

Parade Permit Law Again Overturned

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Superior Court Judge Charles W. Halleck has for a second time held that the D.C. statute under which people are charged with parading without a permit is unconstitutional.

The statute is one commonly used to arrest groups of persons during demonstrations in the city.

Halleck held last May that the 1934 statute is unconstitutional on its face, that is, without reference to the facts of the particular case involved, but he was reversed by the D.C. Court of Appeals. That Court held that Halleck had to conduct an evidentiary hearing, or hearing on the facts of the case in point, before ruling.

He conducted the required hearing last May. Yesterday, the judge again held the statute unconstitutional, calling it vague, and stated that it had not been administered evenhandedly.

Halleck said he delayed his ruling until yesterday hoping that the corporation council's office would produce a new statute in the meantime.

John R. Hess, principal assistant corporation counsel, said yesterday that the judge's ruling applies only to the particular case that Halleck heard and is not binding on other Superior Court judges unless the decision is appealed and upheld by the court of Appeals.

Appeal Weighed

Hess said the corporation counsel's office is "thinking very seriously of appealing it. We haven't made up our mind yet, but our preliminary feeling is we will probably appeal."

"Regulations of this nature have to be somewhat vague but there are some regulations quite similar to this in other jurisdictions which have been upheld as being in compliance with the Constitution," Hess said.

The case in question in-

involved a group of 200 persons who were arrested after a demonstration last April 29 at the Health, Education and Welfare Building at 3d Street and Independence Avenue SW.

Charge Delayed

According to newspaper reports, the demonstrators were not advised before their arrest that they were violating the law, as is ordinarily done. The charge of parading without a permit was not lodged against them until after Police Chief Jerry V. Wilson conferred with the police department's attorney as to what the charge should be, according to the reports.

The demonstrators were charged under section 107 of the D.C. highway and traffic regulations, which reads:

"Processions and parades, except funerals, shall not be allowed except by permit issued by the chief of police, which permit shall designate time and route of such procession or parade, and no part of such procession or parade shall move except according to the terms of such permit."

Powers Delegated

In his opinion, Halleck wrote that Chief Wilson testified during the hearing that he had delegated his power to issue permits to a deputy chief, who had delegated the power to a lieutenant, who in turn gave a sergeant the job.

"All police officials testifying at this hearing stated that they are unaware of any formal written guidelines or directives defining the scope of their discretion," Halleck wrote.

While attempting to determine what police officials believed to be a parade, Halleck asked Sgt. Romolo J. Cardinale what would happen if the judge were to push an ice cream cart down independence Avenue.

Cardinale, the man responsible for the issuance of the permits, said the judge would be within his rights. "You would have a vendor's license for that," he testified.

"Now, if I got a vendor's license for the ice cream cart, and I put up a big sign that said, 'End The War. Get Out of Vietnam Now,' and I'm coming down the middle of the street, I'm . . . a parade?" asked Judge Halleck.

"I would say so," the sergeant replied.

First Amendment

"So whether I parade or not, whether I get arrested and whether I am construed as being a parade by the people assigned to enforce this statute depends in large measure in that instance and in that example as to whether or not I exercise my First Amendment rights; is that correct?"

"Yes, sir," the sergeant replied.

"The Supreme Court has repeatedly held," wrote the judge in his opinion, "that a licensing regulation affecting the exercise of First Amendment rights, administered at the discretion of officials in the absence of narrowly drawn, reasonable and definite standards to follow does not meet constitutional requirements."