In the afternoon session on October 22nd, 1969, the Court informed the defendant Seale that the Court would supervise the decorum in the courtroom and the following occurred in open court:

"MR. SEALE: They don't take orders from racist judges, but I can convey the orders for them and they will follow them.

[Seale is referring to a group of Panthers in the spectators' section.]

"THE COURT: If you continue with that sort of thing, you may expect to be punished for it. I warned you right through this trial and I warn you again, sir.

"Bring in the jury.

"MR. SEALE: We protested our rights for four hundred years and we have been shot and killed and murdered and brutalized and oppressed for four hundred years because of–

"THE COURT: There is another instance, that outburst may appear of record and it does.

"Did you get it, Miss Reporter?

"THE REPORTER: Yes, sir.

"MR. SEALE: I hope you got my part for the record, too, concerning that. Did you get that, ma'am?

"THE REPORTER: Yes, sir.

"MR. SEALE: Thank you.

"THE COURT: And that outburst also.

"MR. DELLINGER: I think you before, I hope you don't blame me for anything.

"THE COURT: Mr. Marshal, will you tell that man to sit down.

"THE MARSHAL: Take a seat, Mr. Seale.

"MR. SEALE: I know–

"THE COURT: Mr. Marshal, I think Mr. Seale is saying something there.

"MR. SEALE: I know I am saying something. You know I am getting ready to speak out in behalf of my constitutional rights again, don't you?

"THE COURT: I will ask you to sit down, sir.

"THE MARSHAL: Sit down.

"MR. SEALE: You also know I am speaking out for the right to defend myself again, don't you, because I have that right as a defendant, don't I?

"THE COURT: I will have to ask you to sit down sir.

"MR. SEALE: You know what I am going to say, don't you?

"THE COURT: No, I don't.

"MR. SEALE: Well, I said it before.

"THE COURT: I don't know what you are going to say and you have a very competent lawyer of record here.

"MR. SEALE: He is not my lawyer and you know I fired him before that jury was even picked and put together.

"THE COURT: Will you ask him to sit down, Mr. Marshal?

"THE MARSHAL: Sit down, Mr. Seale.

"MR. SEALE: What about my constitutional right to defend myself and have my lawyer?

"THE COURT: Your constitutional rights–

"MR. SEALE: You are denying them. You have been denying them. Every other word you say is denied, denied, denied, denied, and you begin to oink in the faces of the masses of the people of this country. That is what you begin to represent, the corruptness of this rotten government, or four hundred years.

"THE MARSHAL: Mr. Seale, will

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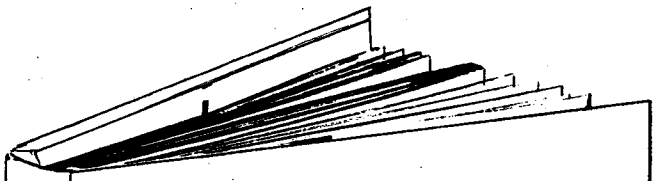

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record and it does.

"Did you get it, Miss Reporter?

"THE REPORTER: Yes, sir.

"MR. SEALE: I hope you got my part for the record, too, concerning that. Did you get that, ma'am?

"THE REPORTER: Yes, sir.

"MR. SEALE: Thank you.

"THE COURT: And that outburst also.

"MR. DELLINGER: I think you should understand we support Bobby Seale in this–at least I do. [Mr. Dellinger is a defendant.]

"THE COURT: I haven't asked you for any advice here, sir.

"MR. SEALE: If you let me defend myself, you could instruct me on the proceedings that I can act, but I have to just–

"THE COURT: You will have to be quiet.

"MR. SEALE: All I have to do is clear the record. I want to defend myself in behalf of my constitutional rights.

"THE COURT: Let the record show that the defendant Seale has refused to be quiet in the face of the admonition and direction of the Court.

"MR. SEALE: Let the record show that Bobby Seale speaks out in behalf of his constitutional rights, his right to defend himself, his right to speak in behalf of himself in this courtroom.

"THE COURT: Again let the record show that he has disobeyed the order of the Court.

"Bring in the jury, Mr. Marshal.

"MR. SEALE: Please do."

Item No. 8:

At the opening of the morning session on October 27, 1969, the following occurred in open court:

"THE COURT: Ladies and gentlemen of the jury, good morning.

"MR. SEALE: Good morning, ladies and gentlemen of the jury. As I said rights–

"MR. SEALE: You are denying them. You have been denying them. Every other word you say is denied, denied, denied, denied, and you begin to oink in the faces of the masses of the people of this country. That is what you begin to represent, the corruptness of this rotten government, or four hundred years.

"THE MARSHAL: Mr. Seale, will you sit down.

"MR. SEALE: Why don't you knock me in the mouth? Try that.

"THE MARSHAL: Sit down.

"THE COURT: Ladies and gentlemen of the jury, I regret that I will have to exuse you.

"MR. SEALE: [To the jury] I hope you don't blame me for anything and those false lying notes and letters that were sent that said the Black Panther Party threatened that jury, it's a lie and you know it's a lie, and the government did it to taint the jury against me.

"(The following proceedings were had in open court, out of the presence and hearing of the jury:)

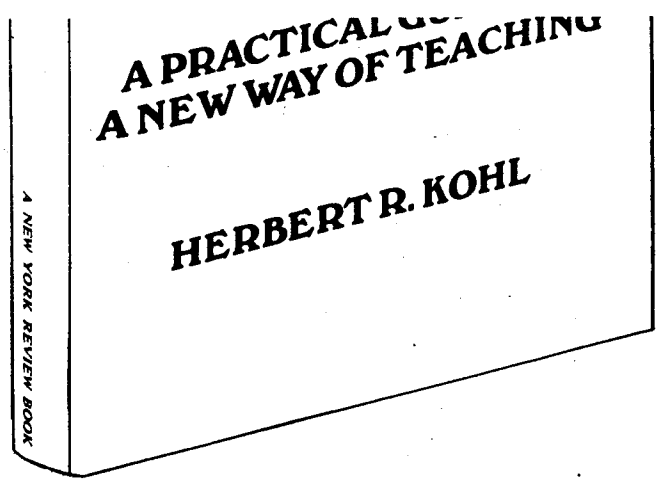
"MR. SEALE: You got that? This racist and fascist administrative government with its superman notions and comic book politics. We're hip to the fact that Superman never saved no black people. You got that?

"MR. KUNSTLER: I might say, your Honor, you know that I have tried to withdraw from this and you know that Mr. Seale–

"THE COURT: I don't know what you tried to do. I know your appearance is of record, and I know I have your assurance orally of record that you represent this man.

"MR. KUNSTLER: You have a withdrawal of that assurance, your Honor. You knew that on September 30th, you knew that Mr. Seale had discharged me.

"THE COURT: You represent him and the record shows it.



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"MR. KUNSTLER: Your Honor, you can't go on those semantics. This man wants to defend himself.

"THE COURT: This isn't semantics. I am not fooled by all of this business.

"MR. SEALE: I still demand the right to defend myself. You are not fooled? After you have walked over people's constitutional rights?

"THE MARSHAL: Sit down, Mr. Seale.

"MR. SEALE: After you done walked over people's constitutional rights, the Sixth Amendment, the Fifth Amendment, and the phoniness and the corruptness of this very trial, for people to have a right to speak out, freedom of speech, freedom of assembly, and et cetera. You have did everything you could with those jive lying witnesses up there presented by these pig agents of the Government to lie and say and condone some rotten racists, fascist crap by racist cops and pigs that beat people's heads—and I demand my constitutional rights—demand—demand—

"Call in the jury.

"THE COURT: Will the Marshal bring in the jury, please."

Item No. 9:

During the direct examination of the witness William Frapolly on October 27, 1969, the following occurred:

"MR. SEALE: I object to that because my lawyer is not here. I have been denied my right to defend myself in this courtroom. I object to this man's testimony against me because I have not been allowed my constitutional rights.

"THE COURT: I repeat to you, sir, you have a lawyer. Your lawyer is Mr. Kunstler, who represented to the Court that he represents you.

"MR. SEALE: He does not represent me.

"THE COURT: And he has filed an appearance.

"Ladies and gentlemen, I will excuse you

tional rights. I am not going to be quiet. I am talking in behalf of my constitutional rights, man, in behalf of myself, that's my constitutional right to talk in behalf of my constitutional rights.

"THE COURT: Bring in the jury, Mr. Marshal.

"MR. SEALE: I still object to that man testifying against me without my lawyer being here, without me having a right to defend myself.

"Black people ain't supposed to have a mind? That's what you think. We got a body and a mind. I wonder, did you lose yours in the Superman syndrome comic book stories? You must have, to deny us our constitutional rights.

"THE COURT: Are you getting all of this, Miss Reporter?

"MR. SEALE: I hope she gets it all.

"(The following proceedings were had in open court, out of the presence and hearing of the jury:)

"MR. SEALE: Taint the jury against me, send them threatening letters that I never sent, and you know it's a lie, you keep them away from their homes and they blame me every time they come in this room because they are being kept away from their homes, and you did it.

"THE COURT: Are you going to stop, sir?

"MR. SEALE: I am going to talk in behalf of my constitutional rights.

"THE COURT: You may continue, sir, with the direct examination of this witness.

"And I note that your counsel has remained quiet during your dissertation.

"MR. SEALE: You know what? I have no counsel here. I fired that lawyer before that jury heard anything and you know it. That jury hasn't heard all of the motions you denied behind the scenes. How you tricked that juror out of that stand there by threatening her with that jive letter that you know darned well I didn't send, which is a lie. And they blame

"MR. SEALE: You are violating Title 42, United States Criminal Code. You are violating it because it states that a black man cannot be discriminated against in his legal defense.

"THE COURT: Will you sit down, Mr. Seale?

"MR. SEALE: It is an old reconstruction law and you won't recognize it. So I would like to cross-examine the witness.

"THE COURT: Will you sit down, sir?

"MR. SEALE: I still want to cross-examine the witness.

"THE COURT: You may not.

"A MARSHAL: May I remove the jury, please?

"THE COURT: Ladies and gentlemen of the jury, you may be exused."

After the jury was excused, the defendant Seale continued to refuse to obey the order of the Court to remain silent. Thereupon the following occurred in open court:

"THE COURT: Let the record show that the defendant—

"MR. SEALE: Let the record show you violated that and a black man cannot be discriminated against in relation to his legal defense and that is exactly what you have done. You know you have. Let the record show that.

"THE COURT: The record shows exactly to the contrary.

"MR. SEALE: The record shows that you are violating, that you violated my constitutional rights. I want to cross-examine the witness. I want to cross-examine the witness.

"THE COURT: Bring in the jury, Mr. Marshal, and we will let them go for this evening.

I admonish you, sir, that you have a lot of contemptuous conduct against you.

"MR. SEALE: I admonish you. You are in contempt of people's constitutional rights. You are in contempt of

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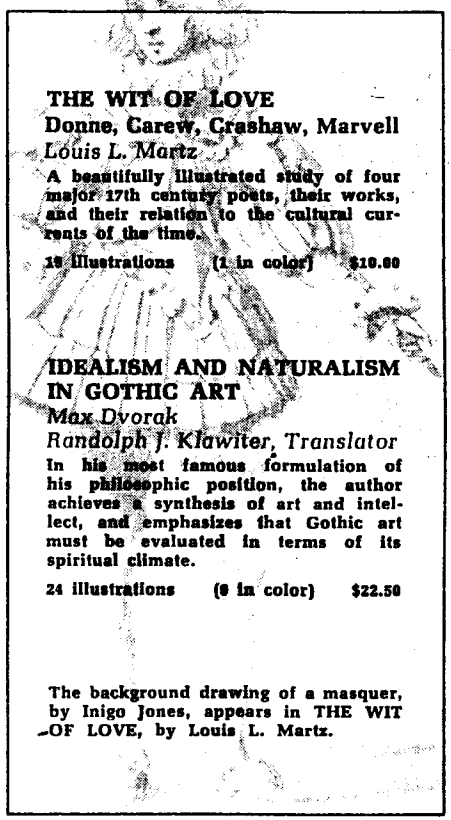

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have not been allowed my constitutional rights.

"THE COURT: I repeat to you, sir, you have a lawyer. Your lawyer is Mr. Kunstler, who represented to the Court that he represents you.

"MR. SEALE: He does not represent me.

"THE COURT: And he has filed an appearance.

"Ladies and gentlemen, I will excuse you.

"(The following proceedings were had in open court, within the presence and hearing of the jury:)

"MR. KUNSTLER: May I say I have withdrawn or attempted to withdraw.

"MR. SEALE: The defense filed a motion before the jury ever heard any evidence, and I object to that testimony.

"THE COURT: For your information, sir, I do not hear parties to a case who are not represented by lawyers. You are represented by a lawyer.

"MR. SEALE: I am not represented by a lawyer. I am not represented by Charles Garry for your information.

"THE MARSHAL: Sit down, Mr. Seale.

"THE COURT: Now you just keep on this way and–

"MR. SEALE: Keep on what? Keep on what?

"THE COURT: Just sit down.

"MR. SEALE: Keep on what? Keep on getting denied my constitutional rights?

"THE COURT: Will you be quiet?

"MR. SEALE: I object to that man's–can't I object to that man there sitting up there testifying against me and my constitutional rights denied to my lawyer being here?

"Now I still object. I object because you know it is wrong. You denied me my right to defend myself. You think black people don't have a mind. Well, we got big minds, good minds, and we know how to come forth with constitutional rights, the so-called constitu-

remained quiet during your dissertation.

"MR. SEALE: You know what? I have no counsel here. I fired that lawyer before that jury heard anything and you know it. That jury hasn't heard all of the motions you denied behind the scenes. How you tricked that juror out of that stand there by threatening her with that jive letter that you know darned well I didn't send, which is a lie. And they blame me every time they are being kept from their loved ones and their homes. They blame me every time they come in the room. And I never sent those letters, you know it.

"THE COURT: Please continue with the direct examination."

On October 28, 1969–this is Item No. 10–on October 28, 1969, during the afternoon session, while the witness William Frapolly was testifying on cross-examination, the following occurred in open court:

"THE COURT: Mr. Weinglass, do you want to cross-examine this witness?

"MR. SEALE: I would like to request to cross-examine the witness.

"THE COURT: You have a lawyer here.

"MR. SEALE: That man is not my lawyer. The man made statements against me. Furthermore, he violated Title 1892 of the United States. Well, you are still violating it. [Title 42 US Code Section 1981 refers to a Reconstruction statute granting black men equal protection under the law. Seale's reference to 1892 is an error.]

"THE MARSHAL: Sit down, Mr. Seale.

"MR. SEALE: You violated the Code. You violated the United States laws against my rights.

"THE COURT: Mr. Marshal, will you ask Mr. Seale to sit down in his chair?

lated my constitutional rights. I want to cross-examine the witness. I want to cross-examine the witness.

"THE COURT: Bring in the jury, Mr. Marshal, and we will let them go for this evening.

I admonish you, sir, that you have a lot of contemptuous conduct against you.

"MR. SEALE: I admonish you. You are in contempt of people's constitutional rights. You are in contempt of the constitutional rights of the mass of the people of the United States. You are the one in contempt of people's constitutional rights. I am not in contempt of nothing. You are the one who is in contempt. The people of America need to admonish you and the whole Nixon administration.

Let me cross-examine the witness. You won't even let me read–you wouldn't even let me read my statement this morning, my motion this morning, concerning the fact that I wanted a copy of the transcript for my own legal defense.

"THE COURT: Bring in the jury.

"Is he getting the jury?

"THE CLERK: Yes, your Honor.

"THE COURT: Tell him to just bring them before the box.

"MR. SEALE: I want to cross-examine the witness.

"MR. HAYDEN: Let the record show the judge was laughing. [Mr. Hayden is a defendant.]

"MR. SEALE: Yes, he is laughing.

"THE COURT: Who made that remark?

"MR. FORAN: The defendant Hayden, your Honor, made the remark.

"MR. SEALE: And me.

"THE COURT: Let the record show that–

"MR. SEALE: I still want to cross-examine the witness to defend myself."

The jury was then returned to the courtroom to be excused for the day, during which time, the defendant Seale

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"MR. SEALE: And if they attack any people they have a right to defend themselves, you lying pig.

"THE COURT: Let the record show the tone of Mr. Seale's voice was one shrieking and pounding on the table and shouting. That will be dealt with appropriately at some time in the future."

The defendant Seale then continued to speak after the jury entered the courtroom, and the Court then excused them. After the jury left, the defendant Seale made the following comment to the Court:

"MR. SEALE: If a witness is on the stand and testifies against me and I stand up and speak out in behalf of my right to have my lawyer and to defend myself and you deny me that, I have a right to make those requests. I have a right to make those demands on my constitutional rights. I have a constitutional right to speak, and if you try to suppress my constitutional right to speak out in behalf of my constitutional rights, then I can only see you as a bigot, a racist, and a fascist, and I have said before and clearly indicated on the record."

Item No. 12, on October 29, 1969, during the morning session when the cross-examination of the witness Frapolly was completed, the following occurred in open court:

"THE COURT: Is there any redirect examination?..

"MR. SEALE: Before the redirect, I would like to request again–demand, that I be able to cross-examine the witness. My lawyer is not here. I think I have a right to defend myself in this courtroom

"THE COURT: Take the jury out, and they may go to lunch with the usual order.

"MR. SEALE: You have George Washington and Benjamin Franklin sit

choice of Charles R. Garry to represent me.

"THE COURT: We are going to recess now, young man. If you keep this up–

"MR. SEALE: Look, old man, if you keep up denying me my constitutional rights, you are being exposed to the public and the world that you do not care about people's constitutional rights to defend themselves.

"THE COURT: I will tell you that what I indicated yesterday might happen to you–

"MR. SEALE: Happen to me? What can happen to me more that what Benjamin Franklin and George Washington did to black people in slavery? What can happen to me more than that?

"THE COURT: And I might add since it has been said here that all of the defendants support you in your position that I might conclude that they are bad risks for bail, and I say that to you, Mr. Kunstler, that if you can't control your client–

"MR. SEALE: I still demand my constitutional rights as a defendant in this case to defend myself. I demand the right to be able to cross-examine this witness. He has made statements against me and I want my right to–

"MR. SCHULTZ: May the record show, if the Court please, that while the marshals were seating Bobby Seale, pushing him in the chair, the defendant Dellinger physically attempted to interfere with the marshals by pushing them out of the way. [Mr. Dellinger, a pacifist, held his elbows to his ribs, raised his hands to protect his face, and placed his body between the marshals and Mr. Seale.]

"MR. SEALE: I want my rights. I want my rights to defend myself. I want my right to defend myself in this trial. I want my rights recognized.

"THE COURT: Mr. Kunstler, I will address you if you will stand up.

"MR. KUNSTLER: I...

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MR. SEALE: Before the redirect, I would like to request again—demand, that I be able to cross-examine the witness. My lawyer is not here. I think I have a right to defend myself in this courtroom

"THE COURT: Take the jury out, and they may go to lunch with the usual order.

"MR. SEALE: You have George Washington and Benjamin Franklin sitting in a picture behind you, and they were slave owners. That's what they were. They owned slaves. You are acting in the same manner, denying me my constitutional rights being able to cross-examine this witness.

(The following proceedings were had in open court, out of the presence and hearing of the jury:)

"MR. SEALE: You have had direct examination, we have cross-examination by the other defendants' lawyers, and I have a right to cross-examine the witness.

"THE COURT: Mr. Seale, I have admonished you previously—

"MR. SEALE: I have a right to cross-examine the witness.

"THE COURT. —what might happen to you if you keep on talking—

"MR. SEALE: I still have the right to cross-examine the witness. Why don't you recognize my constitutional rights?

"THE COURT: Mr. Kunstler has his appearance on record here as your attorney.

"MR. SEALE: He is not. He is not. He is not my lawyer, and you know that.

"THE COURT: He is. I don't know—

"MR. SEALE: You know that.

"THE COURT: I know that he is, and I know this is just an entire device here—

"MR. SEALE: He is not my lawyer. You have forced—you have made your choice of who you think should represent me. That is not true. I make the pacifist, held his elbows to his ribs, raised his hands to protect his face, and placed his body between the marshals and Mr. Seale.]

"MR. SEALE: I want my rights. I want my rights to defend myself. I want my right to defend myself in this trial. I want my rights recognized.

"THE COURT: Mr. Kunstler, I will address you if you will stand up.

"MR. KUNSTLER: I was going to address you, your Honor, because you had made some remarks—

"MR. SEALE: He doesn't represent me. You can address him all you want. He doesn't represent me. He doesn't represent me. You can address him all you want.

"They are the ones that's pushing me.

"MR. KUNSTLER: Your Honor, you made a threat about my—

"THE COURT: I tell you that Mr. Dellinger—if that is his name—has said here that they support the performances of this man, the statements of this man.

[Judge Hoffman has difficulty remembering the names of the defendants. Earlier he had referred to Mr. Dellinger as Dillinger and as Derringer.]

"MR. KUNSTLER: They support his right to have a lawyer or to defend himself.

"THE COURT: You told me you were his lawyer.

"MR. KUNSTLER: Your Honor—

"MR. SEALE: He is not my lawyer.

"THE COURT: I have the transcript right here.

"MR. KUNSTLER: Your Honor, we have gone over that.

"MR. SEALE: I told you I fired him before the trial began.

"THE COURT: You haven't explained—

"MR. KUNSTLER: I have explained it fully. I have been discharged—

"THE COURT: No, you haven't and you will.

continued to speak. Thereafter, the following occurred in open court:

"THE COURT: You may sit down.

"I must admonish the defendant and his counsel–

"MR. SEALE: Counsel ain't got nothing to do with it. I'm my own counsel.

"THE COURT: You are not doing very well for yourself.

"MR. SEALE: Yes, that's because you violated my constitutional rights, Judge Hoffman. That's because you violated them overtly, deliberately, in a very racist manner. Somebody ought to point out the law to you. You don't want to investigate it to see whether the people get their constitutional rights. 68,000 black men died in the Civil War for that right. That right was made during the Reconstruction period. They fought in that war and 68,000 of them died. That law was made for me to have my constitutional rights.

"MR. SEALE: I am not rising."

Item 11, on October 29, 1969, during the morning session; the following occurred in open court:

"MR. SCHULTZ: If the Court please, before you came into this courtroom, if the Court please, Bobby Seale stood up and addressed this group. [Mr. Schultz is referring to the group of Panthers who had come to Court that morning.]

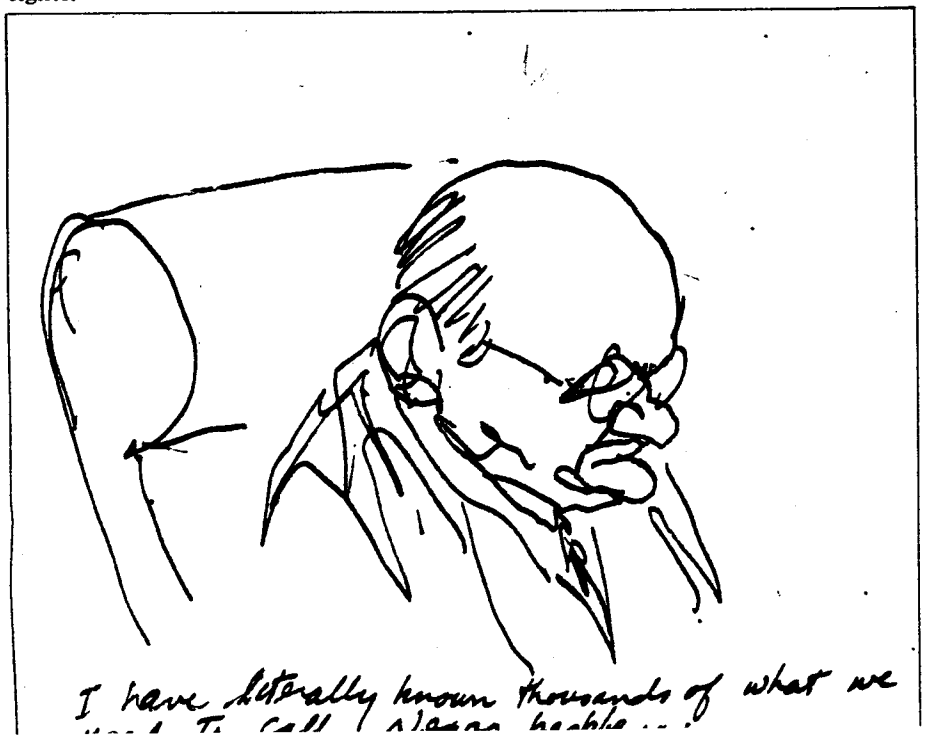
"MR. SEALE: That's right, brother.

"MR. SCHULTZ: And Bobby Seale said if he is–

"MR. SEALE: I spoke on behalf of my constitutional rights. I have a right to speak in behalf of my constitutional rights. That's right.

"MR. SCHULTZ: And he told those people in his audience, if the Court please–and I want this on the record. It happened this morning–that if he's attacked, they know what to do.

"MR. SEALE: I can speak on behalf



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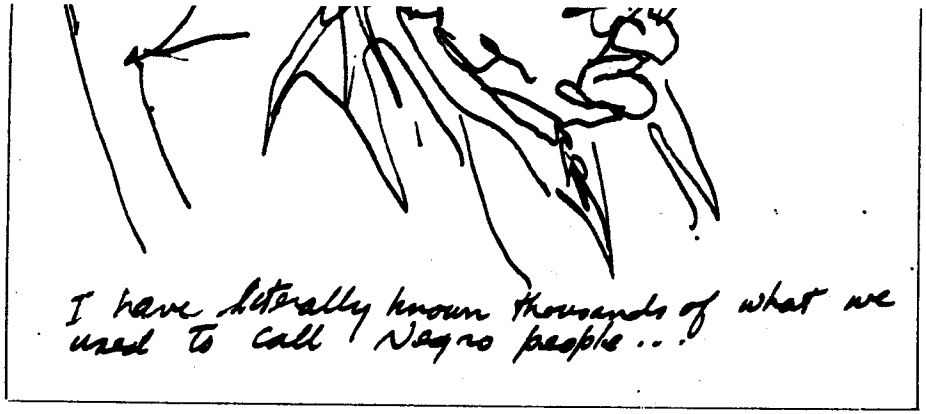

"THE COURT: Do you want to listen to me for a moment?

"MR. SEALE: Why should I continue to listen to you unless you are going to give me my constitutional rights? Let me defend myself.

"THE COURT: I am warning you, sir, that the law–

"MR. SEALE: Instead of warning, why don't you warn me I have got a right to defend myself, huh?

"THE COURT: I am warning you that the Court has the right to gag you. I don't want to do that. Under the law you may be gagged and chained to your chair.

"MR. SEALE: Gagged? I am being railroaded already. I am being railroaded already.

"THE COURT: The Court has that right and I–

"MR. SEALE: The Court has no right whatsoever. The Court has no right to stop me from speaking out in behalf of my constitutional rights because it is denying me the constitutional rights to speak out in behalf of myself and my legal defense.

"THE COURT: The Court will be in recess until tomorrow morning at ten o'clock.

"THE MARSHAL: Everyone will please rise.

"MR. SEALE: I am not rising. I am not rising until he recognizes my constitutional rights. Why should I rise for him? He is not recognizing–

"THE COURT: Mr. Marshal–

of my constitutional rights, too.

"MR. SCHULTZ: He was talking to these people about an attack by them.

"MR. SEALE: You're lying. Dirty liar. I told them to defend themselves. You are a rotten racist pig, fascist liar, that's what you are. You're a rotten liar. You're a rotten liar. You are a fascist pig liar.

"I said they had a right to defend themselves if they are attacked, and I hope that the record carries that, and I hope the record shows that tricky Dick Schultz, working for Richard Nixon and administration all understand that tricky Dick Schultz is a liar, and we have a right to defend ourselves, and if you attack me I will defend myself.

"SPECTATORS: Right on."

Mr. Marshal, –I will direct the marshals to clear the courtroom in the event that laughter occurs again. Clear the courtroom of spectators if that occurs again.

Let the record show now that there was loud laughter among the spectators.

"MR. SCHULTZ: If the Court please, that is what he said, just as he related it.

"MR. SEALE: You're darned right.

"MR. SCHULTZ: In terms of a physical attack by the people in this–

"MR. SEALE: A physical attack by those damned marshals, that's what I said.

"THE COURT: Let–

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"MR. KUNSTLER: I told you on the 27th and I told you on the 30th.

[Mr. Kunstler is in error. He had indicated that he was not serving as Seale's counsel on the 26th.]

"THE COURT: I tell you some day you will have to explain it.

"MR. KUNSTLER: That is another threat to the lawyers, your Honor. We have had so many that–

"THE COURT: Now I will tell you this, that since it has been said here that all of the defendants support this man in what he is doing, I over the noon hour will reflect on whether they are good risks for bail and I shall give serious consideration to the termination of their bail if you can't control your clients, and you couldn't yesterday afternoon.

"MR. SEALE: I am not–I am not a defendant–he is not my lawyer. I want my right to defend myself. I want my right to defend myself.

"MR. KUNSTLER: Your Honor, they said this morning they supported fully his right to defend himself or have his lawyer of choice, and if that session on October 29, 1969, Court and counsel engaged in a lengthy colloquy during which the following occurred:

"MR. KUNSTLER: Your Honor, I would just like about two minutes to respond.

"MR. SEALE: Since he made all of these statements, can I say something to the Court?

"THE COURT: No, thank you.

"MR. SEALE: Why not?

"THE COURT: Because you have a lawyer and I am not going to go through that again.

"MR. SEALE: He is not my lawyer. How come I can't say nothing? He has distorted everything, and it relates to the fact I have a right to defend myself.

"THE COURT: I ask you to sit down. If there has been any distortion by anybody, I am perfectly capable of understanding it.

"MR. SEALE: I don't think you will. See? I don't think you will. Your past actions of denying me the consti-

"MR. SEALE: I want to know will you–oh, look–it's a form of racism, racism is what stopped my argument.

"THE COURT: Hold the jury, Mr. Marshal.

"MR. SEALE: My argument is and I still argue the point that you recognize my constitutional rights to defend myself.

"THE COURT: Mr. Seale, do you want to stop or do you want me to direct the marshal–

"MR. SEALE: I want to argue the point about this so you can get an understanding of the facts I have a right to defend myself.

"THE COURT: We will take a recess. [The Judge addresses the marshals.] Take that defendant into the room in there and deal with him as he should be dealt with in this circumstance.

"MR. SEALE: I still want to be represented. I want to represent myself.

"THE MARSHAL: Mr. Kunstler, will you instruct the defendants, sir, that it is the order of the Court that they will arise upon the recess?

"MR. KUNSTLER: If that is a direction of the Court, I certainly will pass it on.

"THE COURT: Let the record show none of the defendants have stood at this recess in response to the Marshal's request. The Court will be in recess for a few minutes.

"MR. SEALE: Let the record show that–

"THE MARSHAL: This Court will take a brief recess.

"MR. SEALE: Let the record show–"

In an attempt to maintain order in the courtroom, the Court thereupon ordered the defendant Seale removed from the courtroom at which time he was forcibly restrained by binding and gagging.

The defendant Seale was then re-

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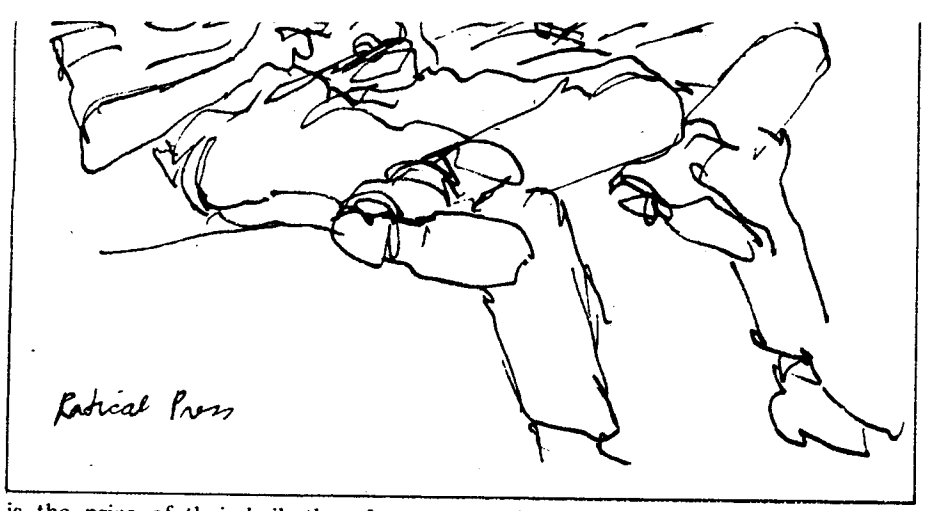

is the price of their bail, then I guess that will have to be the price of their bail.

"THE COURT: Let me tell you–

"MR. SEALE: I have a right to defend myself. That's what you–

"THE COURT: Will you, Mr. Marshal, have that man sit down.

"MR. SEALE: You trying to make jive bargaining operations and that's different from the right I have. I have a right to defend myself. I still have a right to defend myself whether you sit me down or not. I still got a right to defend myself. I got a right to speak on behalf of my defense. I have a right to speak out in behalf of my defense, and you know it. You know it. Why don't you recognize my right to defend myself?

"MR. SCHULTZ: May the record show that the defendant Dellinger did the same thing just now?

"THE COURT: I saw it myself.

"MR. KUNSTLER: Your Honor, he is trying to see what is happening.

"MR. SEALE: I want the constitutional right to defend myself. I want the right to cross-examine the witness, and why don't you recognize the law of this land and give me my constitutional right to defend myself?"

Item No. 13:

At the beginning of the afternoon tutional right to defend myself–

"THE COURT: Did you want to reply, Mr. Kunstler?

"MR. SEALE: Yes, I did. I wanted to reply.

"THE COURT: I was talking to Mr. Kunstler, if you don't mind."

The colloquy continued and the Court thereafter sent the jury into the jury room at which time the following occurred:

"MR. KUNSTLER: Then I have nothing further to say, your Honor.

"THE COURT: Bring in the jury, please.

"MR. SEALE: What about Section 1982, Title 42 of the Code where it says the black man cannot be discriminated against in my legal defense in any court in America?

"THE COURT: Mr. Seale, you do know what is going to happen to you–

"MR. SEALE: You just got through saying you observed the laws. That law protects my right not to be discriminated against in my legal defense. Why don't you recognize that? Let me defend myself. From the first time when I asked–when I attempted to make an opening statement, and you stopped me and denied me that right–

"THE COURT: I will not hear you now. I am asking you to be silent.

"THE MARSHAL: This Court will take a brief recess.

"MR. SEALE: Let the record show–"

In an attempt to maintain order in the courtroom, the Court thereupon ordered the defendant Seale removed from the courtroom at which time he was forcibly restrained by binding and gagging.

The defendant Seale was then returned to the courtroom but continued to shout through the gag. The Court then ordered the Marshal to reinforce the gag. The gag was then reinforced and the defendant Seale was returned to the courtroom. Eventually the jury was allowed in the courtroom for the afternoon session.

Item No. 14:

On October 30, 1969, at the opening of the morning session the Court ordered the marshal to adjust the restraint on the defendant Seale after he had complained of discomfort. Thereupon the following occurred in open court:

"THE COURT: If the marshal has concluded that he needs assistance, of course.

[Upon the request of Mr. Weinglass and with the agreement of Mr. Schultz, Judge Hoffman orders the marshal to loosen the elastic bandage which has begun to choke Mr. Seale.]

"I will excuse you, ladies and gentlemen of the jury, with my usual orders.

(The following proceedings were had in open court, out of the presence and hearing of the jury:)

"MR. KUNSTLER: Your Honor, are we going to stop this medieval torture that is going on in this courtroom? I think this is a disgrace.

"MR. RUBIN: This guy is putting his elbow in Bobby's mouth and it wasn't necessary at all. [Mr. Rubin is a defendant. He refers to a very large

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Negro marshal who has attempted to silence Mr. Seale.]

"MR. KUNSTLER: This is no longer a court of order, your Honor; this is a medieval torture chamber. It is a disgrace. They are assaulting the other defendants also.

"MR. RUBIN: Don't hit me in my balls, mother fucker. [The Judge declined to read these obscenities and the one that follows into the record, asking the reporter to add them later. He explained his reluctance on the ground that there were women and young people in the courtroom.]

"MR. SEALE: This mother fucker is tight and it is stopping my blood.

"MR. KUNSTLER: Your Honor, this is an unholy disgrace to the law that is going on in this courtroom and I as an American lawyer feel a disgrace.

"MR. FORAN: Created by Mr. Kunstler.

"MR. KUNSTLER: Created by nothing other than what you have done to this man.

"MR. HOFFMAN: You come down here and watch it, Judge. [Mr. Hoffman is a defendant.]

"MR. FORAN: May the record show that the outbursts are by the defendant Rubin.

"MR. SEALE: You fascist dogs, you rotten, low-life son-of-a-bitch."

[Mr. Seale is addressing the Negro marshals.]

MR. SEALE: [Interrupts the Judge's reading from the transcript] That was right after I got hit in the testes by your marshals who attacked me.

THE COURT: [After Mr. Seale's interruption, Judge Hoffman continues to quote Seale from the transcript.] "I am glad I said it about Washington used to have slaves, the first President—

"MR. DELLINGER: Somebody go to protect him.

"MR. FORAN: Your Honor, may the record show that that is Mr. Dellinger saying someone go to protect

"MR. SEALE: My constitutional rights have been violated. The direct examination is over, cross-examination is over, I want to cross-examine the witness.

"THE COURT: Please be quiet, sir. I order you to be quiet.

"MR. SEALE: I have a right to cross-examine the witness. I want to cross-examine the witness at this time. I object to you not allowing me to cross-examine the witness. You know I have a right to do so.

"THE COURT: Ladies and gentlemen of the jury, you are excused until tomorrow morning at ten o'clock. I must order you not to talk with anybody about this case, or let anybody speak with you about it, do not read the newspapers or any other journals. Do not listen to radio or television or look at television. If anybody attempts to communicate with you about this case in any manner, please get in touch with the United States Marshal who will in turn lay the matter before me.

"You are excused until tomorrow morning at ten o'clock . . . . Mr. Marshal, you may take the jury out.

"(The following proceedings were had in open court, out of the presence and hearing of the jury:)

"THE COURT: Now I want to tell you, Mr. Seale, again—I thought you were going to adhere to my directions. You sat there and did not during this afternoon intrude into the proceedings in an improper way.

"MR. SEALE: I never intruded until it was the proper time for me to ask and request and demand that I have a right to defend myself and I have a right to cross-examine the witness. I sit through other cross-examinations and after the cross-examinations were over, I request, demanded by right to cross-examine the witness, and in turn demanded my right to defend myself, since you cannot sit up here—you cannot sit up here and continue to

Item No. 16:

On Wednesday, November 5th, 1969, during the morning session, following the direct examination of the witness Ray, the following took place:

"MR. SEALE: I would like to approach the lectern.

"THE COURT: You may not cross-examine, sir.

"MR. SEALE: Well, I think I have a right to cross-examine.

"THE COURT: No, you have no right in the circumstances of this case.

"MR. SEALE: Why did you follow me, could you please tell me, Mr. Witness— [The witness is a deputy sheriff of San Mateo County, California. He had observed Mr. Seale purchase a ticket at the San Francisco Airport, presumably to Chicago.]

"THE COURT: Mr. Seale—

"MR. SEALE: —at the airport?

"THE COURT: Mr. Seale, I ask you to sit down.

"MR. SEALE: Have you ever killed a Black Panther Party member?

"THE COURT: Mr. Seale, I will have to ask you to sit down, please.

"MR. SEALE: Have you ever been on any raids in the Black Panther Party's offices or Black Panther Party members' homes?

"THE COURT: Mr. Seale, this is the third time I am asking you to sit down, as courteously as possible.

"MR. SEALE: Why don't you let me cross-examine the witness and defend myself?

"THE COURT: Because you are not entitled to. You have a lawyer of record who signed his appearance in his own handwriting.

"MR. SEALE: This man was fired. He was not my lawyer before the jury heard one shred of evidence, before one witness even raised his hand to be sworn in the trial. The trial had not started until that happened.

"THE COURT: You may not stand up—

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your marshals who attacked me.

THE COURT: [After Mr. Seale's interruption, Judge Hoffman continues to quote Seale from the transcript.] "I am glad I said it about Washington used to have slaves, the first President—

"MR. DELLINGER: Somebody go to protect him.

"MR. FORAN: Your Honor, may the record show that that is Mr. Dellinger saying someone go to protect him and the other comment is by Mr. Rubin.

"MR. RUBIN: And my statement, too.

"THE COURT: Everything you say will be taken down.

"MR. KUNSTLER: Your Honor, we would like the names of the marshals. We are going to ask for a judicial investigation of the entire condition and the entire treatment of Bobby Seale.

"THE COURT: You ask for anything that you want. When you begin to keep your word around here that you gave the Court, perhaps things can be done . . . .

"MR. KUNSTLER: I just feel so utterly ashamed to be an American lawyer at this time.

"THE COURT: You should be ashamed of your conduct in this case, sir."

Thereafter, because of the chaos in the courtroom, the morning session of court recessed.

Item No. 15:

During the afternoon session on Thursday, October 30th, 1969, the following occurred:

"MR. SEALE: [Through his gag] I would like to cross-examine the witness. I want to cross-examine the witness.

"THE COURT: Ladies and gentlemen of the jury, I will have to excuse you.

and request and demand that I have a right to defend myself and I have a right to cross-examine the witness. I sit through other cross-examinations and after the cross-examinations were over, I request, demanded by right to cross-examine the witness, and in turn demanded my right to defend myself, since you cannot sit up here—you cannot sit up here and continue to deny me my constitutional rights to cross-examine the witness, my constitutional right to defend myself. I sit throughout other cross-examinations, I never said anything, and I am not attempting to disrupt this trial. I am attempting to get my rights to defend myself recognized by you.

"THE COURT: You have employed one of the most competent criminal lawyers I have ever seen.

"MR. SEALE: He is not employed by me. He is not, and you know Charles R. Garry is my only lawyer. He is not here.

"THE COURT: I have a written appearance here in his own handwriting.

"MR. SEALE: I fired him. He filed an appearance to see me in jail before the trial began. Mr. Charles Garry is the only one I ever agreed with that would be my trial counsel and you know that.

"THE COURT: I must tell you, sir, that time is running out. If you are going to persist in this sort of thing, the Court will have to deal appropriately with your conduct.

"MR. SEALE: I have a right to object. I have a right—

"THE COURT: Mr. Marshal, the Court will be in recess.

"MR. SEALE: I have a right to my constitutional rights.

"THE MARSHAL: The Court will be in recess until tomorrow morning at ten o'clock."

entitled to. You have a lawyer of record who signed his appearance in his own handwriting.

"MR. SEALE: This man was fired. He was not my lawyer before the jury heard one shred of evidence, before one witness even raised his hand to be sworn in the trial. The trial had not started until that happened.

"THE COURT: You may not stand up—

"MR. SEALE: This man is not my counsel.

"THE COURT: Will you sit down, please.

"MR. SEALE: He is not the representative of me. I am trying to defend myself. I'm being railroaded.

"THE COURT: Will you sit down, sir.

"MR. SEALE: Why can't you see that I have a right to try and cross-examine witnesses, and I have a right to defend myself?

"THE COURT: I am saying that you do not have the right at this juncture, sir . . . .

"MR. SEALE: Me, myself, my own person have no right to defend myself? This is erroneous. It is a complete, complete overt, fascist attempt, fascist operation—

"THE COURT: Ladies and gentlemen of the jury—

"MR. SEALE: —of denying me my constitutional right.

"THE COURT: Ladies and gentlemen of the jury, I ask you to leave the courtroom.

(Whereupon the following further proceedings were had herein, in open court, outside the presence and hearing of the jury:)

"MR. SEALE: How about that? You are talking about insulting you. You are the one that is insulting me, insulting the people of the world, insulting the people of America, and you know it.

"THE COURT: Gentlemen, we will recess until two o'clock."

Accordingly, it is therefore ordered that pursuant to the authority vested in this Court by Rule 42(a) of the Federal Rules of Criminal Procedure and by Title 18, United States Code, Section 401, the defendant Bobby Seale be punished for contempt.

I will hear from you, Mr. Kunstler.

MR. KUNSTLER: Your Honor, I have already indicated that because I have been discharged I can say nothing for Mr. Seale. He wants to be his own attorney, as your Honor has read at least thirty or forty times from your own opinion, and I think that I would be derelict in my duty to my understanding of my right and liability as an attorney were I to speak for him now.

THE COURT: Gentlemen, we will recess until two o'clock.

MR. SEALE: Wait a minute. Can I speak about that. I would like to—since you let me stand up and speak, can I speak about in behalf of—can I defend myself?

THE COURT: You may speak to the matters I have discussed here today, matters dealing with your contemptuous conduct. The law obligates me to call on you to speak at this time.

MR. SEALE: About what? About the fact that I want a right to defend myself? That's all I am speaking about.

THE COURT: No, about possible punishment for contempt of court.

MR. SEALE: Punishment? You've punished black people all your life. I mean, you, they even say you own a factory that produces raw materials to kill people in Viet Nam [the family of Judge Hoffman's wife is involved in the Brunswick Corporation which produces napalm]. You've only got one lawyer by letting this man and Thomas Hayden to go and to talk to Charles R. Garry to see about coming out here for me, which begin to show me that I was beginning to persuade you to do something, at least allow somebody to investigate my situation. Now what are you talking about? Now all of a sudden on the record?

THE COURT: I want to make it clear. I don't want to be questioned any further. The law gives you the right to speak out now in respect to possible punishment for contempt of court, sir.

MR. SEALE: Well, the first thing, I'm not in no contempt of court. I know that. I know that I as a person and a human being have the right to stand up in a court and use his

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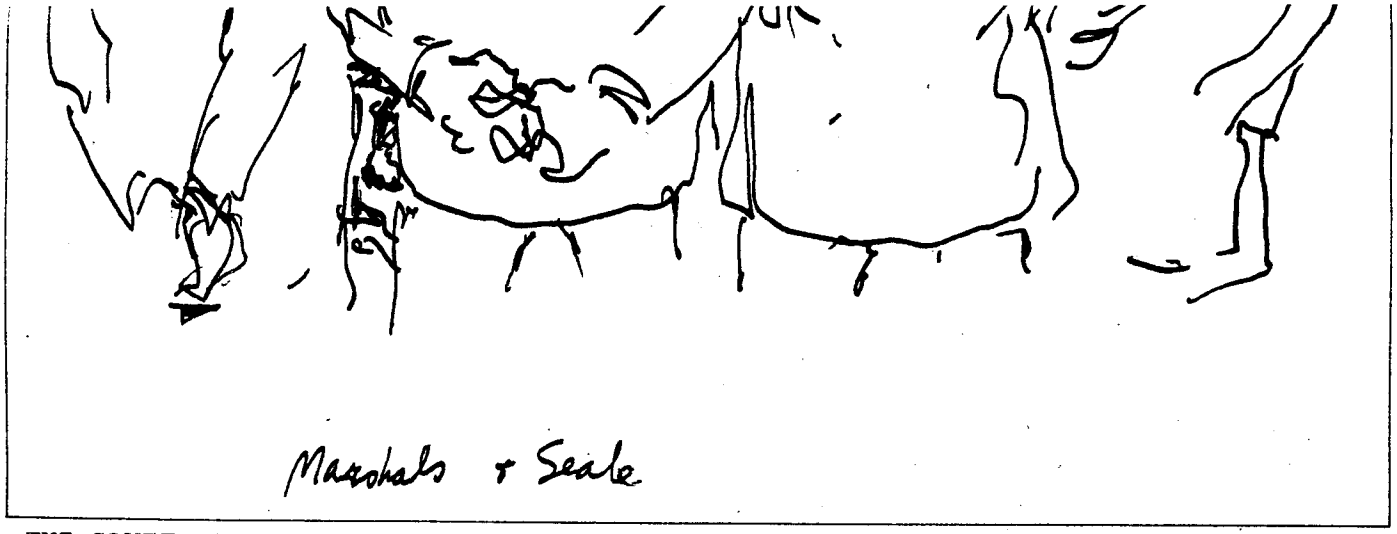

THE COURT: Mr. Seale, you have a right to speak now. I will hear you.

MR. SEALE: For myself?

THE COURT: In your own behalf, yes.

MR. SEALE: How come I couldn't speak before?

THE COURT: This is a special occasion.

MR. SEALE: Wait a minute. Now are you going to try to—you going to attempt to punish me for attempting to speak for myself before? Now after you punish me, you sit up and say something about you can speak? What kind of jive is that? I don't understand it. What kind of court is this? Is this a court? It must be a fascist operation like I see it in my mind, you know,—I don't understand you.

THE COURT: I am calling on you—

MR. SEALE: You just read a complete record of me trying to persuade you, trying to show you, demonstrating my right, demonstrating to you the need, showing you all this stuff about my right to defend myself, my right to defend myself, history, slavery, et cetera; and you going to sit there and say something about, "OK, now you can speak"?

What am I supposed to speak about? I still haven't got the right to defend myself. I would like to speak about duces war materials, among other things], you know, so it's nothing, death is nothing, I mean, if that is what you're talking about, or putting me in jail, or prison, or hanging people, and all that stuff. I have nothing to say about that. I have something to say about the fact that I want to defend myself still. I want my rights, to be able to stand up and cross-examine the witnesses. I want that, so I don't know what you're talking about.

THE COURT: I have tried to make it clear.

MR. SEALE: All you make clear to me is that you don't want me, you refuse to let me, you will not go by my persuasion, or my arguments, my motions, my requests to be, to the extent of even having to shout loud enough to get on that record for that record so that they can hear me half the time. You don't want to listen to me. You don't want to let a man stand up, contend to you that that man is not my lawyer, show you and point out that fact, in fact, made motions and told you that I fired the man.

And to stand up here and say, "Look, I have the right to defend myself," continuously over and over, even to the point just recently on Friday you recognized that I did have constitutional right to speak in behalf of his constitutional rights. That is very clear, I hope. That's all I have to say. I still want to cross-examine the witnesses, I make those requests. I make my motions, and I make those requests, and I will continue to make those requests, hoping that once in one way along this trial, you will recognize my rights as a human being, a black man living under the scope and influence of a racist decadent America where the Government of the United States does not recognize the black people's constitutional rights, and have never recognized them from 1867 to the Dred Scott case situation, in a period of slaves you never recognized them, and here you are, and all I can say is that you're probably acting in the same manner as Benjamin Franklin and George Washington. We are hep to that kind of business.

THE COURT: Oh, but you are mistaken about that.

MR. SEALE: Oh, yes, you're acting in the same manner as those courts acted in those periods of slavery history, and you know it. That's what you're doing.

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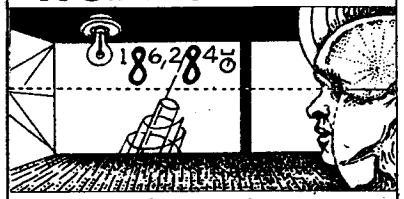

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you do? You're talking about punishing. If a black man gets up and speaks in behalf of the world–

THE COURT: Are you addressing me, sir?

MR. SEALE: I'm talking. You can see I'm talking.

THE COURT: That's right, but if you address me, you'll have to stand.

MR. SEALE: Stand? Stand now. Now let's see, first you said that I couldn't stand. I got my suit. It's going to a higher court, possibly the highest court in America. [A group of lawyers, including many blacks, had filed suit before another federal judge in Chicago on behalf of Mr. Seale's right to defend himself. The suit was denied.]

THE COURT: In conformity with the provision of Rule 42(a) of the Federal Rules of Criminal Procedure, I shall certify that the series of criminal contempts committed as described by the Court in its oral observations and specifications 1 to and including 16 were committed in actual presence of the Court, and were seen or heard by the Court during the trial of the case of United States of America vs. David T. Dellinger and others, 69 CR 180.

I find that the acts, statements, and conduct of the defendant Bobby Seale constituted a deliberate and wilful attack upon the administration of justice, an attempt to sabotage the functioning of the Federal Judiciary System, and misconduct of so grave a character as to make the mere imposition of a fine a futile gesture and a wholly insignificant punishment. Accordingly, I adjudge Bobby G. Seale guilty of each and every specification referred to in my oral observations, and the Court will impose–strike that –and the defendant Seale will be committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment for a term of three months on each and every specification, the sentences to run consecutively.

[According to a recent Appeals Court ruling, a defendant in a contempt proceeding is entitled to a jury trial if the possible penalty exceeds six months. By sentencing Mr. Seale to sixteen terms of three months each Judge Hoffman presumably meant to circumvent this ruling.]

I direct the United States Attorney to prepare from the oral remarks I made here a certificate of contempt for my signature together with a judgment and commitment order.

How soon–you will have to get the reporter to have that written up for you. How soon, Miss Reporter, will it be before it is written? I am glad I have got both of you [reporters] here.

THE REPORTER: Six o'clock.

THE COURT: Get it to Mr. Foran as soon as you can, and I will ask Mr. Foran to get the certificate to me and the case will be continued until tomorrow morning. There will be an order in view of the disposition of this aspect of the case, there will be an order declaring a mistrial as to the defendant Bobby G. Seale and not as to any other defendants.

MR. SEALE: Wait a minute, I got a right–what's the cat trying to pull now? I'm leaving–I can't stay?

THE COURT: The court will be continued until tomorrow morning at ten o'clock for signing the certificate of contempt and to continue with the trial in respect to the other seven defendants.

THE MARSHAL: Everyone please rise.

MR. SCHULTZ: If the Court please, we have the jury to inform.

THE COURT: Oh, yes, I'm glad you reminded me.

MR. SCHULTZ: Will your Honor set a trial date for the defendant Seale?

THE COURT: Yes. Yes.

MR. SEALE: I demand an immediate trial right now.

THE MARSHAL: Sit down, please. Come to order.

MR. SEALE: I demand an immediate trial right now.

THE COURT: Yes, we will give you a trial date.

MR. SEALE: I am talking about now. I don't want to be taken out. I have a right to go through this trial.

THE COURT: A mistrial has been declared with respect to you, sir. Your trial will be conducted on April 23, 1970, at ten o'clock in the morning.

MR. SEALE: I want it immediate, right now, though.

THE COURT: I am sorry, I can't try two cases at one time, sir.

(The following proceedings were had herein, in open court, within the presence and hearing of the jury:)

THE COURT: Ladies and gentlemen of the jury, I deeply regret having to keep you confined in the jury room this long, but there were matters that the Court had to consider with the parties and counsel out of your presence.

Since it is now nearly a quarter after four, we'll be in recess until ten o'clock tomorrow morning. The usual orders not to talk with anybody about this case, or let anybody speak with you about it. Do not discuss the case among yourselves. Do not read the newspapers or any other journals. Do not listen to radio or television or look at television. If anybody attempts to talk with you about this case, please communicate with the United States Marshal, who will in turn, lay the matter before me.

Mr. Marshal, the court will be in recess until ten o'clock tomorrow morning.

THE MARSHAL: Everyone will please rise.

MR. SEALE: [The marshals are carrying him through the door to the lockup.] I still want an immediate trial. You can't call it a mistrial. I'm put in jail for four years for nothing? I want my coat.

THE AUDIENCE: Free Bobby. Free Bobby.

(Whereupon an adjournment was had at 4:15 o'clock p.m. until the following day, November 6, 1969, at the hour of 10:00 o'clock, a.m.) □

On Adaptation

Vladimir Nabokov

Here is a literal translation of a great poem by Mandelshtam (note the cor-

of the old Russian *trus*, meaning "upheaval," and the word translated as "injustice" has also the meaning of "falsehood"), but I will limit myself to discussing some of the quite unambigu-

Lines 11-12: the magnificent metaphor of L. 8 now culminates in a vision of the arctic starlight overhead, emblemized by the splendor of gray-blue furs, with a suggestion of astronomical heraldry (*cf.* Vulpecula, a

an eccentric teacher, will mistake that adaptation for a sample of Mandelshtam's thought ("the poet compares the sheepskin sent him from abroad to the wolf hide he refuses to wear")

tion of a fine a futile gesture and a wholly insignificant punishment. Ac-

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On Adaptation

Vladimir Nabokov

Here is a literal translation of a great poem by Mandelshtam (note the correct form of his name), which appears in the original Russian on pp. 142 and 144 of Olga Carlisle's anthology, *Poets on Street Corners* (Random House, New York, 1968). It consists of sixteen, tetrametric (odd) and trimetric (even), anapaestic lines with a masculine rhyme scheme *bcbc*.

For the sake of the resonant valor
of ages to come,
for the sake of a high race of men,
I forfeited a bowl at my fathers'
feast,
and merriment, and my honor.

On my shoulders there pounces
the wolfhound age,
but no wolf by blood am I;
better, like a fur cap, thrust me
into the sleeve
of the warmly fur-coated Siberian
steppes,

–so that I may not see the
coward, the bit of soft muck,
the bloody bones on the wheel,
so that all night the blue-fox furs
may blaze
for me in their pristine beauty.

Lead me into the night where the
Enisey flows,
and the pine reaches up to the
star,
because no wolf by blood am I,
and injustice has twisted my
mouth.

A number of details in the text are ambiguous (for example, the word translated as "coward" is an homonym of the old Russian *trus*, meaning "upheaval," and the word translated as "injustice" has also the meaning of "falsehood"), but I will limit myself to discussing some of the quite unambiguous passages misinterpreted, or otherwise mangled, by Robert Lowell in his "adaptation" on pp. 143 and 145 of the same collection.

L. 1: resonant valor, *gremuchaya doblest'* (nom.): Mandelshtam improves here on the stock phrase "ringing glory" (*gremyashchaya slava*). Mr. Lowell renders this as "foreboding nobility," which is meaningless, both as translation and adaptation, and can be only explained by assuming that he worked out an ominous meaning from the "rumbling" improperly given under *gremuchiy* by some unhelpful informer, e.g., Louis Segal, M.A., Ph.D. (Econ.), D.Phil., compiler of a Russian-English dictionary.

L. 5: wolfhound, *volkodav*: lexically "wolf-crusher," "wolf-strangler"; this dog gets transformed by Mr. Lowell into a "cutthroat wolf," another miracle of misinformation, mistransfiguration and misadaptation.

L. 6: "wear the hide of a wolf" (Lowell) would mean to impersonate a wolf which is not at all the sense here.

L. 8: actually "of the Siberian prairie's hot fur coat," *zharkoy shubi' sibirskih stepey*. The rich heavy pelisse, to which Russia's Wild East is likened by the poet (this being the very blazon of its faunal opulence) is demoted by the adaptor to a "sheepskin" which is "shipped to the steppes" with the poet in its sleeve. Besides being absurd in itself, this singular importation totally destroys the imagery of the composition. And a poet's imagery is a sacred, unassailable thing.

Lines 11-12: the magnificent metaphor of L. 8 now culminates in a vision of the arctic starlight overhead, emblemized by the splendor of gray-blue furs, with a suggestion of astronomical heraldry (*cf.* Vulpecula, a constellation). Instead of that the adaptor has "I want to run with the shiny blue foxes moving like dancers in the night," which is not so much a pretty piece of pseudo-Russian fairy-tale as a foxtrot in Disneyland.

L. 13: Why does the adaptation read "there the Siberian river is glass"? Perhaps, because the *techyot* (flows) of the text gives *tekla* in the past tense, and its form *stekla* (flowed down) also happens to be the genitive case of *steklo* (glass)–a really outstanding howler, if my supposition is correct, and an inexplicable cliché, if it isn't.

L. 14: pine, *sosna*: the adaptor has "fir tree," another plant altogether. This is a mistake often committed on both sides of the Bering Strait (and condoned, I note, by Dr. Segal).

L. 16: "or slaver in the wolf trap's steel jaw" (Lowell)–an ending that snaps as it were the very backbone of Mandelshtam's poem.

I am well aware that my laborious literal reproduction of one of the masterpieces of Russian poetry is prevented by the rigor of fierce fidelity from parading as a good English poem; but I am also aware that it is true translation, albeit stiff and rhymeless, and that the adaptor's good poem is nothing but a farrago of error and improvisation defacing the even better poem it faces in the anthology. When I think that the American college student of today, so docile, so trustful, so eager to be led to any bright hell by an eccentric teacher, will mistake that adaptation for a sample of Mandelshtam's thought ("the poet compares the sheepskin sent him from abroad to the wolf hide he refuses to wear"), I cannot help feeling that despite the good intentions of adaptors something very like cruelty and deception is the inevitable result of their misguided labors.

Although some of the English versions in Miss Carlisle's collection do their best to follow the text, all of them for some reason or other (perhaps in heroic protection of the main offender) are branded "adaptations." What, then, is there especially adaptive or adaptational in an obvious travesty? This I wish to be told, this I wish to comprehend. "Adapted" to what? To the needs of an idiot audience? To the demands of good taste? To the level of one's own genius? But one's audience is the most varied and gifted in the world; no arbiter of genteel arts tells us what we can say or can't say; and, as to genius, nowhere in those paraphrases is the height of fancy made to fuse with the depth of erudition, like a mountain orbed by its reflection in a lake–which at least would be some consolation. What we do have are crude imitations, with hops and flutters of irresponsible invention weighed down by the blunders of ignorance. If this kind of thing becomes an international fashion I can easily imagine Robert Lowell himself finding one of his best poems, whose charm is in its concise, delicate touches (". . . splinters fall in sawdust from the aluminum-paint wall . . wormwood . . . three pairs of glasses . . . leathery love") adapted in some other country by some emi-