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Motion Will Be Denied

A New Report on the Chicago Conspiracy Trial.

By John Schultz.

Morrow. 376 pp. \$11.95; paper, \$3.95

Reviewed by JON R. WALTZ

We have a way in this country of first misapprehending the importance of small events and then transforming them into mountainous non-events. Even a few years' reflection more than suggests that what was done in the streets and parks of Chicago during the 1968 Democratic national convention was not, in the scheme of things, terrifically important, although it may have been more important than what was done in the International Amphitheater that year. Some pastel-painted park benches got burned up, some brave speeches were made and dutifully televised, and a lot of young people were thrilled by the feeling that they were doing something dangerous until they learned, from the Chicago police, that they were doing something dangerous. And then, instead of permitting those same young people to consign the likes of Jerry Rubin and Abbie Hoffman to earned oblivion, we created out of almost nothing an elaborate and repulsive theatrical which we called the Chicago conspiracy trial.

The trial of the Chicago 7—or 8, unless the theory is that Bobby G. Seale became invisible on the day that Julius J. Hoffman tied him to his chair and gagged him—was a manufactured non-event of spectacular proportions. The accused, who had done nothing of vast or lasting consequence, were themselves unreal, the caricature-creations of the news media. Their trial for doing nothing accomplished nothing; it was an empty, expensive burlesque. There is nothing left to do except write books about it.

John Schultz's book, contrary to its subtitle, is not a new report on the trial even in the sense that it has been about a year since the last book about it was published. Substantial portions of *Motion Will Be Denied*, in a somewhat

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different ordering of words, appeared some time ago in the *Evergreen Review* for which Schultz, who teaches writing at Chicago's Columbia College, covered the trial. And it seems seriously doubtful that anyone in or out of Chicago wants to read another book—there have now been half a dozen—about this litigation. The Chicago 8, then 7, sought and got massive coverage in the nation's news media; half a courtroom full of fancy journalists did their level and sometimes not-so-level best to tell the outside

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world what was going on in the place that the presiding judge persisted, not entirely without reason, in calling "my" courtroom. The result is that today's public not only is sick and tired of hearing about the case but it believes that it already knows exactly what happened in Judge Hoffman's courtroom. Schultz's book, not new, is yet too new; it comes 20 years too soon—and that is to be regretted.

As one who observed much of the conspiracy trial at first hand, I wish that people would read *Motion Will Be Denied* right now. It is a good bad book.

It is bad in a variety of ways. The prose style veers dizzily between a kind of phony Hemingwayese ("The two sides had different feelings about children, about f—g, about learning, about noise, about bathrooms, about courtesy, about honor, about intelligence, imagination, duty, authority, entertainment, barbecue, money, hair, skin, blood, and laughter"), ersatz psychosociology ("A 'fact' that is perceived and accepted and communicated clearly, which is a further and continuing process of perception, causes necessary changes in the behavior and the consciousness of as many people as share in the process"). Too often it is a strident, even petulant, brief instead of an analysis. Occasionally—not often—Schultz is slipshod about facts and time sequences. And there are far too many typographical and spelling errors, especially for a short, unillustrated book to which the publisher has attached an \$11.95 pricetag. But Schultz's book is also redeemingly good in a variety of ways.

Beginning with the ominous double meaning in its title (I have to believe it was intended), Schultz's book brims with insights. It is a new report in the sense that its perceptions have not been shared by others. The book, as all books about this trial must, focuses on its insistent superstar, Judge Hoffman. Schultz saw from the outset that the judge, who early on had advised William Kunstler, "I have no sensitivity," would turn what was supposed to be just another ritual political trial into an exacerbating game of one-upsmanship: "His central weakness . . . was that he had to have the last word," so (Continued on page 13)

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(Continued from page 4) that he was able, when during sentencing Tom Hayden expressed his wish to have a child, to reply with a smirk, "That's where the federal system can do you no good."

In a brilliant chapter entitled "The Struggle for the Laugh in the Courtroom," Schultz explores a phenomenon not often encountered in our criminal courts. "The struggle for the laugh and to suppress the laugh became principal forms of aggression and unification in this courtroom." It is true that in every quadrant of the courtroom except at the prim prosecution table a laugh was like a trophy.

Schultz saw that only Bobby Seale "understood from the beginning that the trial was really and seriously happening." The author also saw, as some of the jurors and all of the defendants eventually did, that there was only one practicing lawyer at the defense table. "Kunstler did not look good. . . . [Leonard] Weinglass was their most dependably effective counsel."

Sometimes, when he is not being Hemingway, Schultz's insights are accompanied by passages of startlingly good writing. Having heard him say such things as "Away with that sarcasm, sir. It will avail you nothing," Schultz refers to Julius Hoffman as "a man whose rhetoric seemed to have been conditioned irretrievably by the great Victorians." When the judge, to a burst of sad laughter, admonished the jurors to "disregard all that talk about Washington and constitutional rights," Schultz calls it "one of [his] most magnificently masochistic moments." Capturing the judge's tough-in-the-bit way of talking, Schultz writes, "He said [it] as if the close vowel in 'means' were a thin piece of steel vibrating between his front teeth."

This is a useful guide to the conspiracy case, if anyone wants one, because John Schultz has taken to heart something that Norman Mailer, a witness in the case, said to prosecutor Thomas Foran: "Facts, sir, are nothing without their nuance." □