

# New Contempt Trials Ordered for Chicago 7

By Joel Weisman

Special to The Washington Post

CHICAGO, May 11—A federal appeals court today overturned contempt of court sentences given the Chicago Seven defendants, their two attorneys, and Black Panther leader Bobby Seale during the tumultuous 1970 conspiracy trial.

The unanimous decision did not dismiss the contempt charges, but ordered new trials for all 10. Some of the original sentences, imposed by U.S. District Court Judge Julian Hoffman, called for imprisonment of up to four years.

The defendants were tried on charges of conspiracy to cross state lines to incite rioting during the 1968 Democratic National Convention. The original defendants were Seale, David T. Dellinger, Rennie Davis, Tom Hayden, Abbie Hoffman, Jerry Rubin,

Lee Weiner, and John F. Froines. Seale's case was severed midway through the four-month trial.

All defendants were acquitted on the conspiracy charges, but all, except Weiner and Froines, were found guilty of inciting to riot and sentenced to five years in prison and fined \$5,000 each. The rioting sentences have also been appealed to the U.S. Seventh Circuit Court of Appeals, which has given no indication when it will rule.

The Seventh Circuit's reversal relied heavily on recent Supreme Court decisions that limit the power of judges to mete out lengthy contempt sentences without a jury trial and that tell judges not to sit in judgment of contempts that have embroiled them personally.

See CHICAGO, A13, Col. 1

## CHICAGO, From A1

Under today's decision, neither Hoffman nor any of the other District Court judges then sitting in the federal courts of the Northern District of Illinois can preside at the new contempt trials.

This is because the other ten judges—Hoffman's contemporaries—sought and were denied right to intervene in the appeal of contempt charges. However, by trying to enter the case, they became parties and therefore could not be impartial at a new trial.

Five new judges have been appointed to the district, however, and would presumably be eligible to preside at a new trial.

Today's decision also contained these significant statements on the fast-growing body of law on the subject of contempt:

• A defendant may refuse to rise when a judge enters or leaves the chambers as all defendants did during the con-

spiracy trial. Such "symbolic acts (of disrespect) are permitted so long as they are not coupled with further disturbances and disruption."

• "Attorneys have the right to be persistent, vociferous, contentious and imposing, even to the point of being obnoxious, while acting on a client's behalf"

• When a judge is the target of contempt he can cite and impose a sentence for such act of up to six months—but only if he does so at the time of the contempt. If he defers action until the end of the trial, as Hoffman did, then another judge must impose sentence. At any time during the trial, however, a sentence under six months may be imposed without a jury if imposed at the time of the contemptuous action.

Many of the contempt charges stemmed from zealous courtroom conduct of defense attorneys William M. Kunstler and Leonard Weinglass who, with the defendants, often refused to rise when Judge Hoffman entered and left the chamber.

The court of appeals halved

the counts of contempt against both lawyers: from 24 to 12 in the case of Kunstler and from 14 to 7 for Weinglass.

The appeals panel also dismissed four counts of contempt and reversed and remanded for trial 12 others against Seale. The counts generally stemmed from Seale's desire to have his own defense counsel.

At one point during the trial Seale was bound and gagged for his allegedly abusive conduct toward Hoffman.

The appeals decision was delivered by Judge Walter J. Cummings and concurred in by Judges Thomas E. Fairchild and Wilbur F. Pell Jr.

In addition to making it clear that the object of the contempt—in this case Judge Hoffman—should not have been allowed to pass sentence for most of the conduct, the panel—in a 60-page opinion—ruled that attorneys are not legally responsible for the conduct of their clients. The opinion added, however, that attorneys may have responsibility from an "ethical" standpoint.

Reaction to the case was mixed. Judge Hoffman, who is now semi-retired and on "senior status" with the court, refused official comment. But he was reportedly happy about the decision, privately telling one Justice Department attorney, "so long as the charges were not quashed, it was a victory for justice."

Former U.S. Attorney Thomas A. Foran also refused to comment, but the present U.S. Attorney, James R. Thompson, called the decision "a victory for the government," noting that the sentences could actually be lengthened after the new trial.