

Prosecutor Opposes New Chicago 7 Trial

2/9/72
By Joel Weisman

Special to The Washington Post

CHICAGO, Dec. 8—U.S. Attorney James R. Thompson said today that he has recommended against appealing the reversals of riot convictions of the five remaining "Chicago Seven" defendants.

Thompson said that in a lengthy memo this week to Attorney General Richard G. Kleindienst he also urged the government not to seek new trials for five defendants on a charge of crossing state lines to incite a riot during the 1968 Democratic National Convention.

In its decision last month reversing the convictions, the Seventh U.S. Circuit Court of Appeals was highly critical of the federal judge and prosecutor at the tumultuous 1970 trial. The three appellate judges agreed there was legally sufficient evidence to re-

try the defendants but said there was also evidence which, if believed, "would lead a jury to acquit."

The court of appeals, however, upheld the constitutionality of the 1968 federal riot law on which the charges were based.

Thompson said he expected Kleindienst to "follow my recommendations. I expect him to close the case next week." The Chicago federal prosecutor, whose overworked office would be saddled with either the appeal or the retrials, said "neither alternative seemed practical to us at this time."

In order to gain a Supreme Court hearing on the appeals court ruling, Thompson said, "we would have to convince the solicitor general we had a reasonable chance of reversal.

"Because of the numerous grounds cited for reversing the original conviction in the appeals opinion, I couldn't in good conscience say our chances for a Supreme Court victory were 'reasonable'."

As to retrying the case, Thompson noted the burden "of finding the time, money and manpower to do the job."

The five men whose convictions were set aside by the court of appeals are David Dellinger, Tom Hayden, Rennie Davis, Abbie Hoffman and Jerry Rubin. In 1970 a jury found them guilty of individual violations of the riot act but acquitted them of conspiring to travel to Chicago to incite a riot.

Thompson said today that since the five men were acquitted of the conspiracy count, there is not longer any "common thread of evidence" that would require a joint trial.

Thompson said the cost of five separate trials "might be prohibitive." He has said previously that the original four-month trial cost the government "in excess of \$1 million."